



BUSINESS AND DEVELOPMENT IN **MYANMAR**
A POLICY HANDBOOK FOR
PRIVATE SECTOR DEVELOPMENT



KAMILE PUUSAAG
DAVID ABONYI
AND
MASATO ABE

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Preface

This publication was prepared by the Trade and Investment Division of Economic and Social Commission for Asia and the Pacific (ESCAP). The central purpose of the publication is to provide policymakers, business communities, development organizations, and other interested parties with a thorough overview of the private sector environment in Myanmar today. The publication outlines the challenges faced by businesses in Myanmar, elaborates on the nature of the challenges and why they are significant, and offers a set of recommendations to improve the business environment in order to foster greater development of the private sector, and indeed, the country as a whole.

The genesis for this publication came from the *Myanmar Business and Development Week*, a series of technical seminars and workshops in September 2013 that drew experts from the governments, the private sector and development agencies, both within Myanmar and from abroad, to share their knowledge of the current situation. The authors drew heavily from the presentations, documents and discussions of the *Week*, while also undertaking considerable additional research in order to provide as comprehensive as possible of the major issues and possible solutions.

The development of Myanmar's private sector will be shaped by a combination of factors, which are covered in this publication. Undeniably, the internal economic conditions and business environment will play a key role in determining the private sector's future. Additionally, however, it is important to note that much of the excitement surrounding Myanmar stems from its 2011 shift towards greater economic openness to the rest of the world. Moreover, the upcoming ASEAN Economic Community 2015 is also likely to have a tremendous impact on the private sector in Myanmar. As a result, this publication puts a sizeable focus on discussing issues affecting trade and investment in goods and services.

Myanmar holds considerable promise, for businesses both domestic and foreign, as well as for development practitioners, confident of seeing a rapid transformation in economic conditions and quality of life in general. Nevertheless, while the country has attracted substantial interest from around the world, there are still many gaps in knowledge. In-depth information about the conditions facing the private sector, as well as the perspectives of the various members of the private sector, is still in the process of being uncovered. It is ESCAP's hope that this publication can serve as a reference point for those seeking such information, and that the publication can provide a wide-ranging understanding of the private sector's current situation and how to help provide it with an equally-promising future.

Acknowledgements

This publication is an output of the *Myanmar Business and Development Week*, a series of technical seminars and workshops for both the Government and businesses, which was jointly organized by the ESCAP Secretariat, the ESCAP Business Advisory Council, the United Nations Inter-Agency Cluster on Trade and Productive Capacity, and the Union of Myanmar Federation of Chambers of Commerce and Industry in Yangon, Myanmar, from 23 to 27 September 2013. A number of lecturers from various development agencies participated in the *Week* and contributed to the publication.

The authors wish to thank the organizers of the *Week*: ESCAP, the ESCAP Business Advisory Council and the Union of Myanmar Federation of Chambers of Commerce and Industry. Additional thanks goes to the sponsors and partners of the event: the Myanmar Ministry of Commerce, the Myanmar Ministry of Industry, the Myanmar Ministry of National Planning and Economic Development, the Government of Japan, the Korean Ministry of Strategy and Finance, Korea Eximbank, the Korean Economic Development Cooperation Fund, Jones Day, and the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ). We also wish to acknowledge the support from other UN agencies: the United Nations Inter-Agency Cluster on Trade and Productive Capacity, the International Trade Centre, the United Nations Industrial Development Organization (UNIDO), the United Nations Conference on Trade and Development (UNCTAD), and the United Nations Development Programme (UNDP). This publication also owes a great deal to the various agencies, organizations and individuals that contributed to the *Week*: ASEAN Economic Ministers and Minister for Economy, Trade and Industry of Japan (AEM-METI) Economic and Industrial Cooperation Committee, the Asian and Pacific Centre for Transfer of Technology (APCTT), the Board of Trade of Thailand, BusinessLab at HKU Business School, Centre for SME Growth & Development Finance, Fung Global Institute, the GMS Business Forum, Greenspot Co., Ltd., the International Chamber of Commerce, the International Chamber of Commerce-Bangladesh, the Japan International Cooperation Agency (JICA), Loxley Public Company Limited, the Ministry of Science and Technology of Thailand, the Myanmar Women Entrepreneurs Association, the Myanmar Young Entrepreneurs Association, Newage Group of Industries, the Organisation for Economic Co-operation and Development (OECD), SkyQuest Technology Group, the Small Industries Development Bank of India, The Nation, the World Association for Small and Medium Enterprises, the World Union of Small & Medium Enterprises, as well as the substantive input from Dr. J.S. Juneja and Mr. Raghu Narain.

The project was led by Masato Abe, Economic Affairs Officer, under the supervision of Marc Proksch, Chief, Business and Development Section, Trade and Investment Division, United Nations Economic and Social Commission for Asia and the Pacific (ESCAP). This publication was drafted by Kamile Puusaag, David Abonyi and Masato Abe. Nopparuth Ruengrangskul and Natthika Charoenphon at ESCAP also provided the authors with valuable

assistance during the editing stages of this publication. The authors would like to thank all of the resource persons at the *Myanmar Business and Development Week* for their valuable contributions to this publication.

The publication of the handbook was supported by both the Government of Japan and the Government of Republic of Korea. Transport Division, ESCAP, also provided managerial and financial support to the publication.

Executive Summary

Myanmar embarked on a new development path since the new civilian Government took office in 2011. A number of reforms were introduced regarding state enterprises' privatization, trade liberalization and increased market openness to investment, which resulted in considerable economic growth in recent years. To pursue this trend, the Government is expected to undertake further reforms, with a priority given to policies in support of private sector activity which is a key driver of economic growth and socioeconomic development.¹

Fostering private sector activity in Myanmar first of all requires a supportive business environment to be achieved by implementing appropriate policies and strategies. Therefore, the purpose of this publication is to provide an overview of a current business environment in Myanmar, to identify the key constraints on private sector activity in the country, and to offer potential policy solutions on how to address prevailing issues. Based on a number of reviews analyzing the business environment in Myanmar, as well as on country statistics and best practice examples, potential reforms were identified in three key areas: business, investment, and trade.

This handbook reveals that the current institutional and regulatory environment in Myanmar continues to limit the potential of the country's private sector. Regulations regarding starting and running a business in Myanmar make the process lengthy and costly, while the lack of institutional capability of law enforcement creates legal uncertainty. Thus, cutting the "red tape" and building institutional capacity are crucial for enhancing the business environment. Improving the tax system and the country's financial sector as well as introducing mechanisms to eradicate corruption are also indispensable to facilitate private sector activity.

In addition, business success strongly depends not only on the regulations in place but also on private sector competitiveness. Overcoming deficiencies in human and physical capital, encouraging the adoption of new technologies and making business development services widely available are key reforms to enhance the competitiveness of the private sector.

Furthermore, considering the extent to which small and medium-sized enterprises (SMEs) contribute to Myanmar's economy (99.4 per cent of registered enterprises are of this category),² private sector development requires additional provisions for SMEs' specific needs regarding access to finance, markets, and inputs. On the other hand, supporting large companies through a sound corporate governance framework is also important.

In this handbook, it is also explained that if the business environment in Myanmar was enhanced, it could accelerate investment flows in Myanmar, which in turn could further support private sector development, particularly by rendering local firms more competitive. For that purpose, the Government should continue to enhance the business environment and transparent information flows on rules and regulations; guarantee secure private ownership and intellectual property rights; eliminate dual application of investment

laws; and accept investment dispute settlement through a competent, independent and impartial judicial system. These reforms, coupled with investment promotion measures, should be effective in attracting more foreign investors in years to come.

Finally, further reforms towards trade liberalization and facilitation are highly recommended too. They could improve Myanmar businesses' access to both foreign markets and cheaper resources. Administrative burden at borders are also a major concern, as they make transactions more costly and time-consuming. Similarly, most tariffs are higher than the agreed bound rates; hence, their further reduction is needed. Nevertheless, trade liberalization needs to be accompanied by other counterbalancing measures, such as infant industry protection, competition law, and export diversification, to compensate for increased foreign competition and external shocks.

Overcoming a great number of constraints for private sector development will be a challenging and complex task and will require a strong commitment from the Government. Ultimately, however, the implementation of successful and coherent policies and strategies in the area of business, investment, and trade can enhance the growth of the private sector, which is a key to the development of Myanmar.

Abbreviations and Acronyms

ADB	Asian Development Bank
AEC	ASEAN Economic Community
AFTA	ASEAN Free Trade Area
AMEICC	AEM-METI Economic and Industrial Cooperation Committee
APCTT	Asian and Pacific Centre for Transfer of Technology
ASEAN	Association of Southeast Asian Nations
BDS	Business development services
BICF	Bangladesh Investment Climate Fund
BIT	Bilateral investment treaties
BOT	Board of Trade of Thailand
BOT	Build-operate-transfer
BUILD	Business Initiative Leading Development
CDA	Cluster development agent
CESMED	Centre for SME Growth & Development Finance
EBAC	ESCAP Business Advisory Council
EDCF	Economic Development Cooperation Fund, Republic of Korea
FDI	Foreign direct investment
FGI	Fung Global Institute
GATT	General Agreement on Tariffs and Trade
GATS	General Agreement on Trade in Services
GDP	Gross domestic product
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit
GMS	Greater Mekong Subregion
GMS-BF	Greater Mekong Subregion Business Forum
GVC	Global value chain
ICC	International Chamber of Commerce
ICSID	International Centre for Settlement of Investment Disputes
ICT	Information and communications technology
IFC	International Finance Corporation
IPA	Investment promotion agency
ITC	International Trade Centre
JETRO	Japan External Trade Organization
JICA	Japan International Cooperation Agency
KEXIM	Export-Import Bank of Republic of Korea (Korea Eximbank)

LDC	Least developed country
M&A	Mergers and acquisitions
MNPED	Ministry of National Planning and Economic Development, Myanmar
MOC	Ministry of Commerce, Myanmar
MOI	Ministry of Industry, Myanmar
MOSF	Ministry of Strategy and Finance, Republic of Korea
MOST	Ministry of Science and Technology, Thailand
MWEA	Myanmar Women Entrepreneurs Association
MYEA	Myanmar Young Entrepreneurs Association
NES	National export strategy
NGO	Non-governmental organization
NTM	Non-tariff measure
OECD	Organisation for Economic Co-operation and Development
OESC	Office for ECOSOC Support and Coordination
PPP	Public-private partnership
RTA	Regional trade agreement
R&D	Research and development
SEZ	Special economic zone
SIDBI	Small Industries Development Bank of India
SMEs	Small and medium-sized enterprises
SOE	State-owned enterprises
SPS	Sanitary and phytosanitary (measures)
UMFCCI	Union of Myanmar Federation of Chambers of Commerce and Industry
UNCTAD	United Nations Conference on Trade and Development
UNIDO	United Nations Industrial Development Organization
UNDP	United Nations Development Programme
USD	United States dollar
VAT	Value-added tax
WASME	World Association for Small and Medium Enterprises
WUSME	World Union of Small and Medium Enterprises
WTO	World Trade Organization

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Introduction

Myanmar has a population of 51.4 million and is the second largest country in South-East Asia with an area of 676,578 sq. km. The country is rich in natural resources and fertile terrain, with large agricultural areas. Myanmar is strategically located between two giant markets, China and India, which enables it to benefit from the resurgence of economic growth in Asia and the Pacific, which is likely to be the most prosperous region in the world in the next decade.³ Thus, the country has much untapped potential for future growth and development.

Yet, Myanmar is also known for its troubled history, strongly marked by ethnic conflicts, military rule and drastic and inconsistent economic reforms. The country's recent history could be divided into four periods: parliamentary democracy, the socialist period under military rule, the market-oriented period under military rule, and the market-oriented period under the civilian-government.

After Myanmar's independence from British rule in 1948, a parliamentary democracy was established in the country. At that time, Myanmar was considered one of the economically strongest countries in South-East Asia due to its solid achievements in infrastructure, agriculture, and industry.⁴ The Government encouraged private business development and foreign trade, established a central bank and introduced a national currency with the purpose of becoming a free and independent economy.

However, the military started to feel threatened by the continuous democratization process and by the destabilizing effects of the split of the ruling party in 1958. Thus, in 1962, the army took power and imposed drastic economic reforms setting the country on the "Burmese way to socialism" and isolating its economy from the rest of the world. Consequently, a centrally planned economy replaced the market economy. All privately owned businesses were nationalized and the military assumed control of all decisions related to the production and distribution of goods and services. In addition, foreign businessmen and investors were forced to leave the country, further hampering the country's development. As a result, Myanmar's economy became adversely affected by the prevailing black market and widespread smuggling, while the Government slid slowly into bankruptcy.⁵ By 1987, Myanmar was categorized as being a least developed country (LDC) by the United Nations.

In 1988, a civilian uprising began, in order to end continuous instability, corruption, and economic mismanagement in the country. This uprising resulted in free elections. However, despite the 1990 elections' outcome and the incontestable victory of the opposition led by Aung San Suu Kyi, which won 82 per cent of the seats in Parliament, the military remained in power.⁶ Surprisingly, instead of promoting further socialism, the military government recognized the importance of international trade and investment and introduced reforms establishing a market economy. For example, the Government emphasized the need to encourage more private sector activity and allowed private firms to enter the industrial, commercial, and foreign trade sectors.⁷ The Government also introduced new

fiscal, financial and legal reforms and opened the country to tourism. As a consequence, from 1992 to 1997 Myanmar's economy experienced solid growth rates, averaging seven per cent annually. Nevertheless, this did not prevent country from suffering from decreasing foreign investment, dwindling foreign currency reserves, and accelerating inflation.⁸ In addition, the United States' sanctions on trade, imposed in 1997, followed by sanctions of the European Union in 2000, strongly affected Myanmar's economy. Military rule in the country continued until the year 2011.

Finally, after a prolonged history of the military rule, Thein Sein became the President of the country in March 2011 and a new civilian-led government took power and started making a series of positive changes to economic, political, and governance policies.⁹ The recent economic reforms (e.g., progressive economic liberalization; increased market openness for trade and investment) triggered considerable economic growth in the country. Myanmar's gross domestic product (GDP) grew by an average of 7.3 per cent during 2012-2013.¹⁰ Despite the recent growth, however, the country is still facing various challenges which hinder its economic and social development. Furthermore, Myanmar remains one of the poorest countries in Asia and the Pacific with a GDP per capita of \$868 in 2012-2013 and with a poverty rate of 26 per cent nationwide.¹¹

Considerable Government efforts towards further reforms are required to leverage the country's underlying potential and to sustain its growth. For such reforms, one of the top priorities should be strengthening Myanmar's private sector capacity. The private sector is widely known for its crucial role in fostering inclusive growth, alleviating poverty, creating jobs, facilitating access to basic goods and services, and raising a country's budget through tax revenues. The private sector also provides poor people with access to clean water and sanitation, energy, financial services, communication technologies, housing, medicines, and many other innovations that can help improve their lives.¹² In this way, by contributing to the economic growth and prosperity of the people, the private sector raises a country's development level, which in turn creates a dynamic and viable market for companies to further expand their activities and accumulate profits. This demonstrates a strong relationship between the two variables – private sector activity and development – and implies that development is inseparable from private sector advancement.

In the context of Myanmar, despite a great number of recently introduced reforms, numerous country indicators (to be discussed later) show that the private sector has still not been able to flourish. Therefore, further business, investment and trade reforms are needed. The task of this handbook will be to provide knowledge, technical assistance, and practical examples that can be useful in the establishment of a supportive private sector environment and in the implementation of necessary policies, strategies, and actions in Myanmar. The handbook is organized as follows: part one will introduce selected policies and strategies for facilitating more private sector activity; part two will talk about the reforms required for attracting more foreign investment; and part three will focus on explaining which trade policies have most potential to foster business and development in the country.

Part One
Facilitating Business Activity

Fostering socioeconomic development requires strong private sector performance. The private sector is crucial to poverty reduction, improvements in people's lives, inclusive growth, better access to critical goods and basic services, and increased tax revenues.¹³ This is because in most countries, the private sector can often have a more direct, immediate impact than the government in addressing issues of poverty and underdevelopment. To operate effectively, a business needs employees; therefore the private sector is a major generator of employment opportunities and reliable incomes. The private sector is also a key driver of economic growth through its contribution to a country's GDP.¹⁴ A growing economy favours the expansion of businesses, as well as competition among them. This pushes businesses to innovate and adopt new technologies in order to become more productive. Rising productivity not only generates higher returns for firms, but also has potential to increase wages of their employees, consequently improving people's lives.¹⁵ Profitable private sector activity also increases the government budget through growing tax revenues, which enables the government to allocate more money for improving such fundamentals as human and physical capital of the country. Additionally, the large-scale production of essential goods and services helps keep their prices down, consequently increasing the real effective incomes of poor people.¹⁶ Numerous development institutions have already acknowledged the importance of the private sector's role in the inclusive development process and strive for its promotion in developing countries worldwide.

Successful private sector activity primarily depends on the environment in which it operates. Here, government cooperation in providing the private sector with an enabling business environment is crucial. By adopting appropriate policies, the government is able to facilitate business operations within its territory and can improve companies' access to foreign markets. Unfortunately, despite the importance of the private sector, its effective operation in developing countries is often impeded by numerous constraints. The most common issues faced by businesses in these countries are related to the legal and regulatory framework for businesses, human capital, physical capital, technology, access to finance, trade facilitation and support institutions among others. In this respect, Myanmar is not an exception. Business surveys conducted in Myanmar thus far have identified significant obstacles for business.¹⁷ Facilitating business and making firms more productive and competitive will require strong Government commitment in providing the private sector with the right legal and regulatory framework containing special provisions for small and medium-sized enterprises (SMEs) and building an appropriate strategy on how to address a number of development-related constraints (e.g., human capital, infrastructure and information and communication technology).

I. Providing an Enabling Business Environment

Since the announcement of Myanmar's transition to a market-oriented economy in 1988, one of the Government's main development objectives has been to foster private firms because state-owned enterprises (SOEs) did not operate well and helped cause large public deficits.¹⁸ Therefore, reforms had to be designed in a way to enable the private sector to replace SOEs and become a major driver of the country's economy. This policy objective required the creation of an enabling business environment which consists of various

policies, institutions, support services, and other conditions that work in concert to improve or create a general business setting conducive to successful private sector activity.¹⁹ The Government has made some headway in this area, for example through the establishment of special economic zones in Dawei, Kyaukphyu and Thilawa, as well as through the implementation of numerous laws governing economic activity (commercial tax, central bank, foreign investment, etc.). However, most of the surveys and analyses recently conducted in Myanmar show that the private sector continues to face numerous impediments and that further reforms are required.²⁰

The World Bank's *Doing Business 2015* report ranks Myanmar 177th out of 189 countries in terms of ease of doing business, based on the regulatory framework governing business.²¹ The business start-up process in Myanmar was ranked as the most onerous in the world, and the time required for the process is significantly longer than in other countries. It consists of 11 different administrative procedures, which is much more than the average in the member countries of the Organisation for Economic Co-operation and Development (OECD) or Asia-Pacific countries, where this process consists of five and seven separate procedures, respectively. As a consequence, procedures in Myanmar become costly and dissuade people from starting a business, or formalizing their business. Simplifying some administrative procedures and eliminating the unnecessary ones thus removes major barriers and could lead to a significant increase in the establishment of new businesses in Myanmar. Table 1 depicts business start-up indicators in selected areas, comparing Myanmar and its neighbours in the region.

Table 1: Starting a business in Myanmar is more complicated and costly than in other countries

Indicators	Myanmar	South-East Asia	East and North-East Asia
Procedures (<i>number</i>)	11.0	8.3	6.0
Time (<i>days</i>)	72.0	46.0	11.9
Cost (<i>per cent of income per capita</i>)	155.9	21.3	5.1

Source: World Bank Group, 2014b.²²

Note: As defined by ESCAP, South-East Asia comprises: Brunei Darussalam; Cambodia; Indonesia; Lao PDR; Malaysia; Myanmar (excluded in the regional data); Philippines; Singapore; Thailand; Timor-Leste; and Viet Nam. East and North-East Asia, defined by ESCAP, comprises: China; DPR Korea; Hong Kong, China; Macao, China; Mongolia; and Republic of Korea. Due to lack of data, DPR Korea and Macao, China were excluded.

Private ownership rights in Myanmar remain highly restricted; land tenure and titling laws are not up to standard; and land transfers continue to be complicated.²³ According to the *Doing Business 2015* report, the quality of property registry (i.e., the ease with which businesses can secure their rights to property) in Myanmar was ranked at only 151st place out of 189 countries. This is extremely problematic for businesses as their operations frequently require the establishment of a new office or factory and acquisition of land or another enterprise. Therefore, private sector expansion heavily depends on the possibility to

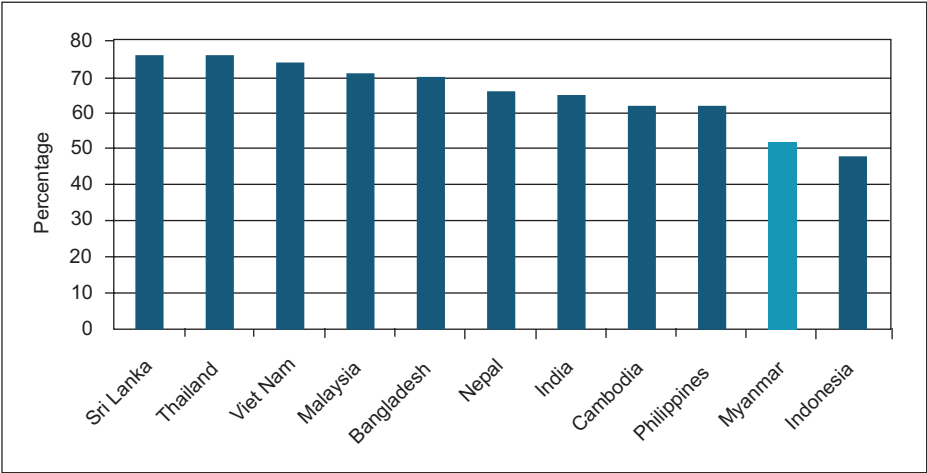
promptly register the property and receive a decent level of protection of property rights. However, nationalization and expropriation, without the possibility of legal redress or other compensation, remains common.²⁴ To improve the situation, the Government should endeavour to provide title deeds and secure property rights more effectively.

Despite several recently introduced labour laws, Myanmar's labour market remains very lightly regulated. Light labour market regulations are generally good for businesses as they are not constrained by various regulations related to wages, working hours, safety conditions, or hiring and firing processes. Such regulations also favour labour mobility and make it easy to match available skills with vacant job positions.²⁵ Over-regulation and rigid laws are often considered to be an impediment to business development and job creation as they do not allow wages and employment to be adjusted in accordance with variations in productivity among firms.²⁶ Moreover, overprotected workers (i.e., when it is very difficult for the company to let go of an employee) may abuse their favourable position and work less intensively, hampering their company's productivity.²⁷ Rigid labour laws could also prevent companies from hiring new, better qualified employees due to complex employment procedures. However, a labour market that is not regulated at all does not offer sufficient protection to workers. Therefore, a certain degree of regulation is required. Labour laws that create a balance between efficiency and worker protection would be most conducive to facilitating business activity.

Tax-related policies could also work in favour of businesses if applied correctly. Low taxes or tax incentives can certainly favour both the establishment of new businesses and the arrival of foreign investors, and well-administrated, efficient tax payment procedures can also contribute to the same result. Nevertheless, Myanmar's current tax system is cumbersome for companies, especially because of the prevalent corruption when collecting the levies.²⁸ To improve the situation, the Government could consider replacing commercial tax with a value-added tax (VAT) and developing an Internet-based tax payment system to limit physical contact with tax authorities. This should in turn limit the occurrence of corruption and bribery, and protect businesses from additional costs incurred from tax officers who abuse their positions.

Business performance also depends on institutions' abilities to enforce existing laws.²⁹ A fundamental component of successful judicial and regulatory enforcement is to provide fair, quick, and cost-effective legal redress, equally accessible to all affected parties. However, only 52 per cent of Myanmar's population trusts the country's judicial system and courts (figure 1) and the contract enforcement capacity in Myanmar is one of the lowest in the world, ranked 188th out of 189 countries in 2014.³⁰

Figure 1: The share of Myanmar’s population that trusts the national judicial system and courts is relatively low



Source: OECD, 2013a.³¹

There are several areas the Government must address in order to improve its legal system. The establishment of specialized courts for business disputes in Myanmar could improve law enforcement by limiting persisting doubts about the judicial competency of legal institutions. Furthermore, Myanmar’s judiciary system needs “unprecedented efforts” to create a criminal defense and legal aid system.³² The criminal justice system should look to international practice as a model, and integrate contents from the International Covenant on Civil and Political Rights.³³ In addition, everyone must be entitled to have access to credible legal aid that exhibits transparency and runs according to solid business principles.³⁴ Moreover, uniform case and court management techniques, systems for decision enforcement, adequate physical facilities, and reporting mechanisms could contribute in enhancing law enforcement while corruption eradication is of utmost importance.

In fact, corruption was and remains one of the major issues in Myanmar. According to the Corruption Perceptions Index developed by Transparency International, in 2013 Myanmar was ranked only 157 out of 177 countries worldwide, meaning that the corruption level in the public sector is very high. In addition, the *Myanmar Business Survey 2014* jointly conducted by OECD, ESCAP and UMFCCI, yielded similar results.³⁵ This survey included responses from over 3000 businesses in Myanmar, which revealed that corruption is the most common obstacle to their operations. Corruption usually takes the form of additional fees required by officials at different occasions (e.g., business establishment, trade across borders, tax payment). Any additional fees hinder businesses’ establishment and operations, especially those of small enterprises with limited resources. Transparency International has suggested a number of potential ways to address the corruption issue in Myanmar. The key is to take strong, effective action, such as: safeguarding the independence of the new anti-corruption committee; ensuring that the civil society and the media can be part of an

inclusive process to fight corruption; and implementing “right to information” laws.³⁶ In addition, leveraging information and communication technology for limiting physical contact with officials can also contribute to corruption eradication.³⁷

Similarly, access to financial services is another major problem for businesses operating in Myanmar. The OECD-ESCAP-UMFCCI *Myanmar Business Survey of 2014* shows that more than half of respondents complained about not having adequate financing. According to this survey, major obstacles to access loans are stringent collateral requirements, complicated procedures, and high interest rates. The banking system in Myanmar is currently small and has limited institutional and infrastructure support. Some potential solutions would be, for example, to put fewer constraints on private banking, adjust interest rates according to changing economic conditions, support the microfinance sector, and implement a deposit insurance system.³⁸

Overall, the current business-related regulations that are in place in Myanmar are still not fully beneficial to the private sector. They are often seen as obstacles preventing businesses from flourishing and contributing to the country's growth. To change that, the Government of Myanmar needs to provide a regulatory framework in which businesses can thrive. Similarly, addressing corruption and facilitating business access to finance are also of extreme importance. To understand the exact needs of the private sector, better private-public cooperation and communication are also highly recommended. In this way, the Government could be well informed about what policies are helpful for businesses and what needs to be changed in order to further facilitate their activity.

Box 1: Platform for public-private dialogue in Bangladesh³⁹

Public-private cooperation in Bangladesh was formalized in October 2001, when a special platform enabling the dialogue between the two sectors was launched. The platform, called the Business Initiative Leading Development (BUILD), was established through the common action of the Bangladesh Investment Climate Fund (BICF), Dhaka Chamber of Commerce and Industry, Metropolitan Chamber of Commerce and Industry, and SME Foundation. Later, the Chittagong Chamber of Commerce and Industry joined the initiative. The reasons for starting this cooperation were repetitive misunderstandings, an uneasy relationship and distrust between the public and private sectors.⁴⁰ The main objective of BUILD is to enhance the business environment by bringing together the Government and the private sector.

Currently, BUILD comprises four thematic working committees – trade and investment, financial sector development, taxation, and SME development – whose meetings are attended by the country's leading chambers and associations, as well as key officials from various Government agencies. In these meetings, the private sector representatives put forward the issues to be discussed. The next step consists of research and analysis regarding the identified issues in order to provide relevant recommendations. These recommendations are then supposed to be implemented by working committees of the respective ministries. BUILD follows up with the Government agencies to make sure the envisaged reforms were put into force and reports the changes to the business community.⁴¹

So far, the main focus of BUILD has been on improving the investment climate in Bangladesh, reducing business expenses, and supporting private sector development and investment. In just a couple of years, BUILD has facilitated the adoption of several considerable reforms. For example, the bonded warehouse licence issuance process was shortened from 56 to 26 days, while the issuance of the certification mark licence was cut from 74 to 38 days. In addition, the import tax on solar lanterns was lowered from 40 to 5 per cent. Nevertheless, the platform is facing several challenges, which relates to BUILD's sustainability from a brand, organizational, impact and financing perspective.⁴² Thus, the BICF is seriously engaged in drafting a sustainability strategy for BUILD to tackle these issues.

II. Building Competitive Business

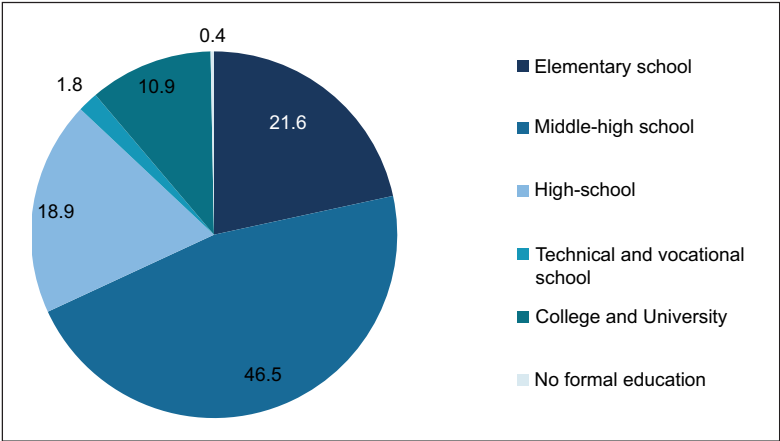
In addition to providing businesses with an enabling regulatory framework, the Government has to take action towards building private sector competitiveness, which is the key to the sector's development in the long term. Business competitiveness depends on five key success factors, namely: human resources, infrastructure, ICT, adoption of advanced technologies, and business development services, which will each be reviewed in turn.

A. Human resources

Human resources are an essential asset for the growth of an enterprise, similar to physical assets and financial resources, as people's attitudes, skills, and abilities collectively enhance organizational performance. An enterprise with skilled human resources can achieve better productivity, be more innovative, and earn higher profits due to increased capability.⁴³ The accumulation of sufficiently developed human resources through proper education and training can stimulate the growth of private entities. The World Bank Group's *Doing Business 2015* report reveals that inadequate education and skills are among the main constraints on private sector activity.⁴⁴

Unfortunately, Myanmar is facing serious constraints in this area. Addressing specialized education and qualification needs in Myanmar could considerably facilitate the creation of new businesses and improve the competitiveness of existing ones. Despite the fact that Myanmar's population has a high literacy rate and fair English communication abilities in comparison to other countries in the region, only a very small share of the country's population has secondary (15 per cent) or tertiary education (five per cent). In fact, with an average schooling time of 3.9 years and primary school completion rate of 90 per cent for males and 87 per cent for females, Myanmar lags behind its neighbouring countries.⁴⁵ Moreover, only a very small proportion of Myanmar's population has even basic technical knowledge or is familiar with scientific business practices.⁴⁶ Regarding the level of education attained by workers, the statistics are slightly better; 20.7 and 10.9 per cent of workers have secondary and tertiary education, respectively (figure 2).

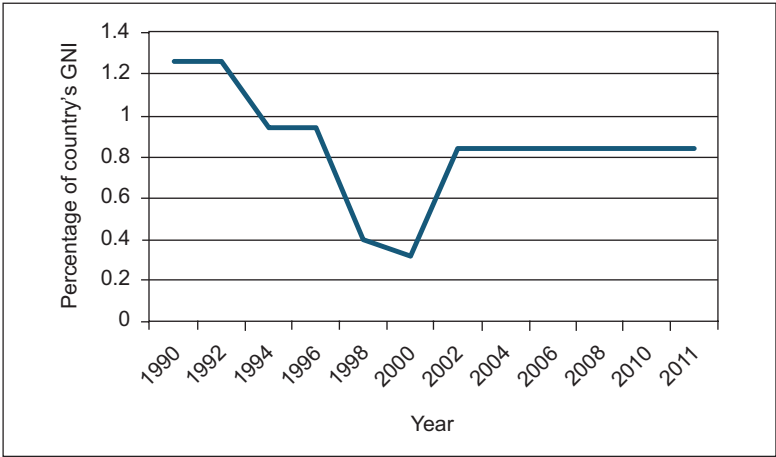
Figure 2: Educational attainment of workers in Myanmar (percentage)



Source: Kyaw, 2009.⁴⁷

The quality of education is also a significant concern with shortcomings in this area primarily due to low public expenditure towards education (figure 3). In fact, public spending on education declined considerably between 1990 and 2002 before eventually increasing slightly; however, it remains extremely low in relative as well as absolute terms, with the lowest amount of education spending in the region (figure 4).

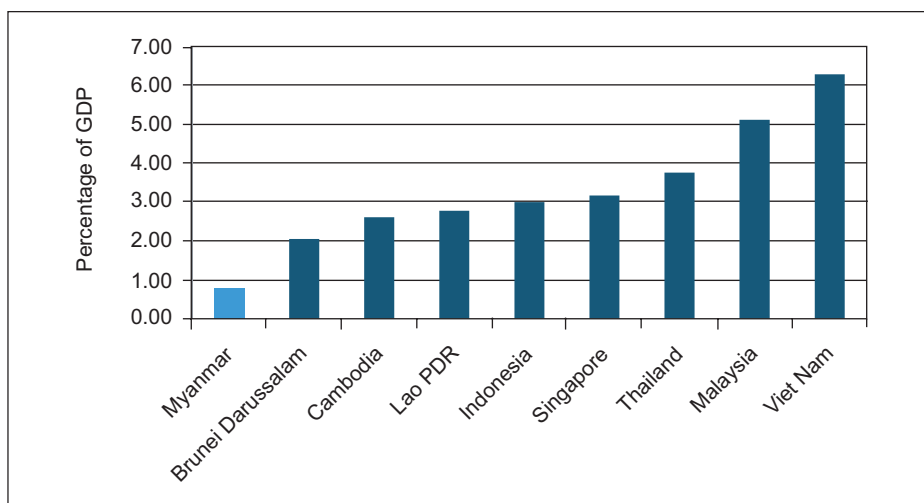
Figure 3: The share of gross national income (GNI)⁴⁸ spent on education remains very low



Source: The World Bank database, 2014.⁴⁹

Note: World Bank staff estimates using data from the United Nations Statistics Division's Statistical Yearbook and the UNESCO Institute for Statistics online database.

Figure 4: The share of GDP spent on education in 2011 was much lower in Myanmar than in other countries in the region



Source: The World Bank database, 2014.⁵⁰

According to the recent business survey in Myanmar, which was jointly conducted by OECD-ESCAP-UMFCCI, almost 60 per cent of participants indicated that they had found skill shortages to be a problem for their business.⁵¹ According to the results of the survey, jobs requiring technical skills, analytical thinking, creativity and initiative, and computer and IT-related skills are among the most difficult to fill, while extractive industries and traders, agriculture, fisheries and forestry face fewer difficulties in this area.

Positive changes in human capital can be achieved by attracting more foreign direct investment (FDI).⁵² To explain FDI's effect on the accumulation of human capital, some economists have used a demand and supply framework.⁵³ On the demand side, FDI inflows are considered to create a strong and skillful labour market through technology transfer, positive spillovers,⁵⁴ and investment in physical capital.⁵⁵ On the supply side, FDI can affect human capital progress through its effect on general education, and official and informal on-the-job training.⁵⁶ However, it is important to understand that such an effect on human capital is not automatic, as the positive spillovers of FDI depend on the national policy mix, good governance, the quality of the business/investment climate, and the integration of FDI policies into national development strategies and plans.⁵⁷ FDI is also a source of external capital that can increase Government revenues, which could then be used to raise public expenditure on education.⁵⁸ This would allow the funding of necessary reforms in the education system; raising teachers' wages; the financing of efficient, effective, and relevant training programmes; and improving learning materials. So far, the most important areas for improvement seems to be technical education and vocational training as well as self-employment and entrepreneurial skills, with an important goal being to build the capacity of the unskilled workers including the disadvantaged women and youth in the country.⁵⁹ Finally, better coordination among the ministries in charge of education is also important.⁶⁰

B. Infrastructure

Infrastructure is another major determinant of the private sector's competitiveness. It consists of "the basic physical and organizational structures and facilities necessary for the operation of firms, especially in the transport, telecommunication and energy sectors."⁶¹ Advanced transport infrastructure (i.e., well-developed roads, railways, ports, and airports as well as the connection between them) facilitates firms' links with their suppliers and customers, and allows better access to available resources and new markets. Good transportation can also help firms operate in a timely and cost-effective manner. In the energy sector, sound infrastructure is important to guarantee firms' efficient operation and competitiveness. For example, unreliable electricity supply that constantly interrupts the production process may prevent firms from meeting demand, cause a loss of clients, or damage the machinery. Finally, high-quality telecommunication infrastructure allows for quick, cheap communication with distant suppliers and customers or for the possibility to track exported and imported goods in transit.⁶² Therefore, good infrastructure helps firms reduce production and transaction costs, benefit from modern technologies, specialize, and integrate into regional and global value chains.

Myanmar's infrastructure, particularly infrastructure involved in logistics systems, is at a low development stage and constitutes one of the biggest impediments to profitable business and entrepreneurial activities. In 2012, a survey of 152 companies by the Japan External Trade Organization (JETRO) regarding business needs and strategies in the Mekong subregion (which comprises Cambodia, Lao PDR, Myanmar, Thailand, and Viet Nam) confirmed the urgency of infrastructure improvement in Myanmar. Businesses particularly highlighted the need for better roads along the East-West Economic Corridor (see box 2), as well as the development of the Dawei seaport and related infrastructure (e.g., the road linkage between the Dawei port and Thailand; the expansion of Yangon's airport, including the upgrading of its cargo treatment facilities). Furthermore, the survey confirmed that business activities are constantly disrupted by the instability of the electricity supply.⁶³ In fact, only 13 per cent of the population of Myanmar is connected to the national electric grid.⁶⁴ As a consequence, enterprises operating in Myanmar usually have to bear additional costs for electricity generators, which in turn raise overall operating costs and negatively affects productivity.⁶⁵

Box 2: The East-West Economic Corridor

The East-West Economic Corridor crosses the central regions of four countries, Viet Nam, Lao PDR, Thailand, and Myanmar, linking the South China Sea and Andaman Sea by roads of international standards and three border crossing points. It starts from the Da Nang deep sea port, Viet Nam, and runs through Savannakhet, Lao PDR, and Mukdahan, Pitsuanulok and Mae Sot in Thailand, to Myawaddy and Mawlamyine, Myanmar, before finally reaching Yangon (see figure 5). The development of the Corridor has been led by the Asian Development Bank and financially supported by Japan, Thailand and the World Bank since the middle of the 1990s.⁶⁶ The development of the East-West Economic Corridor within Myanmar's territory was delayed due to international sanctions, but recently resumed under

the ongoing political and economic reforms of Myanmar. Specific actions include the long-awaited construction of a new road link between Myawaddy and Kawkareik, which will replace mountainous one-lane roads along route 85 and has been supported by Thailand.⁶⁷ The Corridor is expected to enhance the movement of goods and services among the four countries, fostering, in particular, the cross-border production networks of the automobile, electronics, and garment sectors.

Figure 5: The East-West Economic Corridor



Source: Abe, 2014.⁶⁸

Table 2 depicts the level of logistics infrastructure in Myanmar and other ASEAN states. As shown in the table, Myanmar lags behind all other ASEAN states, demonstrating the urgent need to upgrade logistics infrastructures.

Table 2: The level of logistics infrastructure in Myanmar was the lowest among nine ASEAN states, 2014

Singapore	4.28
Malaysia	3.56
Thailand	3.40
Viet Nam	3.11
Indonesia	2.92
Philippines	2.60
Cambodia	2.58
Lao PDR	2.21
Myanmar	2.14
Average	2.98

Source: *Logistic Performance Index*, World Bank, 2014a.⁶⁹

Note: The figures in the table are logistics performance indices. The higher figures indicate higher performance.

It is the Government's task to provide decent infrastructure in a country by prioritizing and financing infrastructure projects. However, Myanmar's public budget does not presently allow it to finance a number of important projects. Thus, national authorities need to find additional means to gather financial resources. One of the most effective ways to gain additional support is to allow the private sector to participate in infrastructure projects, which usually takes the form of public-private partnership (PPP).⁷⁰ A PPP allows for the mobilization of private capital in infrastructure projects, speeding up the development of infrastructure and enabling better operations by tapping the expertise and efficiency of the private sector.⁷¹ In this sense, it could be said that firms can themselves enhance the business environment in which they operate, for example by contributing to the development of infrastructure through PPP schemes.

A caveat to the success of PPPs is that turning a profit from an infrastructure project takes a long time, making the private investors vulnerable to unstable legal, political, and economic environments. To mitigate such a risk and to prevent a PPP's failure, the private investor's and the government's rights should be clearly defined in a contract, ensuring stability and predictability as well as a balance between public regulations and commercial activities in a mutually gainful manner.⁷² To facilitate this task, the OECD has developed a tool called *Principles for Private Sector Participation in Infrastructure*, which can serve as a guide to public authorities striving for partnerships with the private sector.⁷³ For example, one of the policy recommendations on public-private cooperation would be to set up as clearly and as precisely as possible the objectives of the infrastructure project. For that purpose an output-based specification could be used, which makes it easier to verify compliance and allows the private sector more flexibility regarding the means to achieve agreed objectives. Another recommendation is to lay out, in a contract, conditions under which the agreement could be renegotiated. This is particularly important in infrastructure projects, whose smooth implementation is often subject to numerous risks (e.g., political,

legal, technical, physical), and contracts must be flexible enough to accommodate these possible changes.⁷⁴

In addition, a developing country like Myanmar can ask for the assistance of multilateral development banks like the World Bank and the Asian Development Bank. These institutions can provide technical and advisory support, develop impact assessments and offer additional financing for infrastructure development.

As highlighted above, the development of infrastructure in Myanmar would yield significant gains for businesses and enhance their competitive edge. Myanmar's national authorities need to assess the most serious infrastructure deficiencies and take appropriate action towards their improvement.

Box 3: Public-private partnership agreements in Timor-Leste

The youngest nation in Asia and the Pacific – Timor-Leste – became independent in 2002. However, its path to independence was very devastating; enduring violence caused enormous loss of lives, destroyed over 70 per cent of the country's infrastructure, and left thousands of people homeless. The country has been categorized as one of the poorest countries in the world and continues to face serious development challenges. To overcome these challenges, the Government prepared a strategic development plan for the period of 2011-2030. One of the focus areas is infrastructure, which the Government expects to develop in cooperation with the private sector.⁷⁵ For that purpose, it created a legislative framework for PPPs and a special PPP unit in the Ministry of Finance, which is now responsible for assessing and supporting the negotiation and implementation of PPP contracts, in collaboration with other relevant public authorities.

One of the most recent infrastructure-related PPP initiatives in Timor-Leste is the construction of Tibar Bay port. Due to the rapidly growing volume of Timor-Leste imports, a new construction project was initiated to build a modern international two berth (630 m) cargo and container terminal.⁷⁶ The project is to be developed by the Government of Timor-Leste through a PPP, with an international port operator selected through a competitive international public tender. It is supposed to take the form of a build-operate-transfer (BOT) concession signed for 30 years. The approximate cost of the project is \$300-400 million to be shared by the Government and the private operator.⁷⁷ In addition, the Government of Timor-Leste will receive project-related fees, royalties, and taxes. Regarding the PPP contract, it will include various economic clauses necessary to secure governmental interests and guarantee smooth operations, e.g., performance benchmarks, sinking funds for maintenance, step-in rights, and regulatory powers.

To support the structuring and the implementation of the PPP, the IFC approved a \$2.9 million advisory service project which was supposed to cover such activities as due diligence review, transaction structuring, marketing and promotion, contract preparation, and tender document preparation, throughout the pre-investment phase.⁷⁸ For example, IFC has already proceeded with an evaluation of legal, technical, environmental, social, financial, and market aspects of the project. In addition, it engaged the Private Infrastructure Development Group – a donor-financed group that helps to overcome the obstacles to private sector involvement in infrastructure development in developing countries – in mobilizing potential investors.

In late February 2014, four companies were pre-qualified. After the final review process there will be a stage of contract negotiation and conclusion. Then the next step will be project design, while the actual construction of the port is planned to begin in 2015, with port operations predicted to start in 2016-2017.

C. Adoption of advanced technologies

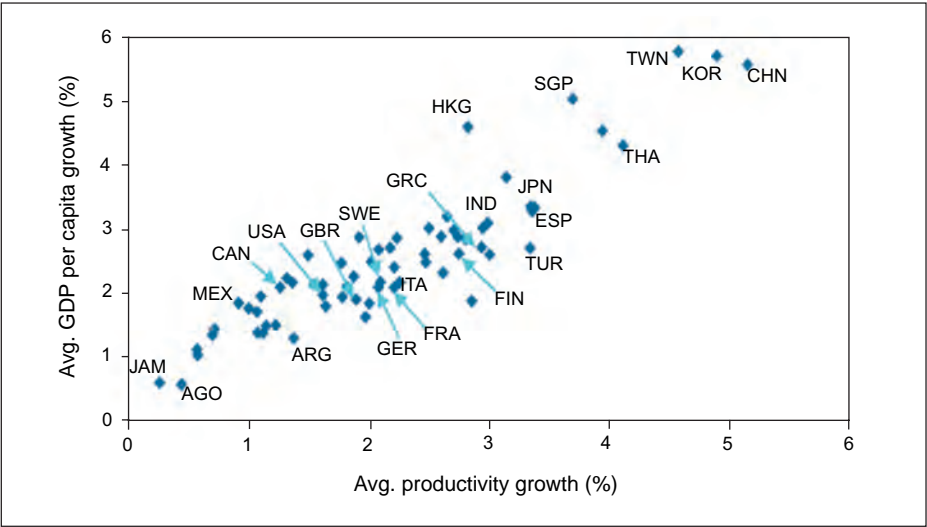
The use of advanced technologies, which is highly related to education and innovation, yields gains in productivity and competitiveness.⁷⁹ Advanced technologies can help producers and service providers add value to their products and services, comply with international quality standards, and raise profits. However, currently the use of advanced technology in Myanmar remains limited (especially due to low investment in R&D, lack of awareness about the benefits of technology, and absence of intellectual property laws), which, according to the results of the *Myanmar Business Survey 2014*, constitutes the third biggest obstacle to business operations in Myanmar.⁸⁰ The Government should try to explore other channels by which technology could be acquired.

Economists consider FDI to be the main driver for the transfer of advanced technologies to underdeveloped countries.⁸¹ Providing a favourable investment climate and promoting investment activities, is therefore likely to facilitate technology transfer to a developing country. However, similar to skill transfer, technology transfer derived from FDI inflows is not automatic. It is not a simple process, as recipient countries need to possess at least some minimum absorptive capacity (a certain level of human resources) in order to adopt advanced technology.⁸² In Myanmar, however, such absorptive capacity does not exist yet due to the lack of well-trained human resources as discussed earlier. To overcome this obstacle, businesses tend to hire more qualified people from abroad; this should not necessarily be seen as negative because experienced workers could share their knowledge with locals and assist them with the interpretation of the new technology in use. As a consequence, new foreign labour laws that are being drafted in Myanmar at the moment should facilitate visa or work permit applications so as not to dissuade qualified workers from entering. On the other hand, the same laws should make provisions to guarantee that local workers are not displaced or substituted by an equally qualified migrant labour force.

Additionally, the Government of Myanmar could support the use of advanced technology by businesses and enterprises by incentivizing R&D activities; encouraging techno-entrepreneurship;⁸³ connecting foreign businesses with local businesses to share technology-related knowledge and skills; and providing technology-related education and training to local people.⁸⁴

Utilizing all potential channels for technology transfer, especially FDI inflows, will be key to enhancing Myanmar's private sector productivity, and thus, overall economic growth (see evidence in figure 6). Gradually, technology transfer and adoption could not only positively transform individual firms' performance, but also Myanmar's entire economy, making it more attractive for businesses.

Figure 6: Relationship between economic growth and productivity from 1960 to 2012

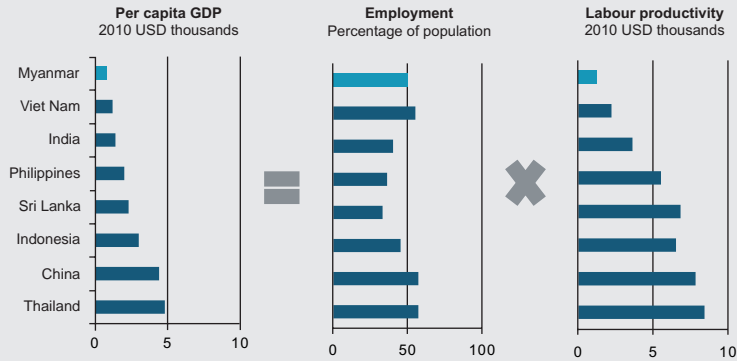


Source: Goldman Sachs, 2013.⁸⁵

Box 4: Encouraging Techno-entrepreneurship in Myanmar⁸⁶

Techno-entrepreneurship⁸⁷ is an emerging category of firms which can be of two types – technology developers and technology users. Technology developers are those who develop a unique technology capable of driving a new business while technology users are those who identify a new technology, understand its applications, and adopt it to address current market needs. Techno-entrepreneurship encompasses virtually any new development in firms. Their activities can consist of creation or re-engineering of products or services to meet new market demand, introduction of new processes focused on increasing productivity, developing or applying new marketing techniques to expand their sales, and incorporating new forms of management systems and techniques to improve their operational efficiency. Moreover, techno-entrepreneurs can create new value for customers; benefit from first-mover advantages; achieve high levels of scalability; translate high initial risks into abundant rewards; and deal more easily with rapidly declining product life cycles. As a consequence, promoting and enabling techno-entrepreneurship could be a milestone in strengthening Myanmar SMEs' competitiveness, which at the moment is hampered by low productivity (see figure 7) and limited value added. In terms of value added, a worker in Myanmar adds only \$1,500 economic value per year, which is 70 per cent less than the average of the Asian economies listed in figure 7.

Figure 7: Low labour productivity in Myanmar hampers country's economic growth



Source: McKinsey, 2013.⁸⁸

The Government can use various instruments to foster techno-entrepreneurship development in the country (table 3). It can finance techno-entrepreneur development programmes with a focus on imparting technical and managerial skills to leverage new technology.⁸⁹ Other options are providing skills to the future workforce through vocational training, intellectual property support and guidance, scientific and technical consultancy, and provision of commercialization support. In terms of financing, SMEs should be enabled to use public procurement (German policy goes even further – giving preference to innovative SMEs in public procurement), financial institutions (e.g., Small Industries Development Bank of India), and tax incentives (e.g., provision of tax rebates to SMEs engaged in R&D in France). Support for venture capitalists, the establishment of credit facilities, and the relaxation of bank requirements could also be useful. The Government can also create a technology knowledge pool, a patent regime, a technology transfer mechanism, and innovation hubs to promote knowledge sharing.

Table 3: Potential Government interventions for fostering techno-entrepreneurship

Category	Action
Financial Assistance	To provide loans and grants to firms for R&D and commercialization of new technologies.
Technology Incubators	To provide a range of services to small technology based start-ups (premises and facilities).
Technical Assistance	To assist firms in diagnosing technology needs and in problem-solving.
Technology Networking	To enhance research/technology linkages between firms and university laboratories.
Training	To conduct training and supporting measures for capacity building.
SME Policy	To develop sound SME development laws and policies.

Source: SkyQuest, 2013.⁹⁰

D. Information and communications technology

Information and communications technology (ICT) has become an indispensable tool for successful business performance. ICT fosters private sector competitiveness through increased productivity and innovation, and allows for higher profits. As a result, ICT also contributes to a country's overall economic growth. Countries where the mobile phone penetration was over 10 per cent of the population experienced a 0.59 per cent higher rate of GDP growth;⁹¹ furthermore, the Internet contributed to over 12 per cent of the global GDP during the last five years.⁹²

At the firm level, the use of ICT can improve productivity by facilitating the adoption of more efficient processes such as Internet marketing, e-commerce,⁹³ and streamlining of supply chains. Several analyses show that the use of ICT results in approximately 11 per cent increase in a company's productivity.⁹⁴ ICT can also trigger innovation in business by encouraging firms to develop new products or services or to introduce new business models to the market. It could also help business by simplifying and streamlining the public sector's services and activities, such as registration, licensing, and procurement, and making them more cost-effective. ICT has the potential to also limit the risk of corruption and bribery through transparent online services and automation of some procedures.⁹⁵

Due to such a positive impact of ICT on business, governments in developing countries are trying to encourage and facilitate ICT use in their respective territories. For example, a number of developing countries have already experienced the benefits of Internet and mobile phone facilities.⁹⁶ In this sense, Myanmar can position ICT as a central platform of its development plans. For the purpose of rapid mobile and Internet penetration, the Government should choose the most appropriate and cost-effective technological option in terms of the operator's network and roll-out, as well as in terms of the total cost of use for consumers.⁹⁷ ICT should help Myanmar leapfrog conventional development stages that are increasingly outdated and expensive to follow.

Box 5: Development of ICT services in India

Major economic changes in India occurred at the end of the 20th century, more precisely around the year 1990, when the Government decided to loosen its control over entrepreneurial activities. It provided financial support as well as a conducive business environment through new policies and programmes encouraging entrepreneurship advancement. A large variety of policies, concessions, and incentives were adopted to help smaller enterprises compete with large enterprises and increase market share. In addition, the country strongly promoted entrepreneurship-related education, which was introduced in various institutions such as universities, engineering and business schools, and entrepreneurship centres. At the same time, Indian enterprises have successfully adopted ICT that allowed them to focus more on ICT related services. Currently, India's ICT service exports are much higher than the world average. They account for 65.9 per cent of total service exports of India, whereas the world average was only 31.7 per cent in 2012.⁹⁸ These reforms strongly encouraged entrepreneurship in India and fostered high economic growth.⁹⁹ The economy expanded at an average pace of 8 to 9 per cent annually until 2012.

E. Presence of business development services

Business development services (BDS) facilitate business creation in a country by helping enterprises overcome many serious barriers (e.g., lack of education, lack of expertise, limited resources). BDS aim to enhance the performance and competitiveness of an enterprise, particularly an SME, as well as its access to markets.¹⁰⁰ These services include training, consultancy, marketing, information, technology development and transfer, and business linkage, and can be either operational or strategic.¹⁰¹ Operational services are those needed for day-to-day operations (e.g., information and communications, management of accounts and tax records, and compliance with labour laws and other regulations), whereas strategic services are used by the enterprise to address medium- and long-term issues (e.g., access to markets, ability to compete).¹⁰²

BDS providers can be separated into three categories: private BDS practitioners, BDS facilitators, and international and national donors.¹⁰³ Private BDS practitioners offer direct services to SMEs and can be either individuals or entities like non-governmental organizations (NGOs), firms, industry associations and SMEs. BDS facilitators can be extension agencies, support institutions with development agendas, and other organizations that offer support services to BDS practitioners. Their support can consist of, for example, developing new service products, promoting good practice, building provider capacity, conducting evaluations of BDS providers, quality assurance, and advocacy for a better policy environment.¹⁰⁴ International and national donors are the institutions that provide BDS project and programme funding through donations, grants, and subsidies.

BDS can be also provided by governments, which play a particularly important role in the supply of BDS; they have the power to provide services themselves, or to influence their proliferation by financing the establishment of new BDS providers in the country or by providing funds to new BDS-related programmes.¹⁰⁵ Governments also have the potential to create a favourable regulatory environment and offer basic public goods (e.g., infrastructure, education, technology). In this regard, the present trend has encouraged governments to shift the focus of their interventions away from direct BDS provision and subsidies, toward the facilitation of a sustained increase in the demand and supply of BDS by fostering a conducive environment and facilitating linkages between companies that provide services and those that require them.¹⁰⁶ A government should conduct market assessments in order to identify potential providers and to expand and diversify the range of available BDS.

Despite the importance of BDS for private sector development, their availability in Myanmar remains limited. Myanmar's private sector development should encompass actions towards more intensive BDS development.

Box 6: BDS provided by the International Chamber of Commerce¹⁰⁷

The International Chamber of Commerce (ICC) is a global business association founded in 1919. At that time, the global economy was severely damaged by World War I and strong and coordinated action was needed to restore it. As a result, the private sector decided to act in concert in order to accelerate the recovery process instead of relying solely on governments. Currently, the ICC comprises members from companies, business associations, and chambers of commerce of over 120 countries and fulfills the important task of business representation before national governments or international organizations. As its name implies, the ICC aims at facilitating cross-border trading flows, promoting business self-regulation, and extending the market-driven economy into every corner of the globe.¹⁰⁸ For these purposes, it provides various legal, diplomatic, and technical services to businesses.

The ICC's primary task is advocating for policies that improve international business conduct. It has prepared business codes regarding various matters, for instance, advertising and marketing, anti-corruption and bribery, environmental management, corporate social responsibility, customs, and FDI. These codes and guidelines are declared by businesses around the world as being the best practices to simplify cross-border transactions. They can also enhance a company's image before the public. Nevertheless, these business codes are not binding, as companies can decide themselves to follow them or not.

The ICC has also developed interpretation rules of widely used trade terms, called Incoterms, to reduce uncertainties arising from different interpretations given to the same rules and terms around the world. They are commonly used in international commercial transactions or procurement processes. In addition, the ICC can help with contract drafts, providing reliable and unbiased contract models, while maintaining minimal legal fees for contract development. These contracts are crucial tools to the management of international dealings for SMEs with no legal support but also for large companies, as these models may offer the compromise required to solve the battle of forms. The ICC also organizes various training events and conferences to educate and assist international businesses and the legal community. The series of training events can be accessed online at the organization's website. Lastly, the organization also offers arbitration services to settle business disputes through binding decisions without costly legal action.

III. Fostering Small- and Medium-sized Enterprises

Myanmar's private sector performance heavily relies on entrepreneurship,¹⁰⁹ particularly on that of SMEs,¹¹⁰ which account for 99.4 per cent of all registered enterprises in the country.¹¹¹ They are constantly exposed to a variety of hurdles that hamper their performance. For example, the underdeveloped financial sector makes it very difficult for SMEs to obtain adequate financial services at reasonable costs. Myanmar's nascent banking system only allows limited short-term lending which does not sufficiently meet the needs of smaller enterprises. Other forms of capital readily available in developed economies, such as long-term debt or equity, are uncommon to Myanmar entrepreneurs. As a consequence, SMEs still largely rely on informal sources of capital such as family, friends,

or loan sharks that charge exorbitant interest rates to lend to the entrepreneurs. There are a number of other common difficulties faced by SMEs across sectors: they typically have little to no bargaining power when purchasing inputs, few resources to buy specialized support services, limited access to productive and knowledge resources and lack the capacity to tackle market opportunities that require high volumes of standardized products.¹¹² All of these strongly affect SMEs’ competitiveness and complicate their access to larger markets. Nonetheless, these particular constraints can be surmounted through a variety of catalysts: global pools of growth capital, SMEs’ integration into global value chains, and SME cluster formation.

A. Utilization of global pools of growth capital

While the banking system of Myanmar has undergone reforms, entrepreneurs should explore other avenues for accessing capital such as global development financial institutions or private pools of capital, which are investors actively looking to invest in Myanmar. Figure 8 displays various pools of growth capital available to entrepreneurs that they can tap in order to support their activities.

Figure 8: SMEs can use different sources of growth capital



Source: Narain, 2013.¹¹³

Access to capital options ranges from debt to equity which can take the form of senior finance, mezzanine finance, equity finance, or venture capital. Each of these comes with tradeoffs from the perspective of cost, tenure, control, and risk for both investors and entrepreneurs (table 4).

Table 4: There are unique trade-offs when using different types of growth capital

	Senior Finance	Mezzanine Finance	Equity finance	Venture Finance
Cost	Low	Higher	Highest	Highest
Tenure	Short	Mid	Long	Long
Control	Low/covenants	Low	Higher	Highest
Risk	Protected	Some protection	Highest	Highest

Source: Narain, 2013.¹¹⁴

The senior finance category consists of financiers who provide debt or loans with an interest payment in the form of a coupon. Financiers of this category are on top of the capital structure and have the highest protection via collateral or secured assets in the business. In this category, entrepreneurs could approach development financial institutions (DFIs) which are typically owned by the governments. A few international development banks, such as the World Bank Group and the Asian Development Bank, also provide capital to Myanmar entrepreneurs through some select schemes.¹¹⁵ Development banks do not provide capital to individual enterprises, but they can grant governments or other relevant institutions (e.g., commercial bank or microfinance institution) with a loan or other type of financial support for the purpose of improving SMEs access to capital. For example, the International Finance Corporation (IFC), a member of the World Bank Group, provided a \$50 million loan to ACLEDA Bank subsidiary in Myanmar in order to support bank's lending to country's SMEs. This category also comprises export and import financial institutions as well as microfinance institutions¹¹⁶ that focus on SME promotion.

A relatively new, but growing, option is mezzanine finance, often used by institutional investors, asset management companies, pension funds, and hedge funds. It is used as an equity substitute by companies that have significant positive cash flow but whose senior debt capacity is maximized for the particular transaction.¹¹⁷ In this case, the lender takes on more risk and consequently seeks a higher coupon than the lender in senior finance. However, lenders in the mezzanine finance category have no equity stake in this business. Occasionally, these investors demand coupon payments for the investment and back-end equity conversion rights into the businesses in which they are investing.

Equity and venture capital involve the highest risk to investors as they have no payback guaranteed and, thus, seek higher stakes (minority share or majority control) in return for their capital. Regarding this category of capital, entrepreneurs should understand that they are effectively giving up a portion of their business in exchange for capital. Therefore, entrepreneurs must use this form of capital very prudently and only in well-thought-out expansion plans. Nevertheless, by giving up equity, businesses can receive new growth capital which could be used to grow their business and generate returns in excess of equity costs.

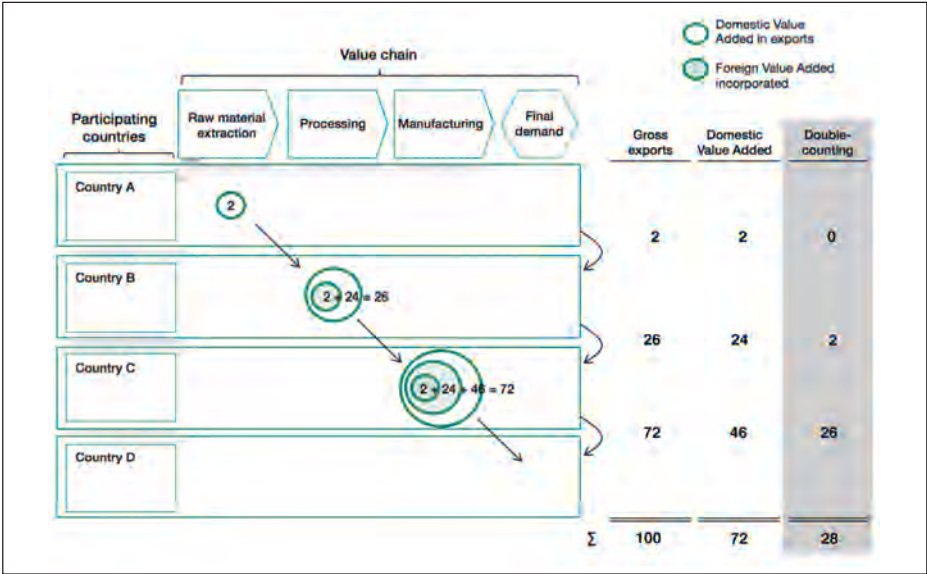
Access to capital and its proper deployment are imperative for the growth of SMEs and country's economy at large. Therefore, to overcome the current deficiencies of

Myanmar’s financial sector, entrepreneurs should continuously explore other sources of capital. However, aligning the interests of entrepreneurs with those of investors or capital providers is of paramount importance, and entrepreneurs should be familiar with the tradeoffs linked to different form of capital.

B. Integration of SMEs into global value chains

A value chain refers to the sequence of linked functions, of tangible or intangible outputs, necessary to produce any goods or services (figure 9). Every function adds its own value required to bring a product from its conception to final consumers. The share of products and services that are fully conceived, produced, and consumed in the same country is shrinking rapidly;¹¹⁸ hence, global (and regional) value chains are taking over the national ones, as they usually facilitate adding more value to products or services. By participating in global value chains (GVCs), SMEs contribute to the development of highly competitive products and services due to task-related specialization which facilitates their access to new markets and triggers demand for their inputs.

Figure 9: Value addition process in a global value chain



Source: UNCTAD, 2013.¹¹⁹

To improve Myanmar’s SMEs’ integration into GVCs, effective and efficient cross-border production linkages¹²⁰ need to be developed, as only smooth and cost-efficient production movement between the value chain members can result in real benefits from GVCs. In the context of Myanmar, the major obstacle to its SMEs’ integration into GVCs and into supply-chains¹²¹ in particular is the lack of access by SMEs to credit for financing their exports. In addition, SMEs face important constraints related to access to – and the state of – infrastructure (including electrical power), as well as to policy-related constraints such as

high tariffs on trade, lengthy business licensing and permit procedures, and poor trade facilitation measures.¹²² Such barriers impede rapid merchandise movement across countries and continue to cause higher costs and delays in delivery, jeopardizing benefits of being part of a supply chain or GVC.¹²³ In addition, the dearth of educated workers and limited use of technology hampers upgrading and innovation activities. Such activities are the basis for strengthening competitive performance and pricing power, and therefore achieving sustainable returns within chains and networks.¹²⁴

The Government is recommended to adopt a comprehensive approach encompassing all policies directly or indirectly affecting supply chains. Such policies can be related to the location of production plants (e.g., industrial zones and special economic zones), political climate, availability of skilled workers, industrial relations environment, trade openness, transport, technology, energy availability, taxation policies and incentives, subsidies, foreign investment policy, foreign exchange and repatriation, among others. Participation in international and regional economic cooperation agreements can also facilitate SMEs' integration into GVCs while the progressive elimination of "red tape" and implementation of a single window should be Myanmar's top priorities. Once these reforms are properly implemented, it should become easier for SMEs to become part of GVCs and to prosper in global markets.

Box 7: Myanmar SMEs' integration into the Greater Mekong Subregion value chains

The Greater Mekong Subregion (GMS) programme,¹²⁵ which was started by ADB in 1992, envisaged planning and carrying out subregional projects in nine different areas: transport, telecommunications, tourism, environment, human resource development, agriculture, trade facilitation and private investment. The programme's primary goal is to achieve better economic connectivity in order to improve product and service competitiveness regionally and globally.

The particular focus of this programme is to improve connectivity and competitiveness through economic corridors. In terms of connectivity, the economic corridor approach relies on infrastructure development in specific geographical areas based on their economic potential. The economic corridors create links with major markets and nodal points – centres of enterprise development; extend the benefits of improved transport linkages to remote locations and integrate them with more prosperous areas; and provide more investment opportunities and promote synergies through the clustering of projects. Regarding the competitiveness factor, economic corridors simplify cross-border production linkages; facilitate trade; and encourage the development of industrial clusters, urban cities, agricultural exports and tourism. The goal is to reduce costs associated with the timely movement of goods between member countries while simultaneously strengthening subregional value chain linkages and enabling them to access international markets more easily.¹²⁶

Currently, several economic corridors are already established in the GMS, including the North-South Economic Corridor and East-West Economic Corridor, both of which pass through Myanmar (figure 10). See the details of East-West Economic Corridor in box 2.

Figure 10: The GMS Corridors



Source: Souvannavong, 2013.¹²⁷

Nevertheless, these corridors do not function properly yet because good border facilities, which require large investments, are uneven between countries; border control operation time is very limited (six hrs/day, five days/week); and single window inspection and electronic customs are absent in most places. In addition, complex customs procedures and regulations, poor equipment standards, and transshipment and transloading requirements continue to challenge product movement within the GMS.¹²⁸

The GMS Business Forum (GMS-BF)¹²⁹ has stressed the need for less complicated and less time-consuming cross-border procedures to encourage economic transactions between the GMS countries. Governments were also advised to stop levying charges on product movement at all possible occasions and to remove other policy barriers to regional trade. To reduce the time (and cost) for cross-border land transport, ADB has also supported the GMS Cross-Border Transport Agreement (CBTA). This agreement – ratified in December 2003 by Lao PDR, Thailand, Viet Nam, Cambodia, China and Myanmar – is designed to make it faster and easier for people, vehicles and goods to cross borders within the region, as well as to eliminate intermediary stops or transshipment.¹³⁰ The CBTA thus covers a variety of

issues, such as harmonizing and simplifying border/customs procedures and documentation; reducing obstacles for people to cross borders; easing and harmonizing restrictions on goods crossing borders; mutual recognition of driver's licences, vehicle registration, etc.; as well as a variety of other measures that ease cross-border movement.¹³¹

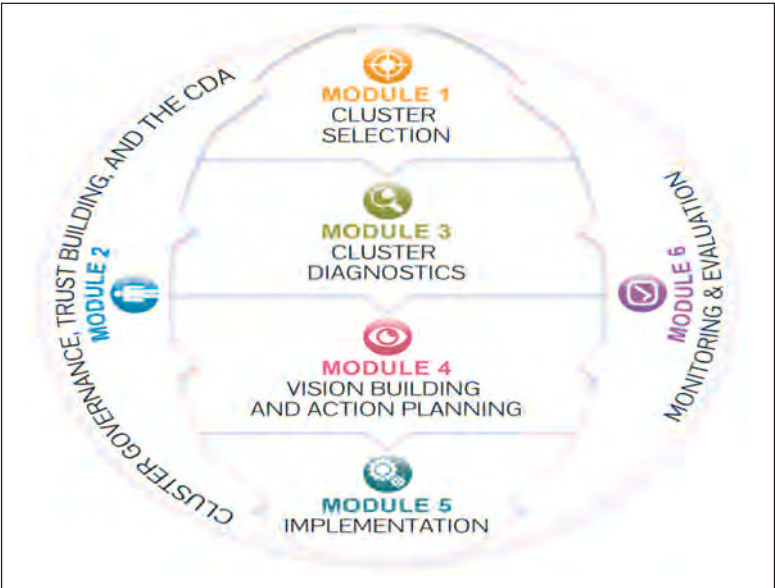
Finally, the GMS-BF also recommends enhancing GMS value chains, which requires close monitoring of remaining checkpoints' activities in order to reduce the prevalent corruption. The GMS-BF also expressed the practical use of business-to-business ventures and networking in solving problems and making the flow of commodities become faster and less costly. However, these reforms may take time; hence, the need for transitional reforms.¹³²

C. SME cluster formation

An SME cluster, task-related cooperation among SMEs, as well as between SMEs and institutions in their surrounding environment (e.g., industry associations, government agencies, and education and training institutions), can provide the basis for an effective response to competitive pressures.¹³³ SME clusters¹³⁴ could help SMEs maintain their competitiveness in global markets and adequately respond to growing GVC demands of participation.¹³⁵

The United Nations Industrial Development Organization (UNIDO) has developed a special methodology for cluster formation (figure 11) which can be used to support this process in Myanmar.¹³⁶

Figure 11: UNIDO's methodology for SME cluster formation



Source: UNIDO, 2013.¹³⁷

SME cluster formation should start with sector selection based on clear and well-defined criteria (e.g., pro-poor growth potential, feasibility, or potential for replication) chosen in a transparent manner. The implementing agency, national counterpart agency, or other stakeholders should determine the rankings of various potential sectors. Once the sector is selected, the cluster development agent¹³⁸ (CDA) should complete a cluster diagnostic study which analyses multiple aspects such as economic systems,¹³⁹ institutional and business linkages, and support institutions among others. Following this, cluster stakeholders should formulate a shared vision for future performance and prepare an action plan in order to ensure that this vision materializes. Next, the CDA must prepare the cluster's advancement strategy, facilitate stakeholder cooperation, and establish a cluster governance system. A governance system can help SMEs agree on common objectives and develop collective strategies to achieve them; it can also encompass such activities as joint action implementation, dispute resolution, or outcome monitoring.

Yet, clusters can still face various issues, including expensive raw materials and capital equipment, difficult access to timely and adequate credit without collateral, constraints on innovation, or a lack of sector-related infrastructure. In order to overcome these problems, cluster firms can constitute networks¹⁴⁰ which could facilitate the achievement of related benefits and reinforce their further pursuit. Finally, monitoring and evaluation activities dedicated to following up cluster progress are necessary. Various indicators and baselines can be set during the diagnostics phase to help implement this process.

In summary, cluster development initiatives are an important factor in economic policy because of the benefits in competitiveness they bring to SMEs (and larger firms). Many governments have acknowledged the importance of cluster formation, including them in their development plans.¹⁴¹ Through the organization of joint action (e.g., joint bulk input purchases, shared use of equipment, or joint advertising and brand development) clusters build a competitive and global edge for SMEs, better equipping them to respond to increasing global demand. Thus, promoting cluster formation in Myanmar could mitigate the prevalent constraints to SME development, consequently unleashing their growth, and fostering private sector development.¹⁴²

IV. Promoting Agri-business in Rural Areas

Agri-business¹⁴³ is often considered an engine of growth, a generator of employment and income, a principal source of value addition for primary agricultural products, a catalyst for the development of value chains, a contributor to improved product quality and safety, a provider of services, and, finally, an enabler of the flow of food from production to consumption.¹⁴⁴ Thus, fostering agri-business can be strongly beneficial to the country's private sector, economy, and people. However, it is also important to strive for inclusiveness,¹⁴⁵ which would help to integrate marginalized segments¹⁴⁶ of society into the economy and to fully tap rural potential.

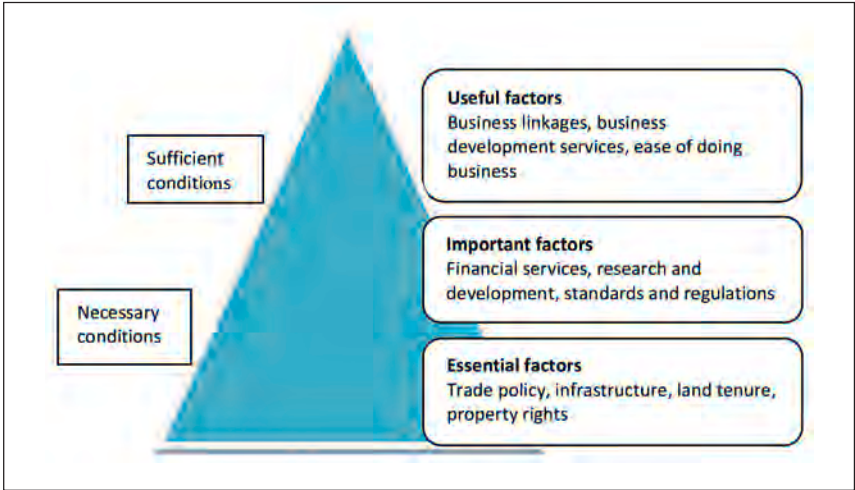
In Myanmar, women's social, political, and economic exclusion remains a serious problem.¹⁴⁷ This also applies to women in rural areas where they actively participate in

various agriculture-related activities but often remain unacknowledged by the society. Thus, adopting supportive agri-business policies with particular focus on female inclusion is crucial.

A. Agri-business and its key success factors

Myanmar contains the largest rural area among the countries of South-East Asia, and 70 per cent of its population (an estimated 42 million people) is engaged in agriculture-related activities. Thus, commercializing and translating these activities into agri-business seem to be one of the most appropriate development strategies. Fostering agri-business activity and building competitive agro-industries¹⁴⁸ require some key success factors (figure 12).

Figure 12: Key success factors of agro-industries are similar to those of other types of business



Source: Christy et al., 2009.¹⁴⁹

The figure reveals that success factors related to agro-industries match the general business enabling condition (e.g., infrastructure, property rights, access to finance, BDS, etc.) discussed throughout this handbook. However, rural areas in Myanmar are more disadvantaged than urban areas in terms physical assets, human resources, productivity, and innovation capabilities. Rural firms lack linkages with world markets, and employment and entrepreneurial opportunities for vulnerable segments of society are also severely limited in rural areas.¹⁵⁰ Thus, it is very difficult for Myanmar's farmers to develop competitive and sustainable businesses without Government support.

Agro-industries are also constrained by international standards and regulations. Respect for international standards is important in strengthening agri-business supply chains and facilitating small households' access to national and global markets. National

authorities should work in concert to implement these standards and monitor and control their respect by all agro-industries. However, compliance with these standards makes it even more difficult to develop competitive agri-businesses in rural areas due to limited capacities of agro-industries there. Thus, national authorities should endeavour to support agri-business and agro-industries by disseminating information on quality and safety standards; creating incentives for technology adoption, innovation, R&D activities; and providing special support services in order to help businesses adjust to new market requirements perhaps adopting appropriate business models.¹⁵¹ It is in the hands of the Government to incentivize such a transition by fostering an enabling business environment, enhancing access to financing and inputs, and providing necessary support services. Without Government support, it will be difficult, if not impossible, to achieve successful and sustainable agri-business.

B. Inclusion of Myanmar women in agri-business

Historically, societies around the world have been organized around different gender roles.¹⁵² This approach remains particularly common in the developing world, where women are expected to stay at home and take care of kids and housekeeping, while men are charged with working and providing food and money for their family. However, today, despite the traditional roles attributed to men and women, women often play a dual role in society, working inside and outside of their homes, sharing economic roles with men. This is particularly true in rural areas, where both women and men assume various agricultural duties;¹⁵³ Myanmar women are not an exception. They actively participate in various agriculture-related activities like livestock and poultry production, food and dairy processing, fishery processing, crop production, seeding, weeding, and fertilizing, among others. Women also help men in trading agriculture products in order to accumulate higher income for their household. Women in Myanmar account for the majority of those participating in a variety of tasks associated with crop cultivation, such as: hoeing and weeding; food storage and transportation activities; post-harvest management, including food processing; providing water and energy; and harvesting and marketing activities.

Despite their valuable contributions, however, women still face limitations on starting their own business or getting hired by others,¹⁵⁴ because gender-based stereotypes continue to influence society. As a result, rendering agri-business more inclusive to women requires considerable efforts in many areas and is a long and complex process. First of all, the Government needs to adopt new strategies aiming at further gender equality promotion. For that purpose, agricultural policy should take into consideration gender differences and foster equitable female participation in decision-making and leadership activities.¹⁵⁵

Typically, women are less educated than men and have limited experience and low technological skills. To address this issue, the Government should consider investing more in female human capital and providing technical training.¹⁵⁶ Additionally, the Government could promote female involvement in agriculture-related science and research activities through programmes such as scholarships or fellowships.¹⁵⁷

Furthermore, women in Myanmar regularly suffer from disrespect to their private property. While legally women enjoy equal rights to men regarding property acquisition,

administration, and disposal, regular reports of land confiscation from women for use as military bases provide indications to the contrary.¹⁵⁸ As a consequence, the Government should think of ways to protect private ownership of women not only in theory but also in practice.

Regarding female access to finance, women have the same rights as men in asking for bank loans. For example, the Myanmar Maternal and Child Welfare Association has provided loans totaling close to MMK 180 million (\$28 million) to more than 45,000 women with a desire to manage small-scale businesses or breed livestock.¹⁵⁹ However, non-governmental organizations have reported complaints about financial exploitation of women as the interest rates on these loans were excessive, benefiting the individuals running the scheme.

Lastly, female entrepreneurship and integration into agri-business could be improved by establishing a strong enabling business environment and by including a gender dimension into SME promotion policies. This would create a complete framework for inclusive business which would trigger the establishment of new private entities in rural areas, create jobs, and provide stable incomes, consequently reducing poverty rates. In addition, inclusiveness could significantly strengthen the supply side of agriculture products through increased productivity, and could help producers meet rapidly growing demand. Realizing the full potential of Myanmar's rural areas and fulfilling social goals requires the Government's strong commitment to adopt appropriate policies aiming to overcome gender issues.

V. Establishing Good Corporate Governance

Corporate governance¹⁶⁰ aims for the improved performance of a firm, effective resource allocation, and better access to larger markets for more profitmaking. Furthermore, good corporate governance can enhance access to financing while helping the efficient functioning of financial markets.¹⁶¹

Corporate governance also supports the notion of the right balance between economic and social goals and between individual and community goals.¹⁶² It can contribute to social development, for example, through providing better welfare and safety conditions to employees, as well as environmental protection, for example, through implementing low carbon emission production systems. In this sense, every country should develop an appropriate corporate governance framework.¹⁶³ However, decent corporate governance is still difficult to find in Myanmar as the level of disclosure and transparency in firms remains low, the board often does not satisfy its duties, and the role of stakeholders (despite recent progress) needs further improvement.¹⁶⁴ The following sections will provide some general recommendations on how to improve corporate governance in the country.

A. Timely and transparent disclosure

Disclosure is a fundamental component of a solid corporate governance framework that implies timely and transparent revelations of financial and non-financial information. A

strong disclosure system is a key aspect of market-based monitoring of companies and is central to shareholders' ability to exercise their ownership rights on an informed basis.¹⁶⁵ Disclosure can also be a powerful tool for influencing corporate behaviour and for protecting investors as well as various stakeholders, including employees. An adequate disclosure regime attracts more capital and maintains confidence in the capital markets, preventing unethical behaviour within a firm and preserving the market integrity.

In Myanmar, as in much of the rest of Asia and the Pacific, disclosure remains a big challenge. This situation could be changed through the adoption of internationally recognized accounting, audit, and financial disclosure standards and practices which enhance transparency in corporate governance.¹⁶⁶ The adoption of such international standards and practices needs to be underpinned by independent oversight bodies for both the audit and accounting professions to ensure their effective implementation. In some cases, however, local conditions may require a set of domestic standards, but until full convergence with international standards is achieved, the authorities should disclose how local standards and practices diverge from international ones (and the reasons for these divergences). The oversight bodies should also have the means to ensure timely and transparent disclosure, including both financial and non-financial issues. Finally, the implementation and monitoring of audit and accounting standards should be overseen by bodies independent of the profession.¹⁶⁷

Evidence has shown that companies with poor corporate governance practices of transparency and disclosure are more likely to underperform in the long term and that such practices harm the interests of both individual shareholders and the company as a whole.¹⁶⁸ Therefore, considering the positive effect of increased transparency, the Government of Myanmar should consider integrating appropriate disclosure regulations into a new corporate governance framework.

B. Respecting stakeholders' rights

Good corporate governance also requires businesses to develop company-level policies and procedures that promote awareness and observance of the rights of stakeholders, who have a valid interest in the project, and to translate them into everyday actions.¹⁶⁹ Such a practice also has the collateral benefit of attracting and retaining talented employees. Corporate governance that enshrines the respect of various stakeholders' rights enables the firm to improve, to professionalize its behaviour, and to insulate the firm from the unauthorized and illegal behaviour of rogue employees and supervisors. As a consequence, it is in the interest of the firms themselves to protect stakeholders' rights.

One approach to enhance the awareness of stakeholders' rights is to provide shareholder and employee handbooks that specify rights, entitlements, and avenues for redress.¹⁷⁰ They should include company policies and procedures regarding matters such as reporting unsafe working conditions, discrimination, or harassment. Further, firms should put in place proper procedures to investigate complaints and information on wrongdoing of employees or other stakeholders.

The framework to protect stakeholders' rights could also encourage firms to develop performance-enhancing mechanisms for active cooperation between management and employees.¹⁷¹ However, these schemes, and other remuneration-associated systems, should be developed keeping in mind their alignment with the longer term interests of the company as well as an understanding of any associated risks.¹⁷²

Finally, board members and policymakers should not only take into account the interests of various stakeholders but also communicate to the public at large how these interests are being taken into account. Such actions help to preserve and promote the firm's reputation, which is positively associated with its capacity to generate returns, due to the public's positive perceptions of its products and services. For this purpose, corporate social responsibility (CSR) has gained popularity in recent years as companies try to mitigate risk from all angles.¹⁷³

C. Performance of the board of directors

The main structural body of corporate governance is the board of directors. The board controls a major part of financial and human resources management and is responsible for guiding crucial and complex organizational issues.¹⁷⁴ As a consequence, it is allocated a substantial part of decision-making power by the shareholders. Thus, due to the importance and complexity of the board's task, the corporate governance framework should set clear requirements regarding board's performance.

According to what is considered good practice, the board should be required to develop review and guidance processes that require management to organize and present strategies, plans, and policies in a systematic and well-substantiated manner. Board deliberations and documentation should be properly recorded as a way of improving responsibility, encouraging professionalism, and developing institutional memory.¹⁷⁵ Similarly, the development of procedures in the board's monitoring and supervising work can improve the quality of decision-making by requiring that "instinct" be supported by data and analysis.

Furthermore, the board must be able to exercise objective unbiased judgment. But because controlling shareholders often nominate the board, real objectivity and independence can be undermined. The situation can be improved by providing a precise definition of independence; disclosure of nomination and election procedures; and transparent relationships between the candidates, management, and shareholders.

Moreover, the board should apply high ethical standards. These standards are in the long-term interest of the company as a means to make it credible and trustworthy, not only in day-to-day operations but also with respect to longer-term commitments. To make the objectives of the board clear and operational, many companies have found it useful to develop company codes of ethics, which at a minimum should set clear limits on the pursuit of private interests.¹⁷⁶

Performance evaluation, such as periodic review of the board's performance and achievements, can work as an incentive for the board to act responsibly and in the best

interest of the company. The performance of the board as a whole, of its committees and of its members, should be evaluated regularly – at least once a year.¹⁷⁷ Enhanced board performance could be achieved through regular training in areas of legal and governance duties, finance, internal-control systems and their monitoring, business strategy development, risk policies, budget, and other relevant areas.

D. Respect for the environment

Another issue for corporate governance, and one that has seen a sharp increase in prominence over recent years, is minimizing the environmental impact of businesses, on both the local and global scale. Globally, the issue of climate change is a matter of high concern, and businesses should seek to minimize their levels of emissions so as not to contribute to this problem. Furthermore, limiting the use of energy by businesses can also reduce their negative impact on climate change. Locally, businesses should ensure proper disposal of all waste materials, particularly those harmful to plants, animals, or humans. They should also seek to minimize the pollution of the air, land, and water in and around their premises. Failure to do so can have a severely detrimental impact on the lives of the people in the surrounding community as well as on biodiversity. Furthermore, certain environmentally unsound practices can have direct negative consequences for businesses and their employees – for example, deforestation caused by agricultural or extractive industries can lead to landslides in the area.

Even if government enforcement of environmental regulations is lax, it is still in a business's interest to take proper care of the environment. Businesses that pollute the air, water, and land in their local areas can sometimes find the local community taking action against the business, for example, through protests that reduce the efficient operations of the business, or by drawing the attention of the media (or social media) and creating negative publicity. It is also important to consider that by decreasing the quality of the air and water in the area, the business can harm the health of its workers who live nearby, thus hurting the business's bottom line.¹⁷⁸ Although climate change may seem like a distant or nebulous issue, businesses that are perceived to contribute to the problem through high emissions may face consequences from consumers who pay attention to this increasingly prominent issue.

Environmental concerns are an important part of corporate governance, specifically, because it is necessary for those at the top to make it clear to all employees that the environment is a key concern. It is those at the top who are able to set the business practices and the business culture, and thus ensure that the business takes proper care of the environment, in order to serve the interests of the environment itself, the local community, as well as the business.

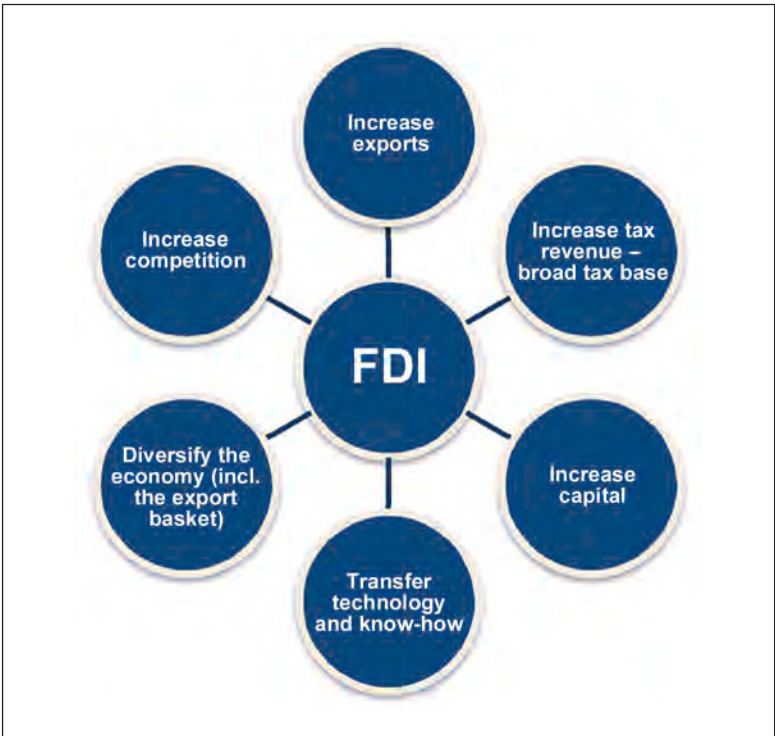
Part Two

Attracting Foreign Direct Investment

Foreign direct investment (FDI) can be defined as cross-border investment by a resident in one economy with the objective of obtaining a lasting interest¹⁷⁹ in another economy.¹⁸⁰ A foreign investor can be an individual, an incorporated or unincorporated public or private enterprise (e.g., a transnational corporation), a government, or a subsidiary of an enterprise outside the home country of the enterprise.

Generally, for developing countries, FDI is one of the most crucial factors for their economic development and growth.¹⁸¹ The major benefits of investment are illustrated in figure 13.

Figure 13: FDI can bring multiple benefits to recipient countries



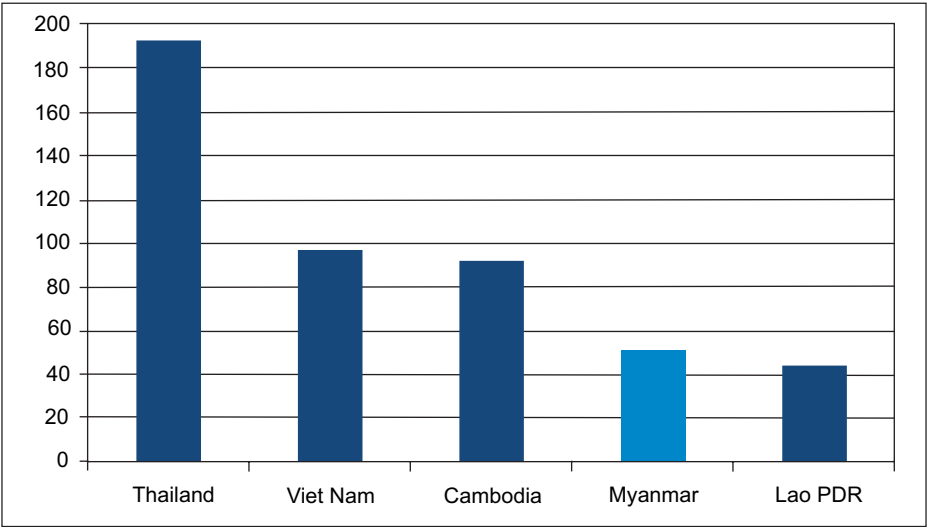
Source: OECD, 2012.¹⁸²

FDI encourages economic development and growth, particularly through its support to private sector development. FDI increases the existing pool of knowledge in the host economy;¹⁸³ it augments the capital stock;¹⁸⁴ and it promotes the utilization of more advanced technology. Those effects consequently render local firms more competitive. As a result, more competitive enterprises can access larger markets and increase their exports. Higher demand for exported goods generates more profit for firms, which in turn increases public revenues through a broader tax base. In addition, FDI increases the competition among the local firms themselves and pushes them to further improve their performance.

Finally, FDI is also linked to export diversification through their inputs to improved productivity and competitiveness of local firms.¹⁸⁵

FDI accumulation in a country strongly depends on the environment in which the investors operate. A country's continuous efforts to strengthen national policies and public institutions, coupled with international cooperation, to create a sound investment climate are of the utmost importance.¹⁸⁶ In the context of Myanmar the Government started encouraging foreign investment from the end of the 1980s and has implemented a number of reform measures, together with eight investment-related business laws: State-owned Economic Enterprise Law in 1989, two Foreign Investment Laws – the first in 1988 and the second in 2012, Myanmar Citizens Investment Laws in 1994 (old) and in 2013 (new), and Special Economic Zone Law and Dawei Special Economic Zone Law, both in 2011, as well as the revised Special Economic Zone Law in 2013. However, these reforms have not been sufficient to attract more investment to the country, leaving Myanmar behind the majority of its peers (except Lao PDR) (figures 14 and 15). The annual FDI inflow data (figure 15) shows that there was a very significant spike from 2010 to 2011, attributable to the Government's widely publicized decision to open the country to greater trade with the world as a whole. However, the growth in inflows in subsequent years has been much more gradual. This could indicate some hesitation caused by uncertainty on the part of prospective investors, as well as possible difficulties or obstacles to investment.

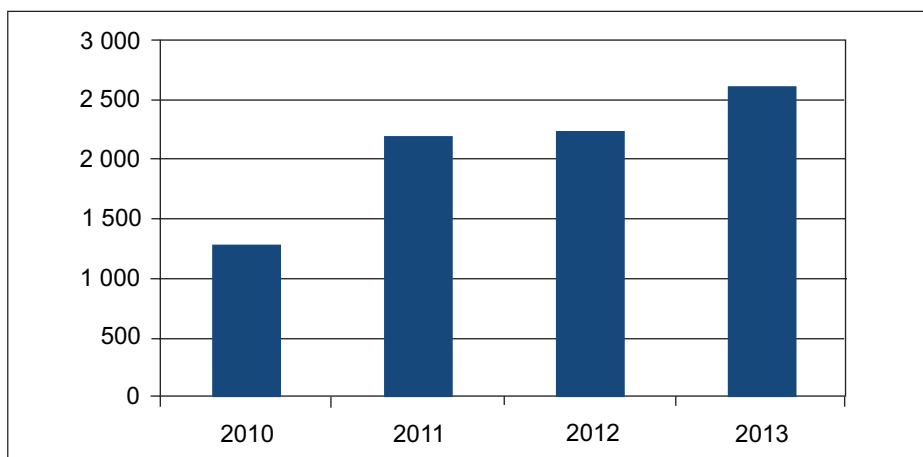
Figure 14: FDI inflows in Myanmar remained lower than in most of the neighbouring countries in 2013 (FDI per capita inflow, US\$)



Source: UNCTAD database, 2014.¹⁸⁷

Note: Due to the previous difficulty ascertaining Myanmar's actual population, this chart uses UNCTAD total FDI inflow data and Myanmar's census data on population to establish the per capita measure. The figures for other countries are the per capita measures provided by UNCTAD.

Figure 15: Total FDI inflows to Myanmar have been increasing, though not enough to attain similar levels as its neighbours (Total FDI inflows, US\$)



Source: UNCTAD database, 2014.¹⁸⁸

I. Key Conditions of a Favourable Investment Climate¹⁸⁹

Considering the positive outcome of private capital inflows, particularly in developing countries, it is in the interest of every recipient country to try and create a favourable investment climate. Myanmar is already seen as one of the most attractive countries for future investment due to its geographic location, natural resources, energy availability, potentially large domestic market, low labour cost, high literacy rate, and its people's language abilities. However, multiple obstacles continue to deteriorate Myanmar's investment climate and delay the arrival of substantial investment into the country. Prevalent issues include legal insecurity, corruption, outdated infrastructure, weak property protection, discriminating measures, and difficulties in reconciling cases of business disputes, among others (cf., OECD, 2006). They all create doubt among prospective investors as to whether or not they will indeed be able to benefit from their investment. As a consequence, the Government should proceed with further reforms in order to minimize the associated risks and to guarantee the efficiency of investment operations.

A. Transparency in rules and regulations

Transparent information on rules and regulations dealing with investment is a crucial factor in the investment decision. Due to the absence of a harmonized and uniform investment framework applicable world-wide, investment-related policies vary from one country to another. Foreign investors may be exposed to regulatory systems, cultures, and administrations different from those of their home countries. In order to familiarize themselves with the investment climate and existing opportunities in another country, foreign investors must have access to up-to-date information regarding applicable rules and regulations. However, a policy framework that appears to be too obscure negatively affects

the investment climate as investors feel insecure and particularly vulnerable to future policy changes.¹⁹⁰ As a consequence, very few investors would be willing to invest their capital. Thus, a country that hopes to attract more FDI has to guarantee predictability and the possibility for investors to foresee potential legislation amendments through the transparent and timely disclosure of related rules and regulations.

Furthermore, some sudden changes in rules and regulations may negatively affect present investments, which last over a certain period of time, and cause significant loss in profit for investors. This is particularly the case when considering a country like Myanmar that is undergoing a rapid transformation through continuous reforms. As a consequence, lack of transparency and disclosure of related rules and regulations is again associated with low foreign capital inflow.¹⁹¹

In order to provide a more favourable climate for foreign investors, Myanmar has to guarantee the publication of both already existing, and newly adopted, laws and regulations regarding investment, as well as other relevant information such as applicable international agreements, administrative practices and rulings, judicial decisions, and policies.¹⁹² In this way businesses would be able to assess potential investment opportunities and related risks in a more informed and timely manner. For example, full knowledge of new binding rules published on time allows investors to make timely adjustments to their activity and to avoid loss in profits or any legal litigation.

The investment climate could also be significantly enhanced through consultation with the interested parties; codification of legislation in simple words; use of virtual interface to share information related to the regulatory framework in force; and promulgation and review of administrative decisions. Additionally, it is advisable that the implementation and enforcement procedures of investment-related policies are also clear and transparent.

B. Secure private ownership and intellectual property rights

Investment operations usually require acquisition or renting of property (e.g., an office, land, factory, or company); therefore, similar to the enabling business environment, securing rights to land and other forms of property is an important prerequisite for a healthy investment climate.¹⁹³ Property rights carry an intrinsic economic value, and investors need to be confident that their entitlement to these rights is properly recognized and protected. These rights entitle the investor to participate in the eventual profits that derive from an investment. Thus, progress in securing private ownership and intellectual property rights is an indispensable part of an enhanced investment climate in Myanmar. In fact, many country-level studies reveal that less secured property rights are associated with lower investment inflow.¹⁹⁴ Considering the level of protection granted to private property in Myanmar, the Government needs to implement serious reforms in the private property rights.

First, the Government should deliberately pursue the progressive establishment of a timely, secure, and effective way to register land and other types of private ownership. For that purpose, a well-defined overview of private ownership and a clear registry of what constitutes public property should be provided. Particular attention should be given to

improving Myanmar's property registry procedures which are more lengthy and costly than average in South-East Asia (table 5).

Table 5: Property registry in Myanmar is more complicated and costly than in other areas in 2013

Indicators	Cambodia	Lao PDR	Myanmar	Thailand	Viet Nam	South-East Asia (excluding Myanmar)
Procedures (number)	7	5	6	2	4	5.7
Time (days)	56	98	113	2	57	65.7
Cost (per cent of property value)	4.4	1.1	7.2	6.3	0.6	3.8

Source: World Bank Group, 2014b.¹⁹⁵

Note: South-East Asia comprises: Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, Philippines, Singapore, Thailand, Timor-Leste, and Viet Nam. In this table, Timor-Leste was excluded due to lack of data, and Myanmar was also excluded to show the comparison with neighbours.

Second, strict regulations regarding property nationalization and expropriation should be developed to prevent any abusive actions by the authorities. According to international standards, nationalization or expropriation must be always legally justified and based on the public interest, as well as accompanied by just, equitable, and prompt compensation. To preserve the balance of interests, the Government should always consider whether the same result could be achieved by using less drastic measures.

Third, the Government needs to secure intellectual property rights, an action which could trigger FDI arrival¹⁹⁶ to the country, and particularly to the R&D and high value added sector. Commonly used instruments to encourage investment in innovation normally include patent and copyright laws, which secure the owner the exclusive right to take advantage of the innovation for a pre-determined period of time. Hence, securing intellectual property rights can attract more investors by making them comfortable with using the innovation they already own. Unfortunately, despite Myanmar's commitment to WTO and ASEAN to implement minimum protection standards, intellectual property laws are virtually non-existent in the country. (However, the Government acknowledged the imperative need for implementation of these laws in Myanmar and is in the latter stages of drafting such legislation.)¹⁹⁷ In addition, the effectiveness of these instruments in terms of encouraging investment in innovative activities depends on how well the rights are enforced.

C. Non-discriminating treatment of foreign investors

Non-discriminating treatment of foreign investors is a principle which aims at ensuring equal treatment of both foreign and domestic investors and eliminating all competitive

distortions.¹⁹⁸ The concept of national treatment provides that a government treats enterprises controlled by the nationals or residents of another country no less favourably than domestic enterprises in similar situations. Hence, national treatment implies that foreign investors benefit from a similarly favourable regime as domestic investors. This principle is widely applied throughout the world, including in the majority of neighbouring countries of Myanmar.

However, Myanmar continues to apply dual investment laws based on business ownership (i.e., domestic or foreign).¹⁹⁹ Although the Domestic Investment Law of 2013 and a Foreign Investment Law of 2012 grant domestic and foreign investors with a very similar legal investment environment, such a distinction between investors may be sending a wrong message.²⁰⁰ Just the fact that there are two distinct laws governing foreign and domestic investments gives an impression of some level of discrimination. As a consequence, it can dissuade potential foreign investors from bringing their capital to Myanmar. Unifying Myanmar's investment laws would grant all investors with an equal treatment in accordance to international standards (i.e., national treatment standard) and give an additional layer of confidence to foreign investors in Myanmar.

On the other hand, unconditional application of the national treatment principle can be sometimes detrimental to a country's economy. This is particularly the case when considering the national investors in developing countries identified as "infant industries" or "infant entrepreneurs" that may find themselves in a less advantageous position by comparison to foreign investors, who may be economically powerful transnational corporations.²⁰¹ This is why a limited number of exceptions to the national treatment could be reasonably justified. However, when considering maintaining or implementing new exceptions to the principle of national treatment, thorough analyses of costs and benefits should be completed to make sure that this is actually more advantageous to the country.²⁰²

Generally, implementation of the national treatment principle is seen as highly beneficial to a country as it is considered to be one of the major incentives for foreign investment. It usually applies at the post-entry stage of the investment process (sometimes called the post-establishment stage) although in some countries, national treatment also applies for the pre-entry stage, i.e., applying not only to investment expansion, operation, and protection, but also to its establishment process.²⁰³ However, this is a less common practice as countries often maintain a certain number of admission requirements for foreign investors or prepare negative lists with sectors where they are not permitted to operate, which is the case of Myanmar.²⁰⁴

The national treatment principle is not an easy standard to comply with as it touches upon economically (and politically) sensitive issues.²⁰⁵ Nevertheless, proceeding to the elimination of the dual investment law application could be a strategic move towards increased FDI accumulation in Myanmar as it would establish a competitive equality between national and foreign investors.

D. Potential dispute settlement by arbitration

Arbitration²⁰⁶ is a dispute settlement method widely used in investment dispute resolution as an alternative to national jurisdictions. A major reason for the popularity of arbitration is that foreign investors are more confident of the impartiality and independence of the process, particularly in cases involving local parties, or where the foreign investors feel local laws put them in a disadvantaged position in some way. In addition, the national judiciary system is also known for being very slow and inefficient; therefore, the possibility to settle investment disputes through arbitration is important for investors, especially for larger foreign firms.

In this respect, Myanmar has already made some progress. For example, section 43 of its New Investment Law implicitly allows such dispute resolution when the parties specifically stipulate it in their contract.²⁰⁷ However, the fact that investors need to negotiate an arbitration clause with the Government of Myanmar prior to every agreement remains inconvenient.²⁰⁸

The situation could be enhanced in two ways. The first is by signing more bilateral investment treaties (BITs); so far Myanmar has signed investment treaties with only six countries,²⁰⁹ out of which only three have entered into force.²¹⁰ BITs are signed between two countries in order to provide a certain level of protection for investors that are nationals of one country and investing in another one. These BITs can encompass an arbitration option for dispute resolution, in which no additional stipulations in investment agreements would be needed. The other main way is to become part of International Centre for Settlement of Investment Disputes (ICSID).²¹¹ Becoming part of ICSID could be a quicker and more efficient way to achieve the same result. According to the Washington Convention which established the ICSID in 1966, joining the centre would automatically grant investors from 152 member countries investing in Myanmar the possibility to settle disputes through the arbitration mechanism.

The fact that a country includes a provision for dispute resolution by arbitration provides additional layer of protection to investors and, most importantly, signals a government's commitment to developing a robust and expansive legal system to protect FDIs, bolstering the confidence of foreign investors. When such an option is provided, investors are ensured that they stand a fair chance of winning the case and getting compensation.²¹²

II. Investment Promotion Measures

Investment promotion refers to efforts by a government to communicate to foreign investors the country's investment regime, and to convince and assist these investors to invest, or reinvest, in the country.²¹³ Investment promotion tasks can be fulfilled by an investment promotion agency (IPA) specifically created for that purpose or by the Government through implementation of financial and/or non-financial incentives and special economic zones.

A. Establishment of an investment promotion agency

IPAs are relatively autonomous bodies of the central government, in charge of pro-active activities aimed at attracting more FDI. Their functions usually consist of: building the image of the country as a good investment destination; information dissemination among investors related to matters like new profitable opportunities, potential partners, or future Government actions that might have an impact on the investment environment; investment related policy advocacy; provision of special services regarding investment entry and sustainability; and facilitation of effective communication between investors and the Government. The latter function is particularly beneficial because allows better understanding of what investors think of current investment policies, particularly the gaps and inconsistencies in those policies. In this way, IPAs strongly participate in shaping the investment climate for greater capital inflow and in promoting policies dedicated to a better extraction of benefits from FDI.²¹⁴

However, the successful performance of these agencies depends on several factors. First, IPAs achieve better results and operate more effectively when they have a higher level of autonomy,²¹⁵ while monitoring and evaluation processes are also crucial for securing their performance. Thus, finding the right balance between IPAs' independence and supervision is critical. Second, the Government needs to make sure IPAs are properly funded. Only adequate funds will attract and retain qualified and motivated staff capable of providing high quality services. Third, IPAs also need assistance from various international organizations that help IPAs by sharing best practices on investment promotion strategies and/or by building their policy capacity.²¹⁶

Rapid growth in the number of IPAs reflects the increasing importance that governments ascribe to investment promotion. Nevertheless, it is important to remember that an IPA cannot be a substitute to the establishment of a sound investment climate, which is a pre-condition for successful investment promotion. IPA creation is just a supplementary measure to achieve the same objective more quickly and more efficiently.²¹⁷

B. Use of financial and non-financial incentives

Investment incentives are various measures adopted by the government that can influence the size, location, or industry of an FDI project by correcting associated costs or by altering the risks attached to it through privileges that are not available to comparable domestic investors.²¹⁸ Governments can grant investors with financial incentives such as tax breaks, tax holidays, and/or preferential tariffs, or they can decide on non-financial incentives like free training facilities, quicker permit processing, or less complex customs clearance procedures. By using financial incentives, investors are entitled to some financial gains which can offset higher operation costs. However, non-financial incentives are equally welcomed by investors as they allow for improving a company's ability to perform and give more flexibility and speed to a company's operation.²¹⁹ They are often undertaken by developing countries that do not possess sufficient resources to finance a proper economic and social development strategy and have to try to attract foreign capital by other means. Generally, investment incentives can be used to compensate for gaps in the investment climate or to attract more investment to disfavoured sectors and regions.²²⁰ As an example,

Lao PDR promotes the agriculture, handicraft, industry, and service sectors by granting investors tax incentives and exemptions from customs duties. It also applies a five-year tax exemption to investments for the development of hospitals, kindergartens, schools, colleges, universities, or research centres, in order to attract more investors to the country by improving the living, education, and research conditions favourable to foreign investors. Investment incentives in Viet Nam, in the form of preferential tax rates, target investors in the sectors of high-tech industry, biotechnology, information technology, education, traditional crafts, construction, and infrastructure development, among others.

The new Foreign Investment Law of 2012 in Myanmar also confers some incentives to foreign investors. Foreign investors that are involved in the production of goods or services can be granted income tax exemption for a period of five consecutive years. This period could be extended if it is deemed to be beneficial to the country. Next, foreign investors can benefit from income tax exemption or relief on profits reinvested within one year; up to 50 per cent relief from income tax on the profits from exports; exemption or relief from commercial tax on the goods produced for export; the right to pay the income tax of the foreign employees at the rate applicable to the citizens of Myanmar; the right to deduct from assessable income payments for machinery, equipment, building, or other capital assets used in business for the purpose of income-tax evaluation; the right to deduct expenses related to R&D activity conducted in Myanmar from assessable income; and the right to carry forward and set off losses, sustained for two consecutive years, for up to three consecutive years from the year the loss is sustained. Foreign investors in Myanmar can also enjoy exemption or relief on customs duties for imports of machinery, equipment, components, and materials that are imported and required to be used during the construction period of the business. Additionally, a three-year exemption or relief from customs duty or other internal taxes, or both, can be applied for the import of raw materials. However, only the income tax exemption for businesses involved in the production of goods and services is compulsory. The rest of the exemptions and reliefs are subject to a decision of the Myanmar Investment Commission, which operates under the Ministry of National Planning and Economic Development and is the main body overseeing investment proposals in Myanmar.

However, it is important to highlight that financial or non-financial incentives should not replace the pursuit of a decent investment regime through general public policies.²²¹ For example, in 1997, the Ugandan Government eliminated a tax holiday and put in place a uniform tax rate which triggered growth in investment inflow, GDP, and tax revenue. Similarly, in 1984, the Government of Indonesia eliminated all the selective incentives and replaced them with a reduced corporate tax rate (from 45 per cent to 35 per cent) which in turn increased FDI inflow to the country. In fact, excessive use of incentives may sometimes have adverse effects. Host countries with a less favourable investment climate (e.g., macroeconomic instability, lack of transparency, shortcomings in human and physical capitals), that offer many tax incentives in order to attract FDI usually fail to accomplish this goal and, in the end, face even more difficulties. Investors are usually more interested in a host country's enabling environment, than in the incentives it offers. Therefore, the money spent on granting investors with special treatment may not achieve the same positive effect on FDI inflow as investing that same money in the country's human capital, infrastructure,

logistics, or other facilities. By spending on incentives, a country might waste part of its budget to achieve minimum benefit. Therefore, prior to the implementation of such incentives, the impact of specific incentives on the country's economy, budget, and domestic firms should be assessed.²²²

The assessment process should include cost-benefit analyses, regular reviews and open consultations with interested parties. Assessing costs and benefits of using incentives to attract FDI is not an easy task for governments. However, a certain level of assessment of these measures' relevance, appropriateness, and economic benefits against their budgetary and other costs is recommended.²²³ For that purpose, governments may use the Checklist for Assessing FDI Incentive Policies, prepared by the OECD to provide countries with operational criteria for avoiding wasteful incentives.²²⁴ When benefits are exceeding costs, the government has to take care to maximize those benefits and reduce the costs as much as possible in order to keep incentives efficient. Finally, incentives should not be permanently applicable, but rather subject to extinction after a certain number of years.

If applied in a reasonable and strategic manner, incentives could indeed be used as a tool to attract more investors. In fact, some consider that given the current nature of the marketplace the use of incentives is indispensable to a country's economic progress.²²⁵ However, incentives are often insufficient to compensate for political instability or serious deficiencies in infrastructure or human capital.²²⁶

C. Establishment of special economic zones

A special economic zone (SEZ) is a specific zone or area designated by the authority where different economic principles, taxation systems, FDI treatment, and other institutional procedures are applied.²²⁷ SEZs are considered to be effective tools to induce FDI by granting foreign investors in that particular area with a more favourable regime than in the rest of the country.²²⁸ Such zones can take a form of free ports, free transit zones, free trade zones, export processing zones, or free zones. Their design process normally comprises activities like describing location characteristics, identifying target industries consistent with industrial promotion policies, agreeing on SEZ functions (i.e., single, multiple, or combined functions),²²⁹ defining the area, and deciding on the degree and contents of deregulation (e.g., customs control methods, incentives, administrative procedures). SEZ developers (who can be a central government, a joint venture, or a private developer) usually use fiscal and non-fiscal incentives to attract investors. The most commonly used fiscal incentives are income tax holidays or exemptions; corporate tax holidays or exemptions; and preferential customs and excise regimes on imported and exported goods (e.g., duty-free regime). In terms of non-fiscal incentives, they can take the form of the prompt approval of investment, preferential visa treatment, on-site customs inspection, modified labour conditions, or freer control of foreign exchange. Moreover, these zones are often characterized by better infrastructure and facilities, meaning that business operations can be conducted more efficiently than in other parts of the country.

The success of an SEZ depends on several factors such as strategic location, preferably in close proximity to a big city or port of entry where hard infrastructure (e.g., electricity, waste-water treatment), a transport network, and a telecommunications system

are present and sufficiently efficient; availability of business-oriented and user-friendly services; preferential measures for administrative and procedural matters; one-stop service and community integration (i.e., decent transport network in the dedicated zone and its surroundings, in order to prevent labour shortages) within the SEZ.

Currently, there are three SEZs developing in Myanmar namely Dawei SEZ, Kyaukpyu SEZ and Thilawa SEZ (figure 16). They are governed by the SEZ law introduced in 2011 (which was successively revised in 2014) and the Dawei SEZ law.²³⁰ The laws established special committees which undertake SEZ administration, management, and supervision tasks. The committees also are responsible for setting wage levels, and monitoring the ratio of local and foreign labour.²³¹ In terms of incentives, foreign investors in an SEZ are exempt from income tax for seven years, while construction companies of designated areas benefit from it up to eight years. Businesses operating in these SEZs benefit from tax exemptions to varying degrees, while imports of machinery and infrastructure materials will be exempt from duties for up to five years.

Figure 16: Special economic zones in Myanmar



Source: Control Risks, 2012.²³²

Many believe that the progress in these zones will significantly accelerate FDI arrival to Myanmar. However, the successful development of SEZs strongly depends on the capacity of managing committees to secure good governance and operations of these zones.

Part Three

Effective Trade Policies

The private sector's development is strongly influenced by applicable trade policy, thus finding the right trade policy is vital for the private sector's successful performance. Trade policy regulates the flows of goods and services produced by local businesses across the borders of different countries. Initially, trade policy was used as a tool to protect local producers from foreign goods and services by strictly regulating, or even forbidding, imports. But after World War II a less protectionist approach of international trade was adopted, giving rise to freer movement of goods and services. In 1947, 23 countries signed the General Agreement on Tariffs and Trade (GATT) aiming for freer trade among the member states. During the following years, the number of member states significantly increased, and more trade concessions were successfully negotiated. In 1995, countries decided to institutionalize these negotiations and founded the World Trade Organization (WTO). Currently, most of the countries worldwide²³³ are members of this organization, which demonstrates their preference to the policy of freer trade across borders.

This shift in the approach to trade can be explained by the associated benefits of freer trade for private businesses and a country's economic growth. Generally, freer trade enhances market openness which is an essential element in policy reforms that lead to growth.²³⁴ This is because market openness means lower barriers on product movement across borders, which creates better access to both markets and resources for businesses. As such, they can proceed with economic transactions more easily and cheaply and generate higher profits, which contribute to a country's GDP. Thus, market openness normally results in an expansion of the private sector and in economic growth.²³⁵

However, market openness has adverse effects, too. Growing competition among businesses can destroy smaller businesses or less developed industries, and it makes economies more vulnerable to external shocks, while pushing businesses to engage in anti-competitive practices to reduce the level of the competition. Unless coupled with appropriate policies to mitigate the associated risks, better market access²³⁶ may turn out to be more harmful than beneficial.

Despite the potential adverse effects of market openness, it remains one of the key strategies to achieve growth and economic development of a country. In fact, the most spectacular growth stories all involve rapid increases in international trade, usually after specific policy decisions have been made to open up.²³⁷ By progressively opening up their domestic markets, a number of developing countries – such as Bangladesh, India, and Thailand – have experienced strong and continuous growth in the past decades, confirming the close relationship between market openness and a country's prosperity. For example, Dollar and Kraay suggest that differences in output per capita across countries are explained by differences in openness to trade.²³⁸ Therefore, it is believed that to achieve higher growth in Myanmar, and to foster its private sector development, the Government should continue its reforms towards more market openness.

I. Policies for Market Openness

Policies aiming at enhanced market openness make trade between economies easier, which is increasingly important for business. When one country is opening its market, it can

expect to receive similarly favourable market entry conditions with other trading countries. This consequently enables the country's firms to reach a larger number of potential customers in an easier and more cost-efficient way and to gain more profit. On the other hand, market openness results in higher inflows of foreign imports, which create intense competition in the domestic market, pressuring businesses to adopt new technologies and innovate in order to reduce their production costs and stay competitive. Similarly, policies that favour trade across borders can attract foreign investors who are usually motivated by better market and resource access as well as productivity gains.²³⁹ The degree of market openness depends on applicable trade policies. Trade liberalization, trade facilitation, and regional economic integration are among the measures that have the most potential to improve market openness.

A. Trade liberalization

Trade liberalization is a movement that has prevailed in international trade for the past several decades. It is understood as a move towards freer trade through the reduction of tariff and non-tariff barriers.²⁴⁰ A number of developing countries²⁴¹ have achieved higher and faster growth and considerable poverty reduction over the years by facilitating trade through the reduction of barriers on the movement of goods and services.²⁴² Such a strategy should motivate Myanmar to follow a similar course and to adopt similar measures to other growing developing countries in the region like Cambodia, China, and Indonesia.

At the moment, however, trading with Myanmar remains troublesome. According to the World Bank Group's *Doing Business 2015*, Myanmar is ranked as the 103rd out of 189 countries in terms of ease of trading across borders.²⁴³ The Government is expected to address the problem of trade barriers, including tariffs and non-tariff measures, and to provide businesses with a framework in which trade can flourish, instead of impeding its further development.

1. Reduction of tariffs on trade

Tariffs are customs duties on merchandise imports that may give a price advantage to locally-produced goods over similar goods that are imported.²⁴⁴ They are imposed for revenue or protection purposes and are determined on a specific or ad valorem basis.²⁴⁵ Such levies have been the central interest of the WTO, whose objective is to minimize all the tariff and non-tariff barriers to trade, as countries that have very high barriers on trade are considered to gain the most from their reduction.²⁴⁶

Myanmar, as a member state of WTO, has also engaged in a progressive tariff reduction programme. However, Myanmar has still bound only 18.5 per cent²⁴⁷ of its tariff lines, which means that more than 80 per cent of Myanmar's imposed tariffs are still higher than those agreed under the WTO framework and hence cause significant limitations on trade. Currently, Myanmar's tariffs on trade vary from zero to 40 per cent.²⁴⁸ Myanmar is encouraged to further reduce its tariffs in order to comply with internationally-approved concessions within the WTO agreements. For example, according to the schedule of tariff commitments, Myanmar has to reduce its import duty on wood marquetry and inlaid wood

by 15 per cent, on bovine meat by 10 per cent, on fish and fish products by 8 to 10 per cent, and on coconut oil by 3 per cent, among others, by 2015.²⁴⁹

Maintaining high tariffs on trade often leads to thriving corruption, smuggling, and other illegal activities.²⁵⁰ When tariffs are high, there is more potential for corruption to develop, as it may be cheaper to bribe customs officers than to pay the full amount of duties. In this regard, there can be two types of corruption: collusive and coercive.²⁵¹ Corruption is considered to be collusive when the officer and the firm agree to “steal” the tariff, meaning that the firm will not pay the duty but only a share of it, which will go straight to the pocket of the officer; coercive corruption occurs when the officer forces a firm to pay a fee to him in addition to the official duty cost.

Many products are also believed to be smuggled to Myanmar from neighbouring countries such as Bangladesh, China, India, and Thailand. It is especially common to smuggle consumer goods, diesel, and fuel. Such actions result not only in tax evasion, but also inaccurate statistics that do not reflect the real trade situation in the country. Lowering tariffs on goods could convince people to conduct business in a legal manner instead of looking for unlawful means to avoid expensive tariffs.

On the other hand, there are concerns that policies reducing customs duties lead to smaller Government revenues. Customs duties contribute to the national budget; thus, if fewer levies were collected from the movement of goods across the border, the budget would shrink. Although there is a risk that lower tariffs on trade will limit available resources, cutting customs duties on merchandise import or export would not automatically mean that public revenue decreases. Revenue loss can be compensated by replacing non-tariff barriers with tariffs on trade (as the latter has a less detrimental effect on international trade); harmonizing the tax system by eliminating distorting exemptions; and cutting tariffs that are initially set, for protective reasons, at such high levels that a reduction will cause trade volumes to increase, offsetting the direct revenue loss from lower rates.²⁵² Another option is the usage of consumption taxes, like a value-added tax (VAT) or excise taxes. In the end, lower tariffs can help reduce corruption and smuggling, which would consequently increase the country’s revenues, as the country can facilitate business activities by reducing unnecessary transaction costs due to corruption and illegal business practices. Low tariffs can also contribute to enhanced demand, production, and trade (due to lower prices) which can ultimately offset the revenue losses.

2. Eliminating unnecessary non-tariff measures²⁵³

Non-tariff measures (NTMs) are different from ordinary customs tariffs but they can also have an economic impact on international trade in goods, by changing the quantities traded and/or prices.²⁵⁴ There are a variety of such measures, which may sometimes violate international norms, and they can apply to both imports and exports (table 6).

Table 6: Classification of non-tariff measures on trade

Non-tariff measures on imports	Non-tariff measures directly affecting import quantity	<ul style="list-style-type: none"> • Non-automatic licensing • Prohibitions • Quotas • Tariff-rate quotas • Safeguard measures
	Non-tariff measures directly affecting import price	<ul style="list-style-type: none"> • Additional taxes and charges • Anti-dumping, countervailing, and safeguard measures • Finance measures • Price control measures
	Non-tariff measures related to standards compliance	<ul style="list-style-type: none"> • Rules of origin • Sanitary and phytosanitary (SPS) measures • Technical standards
	Discriminatory measures	<ul style="list-style-type: none"> • Government procurement • Measures affecting competition • Trade-related investment measures
	Other formalities	<ul style="list-style-type: none"> • Distribution restrictions • Pre-shipment inspection • Rules on the valuation of imports
Non-tariff measures on exports	Non-tariff measures directly affecting export quantity	<ul style="list-style-type: none"> • Non-automatic licensing • Prohibitions • Quotas • Voluntary export restraints
	Non-tariff measures directly affecting export price	<ul style="list-style-type: none"> • Export taxes • Price control measures • Subsidies
	Non-tariff measures related to standards compliance	<ul style="list-style-type: none"> • Export technical measures

Source: The table was created by the author with heavy reference to UNCTAD's "Classification of Non-Tariff Measures", 2012.²⁵⁵

The first type of NTMs is directly related to the quantity of imports/exports and is commonly called quantitative measures, consisting mainly of quotas, prohibitions, or import/export licensing for certain products.²⁵⁶ These measures are normally imposed by public authorities charged with regulating the inflow and outflow of goods. First, non-automatic licensing requires economic operators to receive special approval from national authorities as a precondition to import/export operations. It may either be granted on a discretionary basis or may require specific criteria to be met before it is granted. Next, there are quotas, which are restrictions on the import/export of specified products through the setting of a maximum quantity or value that is authorized for import/export. This means that no imports/exports are allowed beyond those maximums. Additionally, a country can apply a complete or a partial prohibition of import or export (i.e., boycott or embargo) of products

from a selected country for economic or non-economic reasons. These prohibitions are often applied as economic sanctions of illicit behaviour of a particular country and are of exceptional use. Subsequently, there are tariff-trade quotas – measures specifying a system of multiple tariff rates applicable to the same product. The lower rates apply up to a certain value or volume of imports, and the higher rates are charged on imports which exceed this amount (e.g., high-end automobiles). The purpose of such measures can be to prevent the domestic market from excessive imports of similar or substitute products. Last, a country may limit the quantity of imports of particular products through safeguard measures or through voluntary export restrictions. Safeguard measures are temporary border measures imposed on imports of a product to prevent or limit serious injury caused by increased imports of that product and to facilitate adjustment of domestic industries. Voluntary export restrictions relates to a government decision to limit the quantity of goods that can be imported from another country during a certain period of time. These are arrangements in which an exporter agrees to limit exports in order to avoid imposition of restrictions by the importing country, such as quotas or increased tariffs.

The second category of NTMs is related to the measures that directly affect the price of import/export. The price of imported goods or services can be altered through various mechanisms. Additional taxes may be imposed, such as a consumption tax, an excise tax, or taxes related to the provision of various services such as customs inspection or merchandise handling. In some cases, the sum of all additional taxes may outweigh custom duties. Next to it, there may be financial measures in place, whose purpose is to regulate access to and cost of foreign exchange for imports and define the terms of payment. This category comprises measures like advanced payment requirements, multiple exchange rates, or regulations on official foreign exchange allocation. Anti-dumping and countervailing measures (i.e., tax duties or price undertakings by firms) are sometimes applied to neutralize unfair trade practices²⁵⁷ – particularly dumping and subsidies – that cause or threaten serious damage to the domestic industry of similar or directly competing products. Import and export price can also be affected by previously discussed safeguard measures, which take the form of tariff duties. Export prices can be also altered through export taxes and subsidies. An export tax is a similar practice to customs duties as it is levied on goods crossing the border. This tax increases the world price of the commodity independently from duties imposed in importing countries, and is often applied to guarantee food security and net consumers. An export subsidy²⁵⁸ is a government policy to trigger national exports. A government or other public authority supports specific firms through direct or indirect financial benefits, in order to facilitate firms' exports worldwide. Finally, price control measures can be used for setting or controlling both import and export prices through the use of floor (minimum price to be charged) or ceiling (maximum price to be charged) price limits. The reason behind such controls can be to keep the commodity affordable, to slow inflation or to guarantee a certain income for producers.

The third NTM category relates to compliance with various standards on the production process and quality. These measures have the potential to restrict the movement of products across borders and indirectly affect the quantity and/or price of imports/exports.²⁵⁹ Commonly applicable standards can be divided into three groups, pertaining to sanitary and phytosanitary (SPS) measures, technical standards, and rules of origin. SPS

measures are measures applied to protect humans, animals, and plants from risks arising from additives, contaminants, disease-causing organisms, pests, and toxins.²⁶⁰ Non-compliance with these measures prevents entry into the market. Non-compliance with technical regulations and standards, excluding measures covered by the SPS agreement, can also have a similar effect on trade. These technical regulations can be related to product characteristics or their associated processes, production methods, administrative provisions, terminology, symbols, packaging, marking, or labeling requirements. The third type of standards, called rules of origin, are laws, regulations, and administrative determinations of general application applied by a country to determine the country of origin of goods or services.²⁶¹ They are very useful when fixing the tariff price at the border or checking if production is subject to other restrictions.

Moreover, NTMs can limit imports through the implementation of discriminatory measures. These measures usually tend to favour domestic products or producers over foreign ones. Such NTMs comprise measures affecting the competition which grant exclusive or special preferences to one or more limited groups of economic operators. The government can, for example, prevent economic operators from selected countries or sectors from competing with domestic economic operators. Next, there are trade-related investment measures which can also have a discriminatory effect. Most commonly, such measures require investors to buy or use certain domestically produced or sourced products, or forbid them from using imported products. The purpose of these measures is to foster domestic industries and prevent the outflow of foreign exchange reserves. Government procurement measures are ones that control the purchase of goods by government ministries and agencies and government-related entities. Procurement measures are considered to be discriminatory when they stipulate general preference to national commodity or service providers, consequently eliminating all the foreign providers from the tendering process.

Additionally, some other types of formalities can also restrict product movement and/or affect prices. These are measures like distribution restrictions in the importing country, which can be related to the geographic location of distributors or to the resellers of imported goods. The distribution can be controlled through additional licence or certification requirements. Another measure that takes part in this category is pre-shipment inspection. Pre-shipment inspection is a compulsory quality, quantity, and price control on goods prior to shipment from the exporting country. Controls are conducted by an independent inspecting agency (e.g., SGS) mandated by the authorities of the importing country. Finally, there are rules on the valuation of imports, which refers to the process of estimating the value of a product at customs. Normally, the value that is taken into account for customs valuation is the price actually paid or payable for the goods when sold for export to the country of importation. This value serves later on for calculating the customs duty. In some cases, countries may use valuation systems that artificially inflate the value of the imports, and thus, the duties to be paid, giving local producers an unfair advantage for the price of their products.

In the context of Myanmar, numerous non-tariff measures still remain in place²⁶² and the country is considered to be severely limiting trade across borders (as indicated by its

Doing Business ranking of 103 out of 189 on border trade). Despite the elimination of import licensing requirements for 166 commodities in April 2013, Myanmar continues to apply non-automatic licensing²⁶³ for all remaining goods.²⁶⁴ Moreover, Myanmar maintains import restrictions for some products like seeds and telecommunications equipment, requiring special approval from the corresponding ministries for the import of these goods. Imports of certain fruits are permitted only during those periods of the year when they are not produced in Myanmar. In terms of export procedures, only Myanmar nationals or foreign investors registered under the Foreign Investment Law as manufacturers are allowed to engage in international trade. Foreign investors are allowed to export only finished goods. In addition, an export licence²⁶⁵ is required for most products. To be able to export, companies also need to receive a recommendation from the relevant ministry, submit an export declaration with required documentation²⁶⁶ and undergo inspection procedures. Myanmar also applies an export tax on five commodities – gems, gas, crude oil, teak and teak products, and timber and timber products. Additionally, levies are imposed on cotton, cutch, lac, and rubber exports. There are also commercial taxes applicable to goods produced domestically, services carried out domestically, and imported goods, as well as excises applicable to imported and domestic goods. Price controls are in place for coal, oil and oil products, natural gas, and electric utilities.

Despite the legality (according to WTO standards) of some NTMs (such as SPS, technical requirements, or some administrative requirements), the majority of them are considered to be serious barriers to trade. They not only significantly curtail international trade but also impede the development of a country's private sector. Additional costs (for example, due to additional taxes or border services) result in higher product prices making the product less competitive. Moreover, excessive NTMs on foreign imports create little chance for the country to negotiate favourable market entry conditions for its exporting businesses. Hence, private sector development in Myanmar would require the Government to reconsider current burdens on imports and, especially, on exports, and maintain only the ones that are strictly necessary. The Government is encouraged to adopt more reforms to bring about greater trade liberalization.

B. Trade facilitation

To achieve even better results for the private sector development in Myanmar, trade liberalization measures could be coupled with trade facilitation. Trade facilitation consists of simplification and harmonization of import and export procedures, as well as all the activities, practices, and formalities involved in collecting, presenting, communicating, and processing data required for the movement of goods in international trade.²⁶⁷ Thus, considering prevailing barriers on trade (especially previously mentioned NTMs) in Myanmar, national authorities are recommended to seriously engage in trade facilitation,²⁶⁸ which can enhance the country's cross-border production linkages. To understand the urgency of trade facilitation reforms, table 7 compares the time, cost and number of procedures required to export or import in Myanmar and its neighbouring countries.

Table 7: Import and export indicators reveal the need for trade facilitation reforms in Myanmar, 2014

Indicator	Malaysia	Myanmar	Singapore	Thailand	Viet Nam	Average in South-East Asia (excluding Myanmar)
Ease of trade across borders	11	103	1	36	75	n/a
Documents to export (number)	4	8	3	5	5	5.6
Documents to import (number)	4	8	3	5	8	6.6
Time to export (days)	11	20	6	14	21	17.6
Time to import (days)	8	22	4	13	21	17.8
Cost to export (USD per container)	525	620	460	595	610	737.7
Cost to import (USD per container)	560	610	440	760	600	794.5

Source: This table made by the author based on data from the World Bank Group's *Doing Business 2015*.²⁶⁹

Note: South-East Asia comprises: Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, Philippines, Singapore, Thailand, Timor-Leste, and Viet Nam. Myanmar was excluded in the group for this table in order to show the comparison with its neighbours.

It appears that import and export procedures in Myanmar take much longer than in any selected countries and longer than the average in South-East Asia. This can partially be explained by the number of documents required to proceed, which is much higher than the numbers in the selected neighbouring countries. The associated costs, although lower than the regional average, still exceed the costs in the neighbouring countries (except import costs in Thailand). Finally, customs clearance for both imports and exports also takes longer.

To improve its trade conditions, Myanmar should engage in reforms in trade facilitation. Myanmar has emerged as a dynamic market that has great potential to attract many businesses and investors to the country. The elimination of the administrative burden of import and export procedures, while not a panacea, would make great progress toward this end. As a consequence, Myanmar should engage in adjusting its trade procedures in such a way that businesses could benefit from cross-border trade. For that purpose, it could be beneficial to review the existing import/export procedures and eliminate those that are not indispensable, or replace them with more simple ones.²⁷⁰ The Government should particularly reconsider its import and export licensing procedures and extend automatic-licensing to a wider range of goods.²⁷¹ Simplified pre-shipment procedures, electronic

customs clearance and data collection, enhanced delivery of certificates of origin (late issue of this certificate impacts the entire business's transactions and often causes major losses), alignment of procedures, and adherence to international conventions are also measures that can significantly improve the inflow and outflow of products. In addition, Myanmar should continue its cooperation with other regional partners (e.g., ASEAN member states, and Cambodia, Lao PDR, Thailand, and Viet Nam in particular) in order to agree on simplified trade procedures between them, for example by introducing a single window customs clearance,²⁷² harmonizing administrative requirements, or unifying standards systems.

In this way, trade facilitation would improve market openness and would make it easier, faster, and less costly for businesses to engage in international trade. This is vital for local Myanmar businesses, the majority of which are SMEs that are disproportionately affected by additional costs as they often lack the means and capacity to comply with complex rules, high tariffs, long border procedures, and other NTMs.²⁷³

C. Regional economic integration

Many trade barriers can be overcome by fostering regional economic integration. Regional integration is a progressive reduction of trade barriers between countries located in the same region in a collective manner in order to promote the networking of supply and production between their markets. It is a way to pursue more profound market openness and more intense economic cooperation from a regional perspective.²⁷⁴ Such an approach has emerged as a convenient option,²⁷⁵ as it has become increasingly difficult to achieve consensus on multilateral trade agreements under the WTO framework.²⁷⁶

Regional economic integration can take different forms – a preferential trade agreement, free trade area, customs union, or single market. Nevertheless, every regional trade agreement (RTA) concluded by WTO members has to follow WTO requirements. According to these requirements, RTAs can either be concluded under article XXIV of GATT or under the WTO's "enabling clause." An RTA concluded under article XXIV requires members to proceed to complete elimination of tariff or non-tariff barriers for all trade between the members of the agreement; forbids them from adopting more restrictive barriers to external trade than the ones applied prior to the RTA; and requires that the RTA to be realized within a reasonable length of time. An RTA based on the enabling clause, formally called "differential and more favourable treatment," implies the reduction of tariffs and other barriers in order to facilitate and promote the trade of developing countries.²⁷⁷ Similar to an RTA concluded under article XXIV, the country cannot impose more restrictive trade practices with third parties than those in force before the agreement. The main difference between the article XXIV and the enabling clause scheme is that the latter allows developed countries to grant developing countries or LDCs with a preferential trade regime, while the RTA concluded under the article XXIV requires reciprocity between partners. However, members of both types of RTA have a same obligation to notify the conclusion of such agreements to the responsible committees under the WTO.

The main objective of regional economic integration is to achieve freer trade. Trade agreements that are consistent with the WTO requirements enable enterprises to source

suppliers and sell their output at the competitive prices, thereby creating additional investment opportunities.²⁷⁸ Moreover, such trade agreements have the potential to improve cross-border production linkages in the region and create incentives for production specialization.²⁷⁹ By reducing or by completely eliminating tariff and non-tariff barriers, countries facilitate greater trade among them and eliminate direct hurdles that impede production movement across their borders. This creates a positive climate for value chain creation which encourages firms to specialize in the area where they possess a comparative advantage in order to add more value to a final product. Economic integration also allows combining lower production costs with increased productivity, helping businesses to become or remain globally competitive. Regional agreements may also consist of developing cross-border special economic zones and areas, which allow matching advantages of different countries to boost their exports.²⁸⁰ Finally, if combined with better infrastructure and logistics, regional economic integration could play a considerable role in improving the connectivity between Myanmar and its regional partners (e.g. GMS countries or ASEAN member states). This would result in cheaper transaction and transportation costs, consequently facilitating the distribution of products.

So far, Myanmar's participation in the ASEAN Free Trade Agreement (AFTA) – a multilateral free trade agreement – is seen as one of the major economic developments of the country. Based on this agreement, Myanmar committed to significantly reduce its tariff barriers, in accordance to the Common Effective Preferential Tariff (CEPT) Scheme under AFTA.²⁸¹ Similarly, with this agreement, Myanmar agreed to work on the elimination of NTMs applicable within its territory. However, more drastic changes in Myanmar's trade policy with ASEAN countries are expected after the establishment of the ASEAN Economic Community (AEC). To aid its economic integration, the country could also conduct analysis on other potential strategic trade partners and try to engage in negotiations for new trade agreements or new cross-border special economic zones.

Box 8: Implications of ASEAN Economic Community (AEC) 2015 for Myanmar

By the year 2015 ASEAN will become a single market, namely the ASEAN Economic Community (AEC). The single market is an intensive form of economic integration characterized by the free flow of goods, services, people and capital. The main objective of such a transformation is to become a highly competitive and a fully integrated region in the global economy.²⁸² Thus, the AEC is expected to spark great economic and social progress in Myanmar as a member state of such a community.

The establishment of the AEC requires a complete elimination of trade barriers, tariff and non-tariff, between the member states. This should significantly improve cross-border production linkages among the member states, reduce the costs and time of product movement, and add more value to products. As a result, Myanmar businesses should have a greater opportunity not only to boost their export to AEC countries as well as to other countries, by participating in the production of highly competitive products and by integrating into international production networks and/or global value chains. In fact, participation in the AEC is expected to raise Myanmar's total export of goods and services by approximately 66 per cent and its growth in national income by 4.4 per cent annually.²⁸³

Along with complete removal of trade barriers, the movement of capital between AEC countries will have to be fully liberalized. Such a reform, coupled with Myanmar's strategic location and low labour costs, is expected to incentivize many companies to relocate their production activities to the country.²⁸⁴ Furthermore, such a favourable investment climate can also trigger the establishment of new businesses or joint ventures in Myanmar.

Finally, policies enabling free movement of skilled labour will establish an integrated labour market between the committed countries. Thus, more skilled workers from advanced AEC countries are expected to arrive to Myanmar. This could contribute not only to the advancement of human capital but also to FDI accumulation, as in some cases investors are discouraged from investing in Myanmar due to a lack of qualified workers. At the same time, Myanmar workers will be able to freely move around the AEC and stand higher chances of getting hired.

II. Reducing Risks Arising from Market Openness

Despite the multiple benefits of improved market openness, such a phenomenon could also have adverse economic and social effects. First of all, market openness means a significant increase in the inflow of highly competitive foreign goods or services that can become a substitute for less competitive domestic products.²⁸⁵ Increased competition from abroad can destroy still-nascent industries that are unable to immediately adapt to the changing environment due to a lack of knowledge, technology, and resources. Thus, trade liberalization applied uniformly to all sectors and industries can hamper the advancement of industries that have the potential to become competitive but are still at a low development stage. Additionally, the pressure of the open market may push some firms to engage in unfair practices, undermining fair competition in the market. The proliferation of such practices not only distorts the market but also affects the development of other business entities. Finally, market openness implies increased interdependence between trade partners, making countries vulnerable to economic volatility and external shocks, which might come from trade partners. This is particularly pertinent to some developing countries due to their heavy dependence on primary exports.²⁸⁶

Moreover, improved market openness could have some negative social impacts, such as wider income inequality and higher unemployment rates.²⁸⁷ By using the Gini coefficient,²⁸⁸ it has been shown that countries such as Brazil, China, and India, which have been lately experiencing rapid economic growth through market openness, experienced concurrent rising income inequality.²⁸⁹ Another study showed that 10 per cent of tariff reduction in Mexico caused from two to three percent decrease in employment rate and wider wage gap between skilled and unskilled workers over the period of 1984-1990.²⁹⁰ Another example is Chile where between 1979 and 1986, trade liberalization, combined with an external shock, resulted in an eight per cent decline in manufacturing employment.²⁹¹

Trade policy that aims at greater market openness should be accompanied by appropriate macroeconomic policies to mitigate the realization of associated risks, i.e., policies granting a certain level of protection for infant industries, competition policy to

prevent anti-competitive business behaviour, and export diversification measures in order to make the country's economy less vulnerable to external shocks.

A. Protecting infant industries

Instead of reducing tariffs and NTMs on trade collectively to all trade sectors, it could be more beneficial to identify weaker industries that have significant potential, called “infant industries”, where some level of protectionism could be maintained. This idea was first introduced by Alexander Hamilton and Friedrich List at the beginning of the 19th century, and has been generally accepted by economists over the last two centuries.²⁹² Such an approach is particularly useful for the countries at an early stage of industrialization as it takes into account their specific considerations and challenges.

The most commonly used policy instruments to protect vulnerable industries are tariff barriers, quotas, and production subsidies.²⁹³ The chosen industry can be protected by applying higher tariffs on directly competitive or substitutable foreign products, or by directly limiting their quantity through quotas. In this way, either the foreign products become less competitive due to their higher prices, or their inflow is more restricted allowing domestic industry to meet the rest of the demand. According to some authors,²⁹⁴ the protection provided by production subsidies is more preferable to that achieved through tariffs or quotas as the latter additionally distort consumption and competition. However, less developed countries, including Myanmar, may not have sufficient resources (e.g., for production subsidies) to be allocated for this purpose.

Generally, quotas and tariff barriers exceeding tariffs agreed to in the concession schedule are forbidden by the WTO because of the distortions in competition and trade that they create. They are usually imposed by public authorities that intend to regulate the inflow and outflow of goods. Nevertheless, article XIX of GATT and article X of GATS allow countries to take safeguard measures, also called contingent trade-protective measures, in order to provide vulnerable industries with a smooth transition towards globalization and economic integration. In order to comply with WTO obligations; however, adjustment measures must be temporary, targeted and not excessive.²⁹⁵ The Government should carefully evaluate what kind of policies are strictly necessary for protection and consider the duration of transition, after which these measures should become extinct.

Before targeting an industry, the Government needs to assess the potential of the industry. Some authors²⁹⁶ set a number of prerequisites for justifying the protection of a certain industry: dynamic learning effects external to firms, the industry's capability of maturing and becoming viable without protection, and benefits exceeding costs. However, it is very difficult to complete such estimations in practice, because the costs and benefits change over time due to learning progress and changing level of protection. Thus, the industry's learning potential, learning speed, the degree of substitutability between the domestic and foreign goods, adjustment costs, and uncertainty must be also carefully taken into account when making a decision.²⁹⁷

Despite a strong belief that trade liberalization is key to the development of the private sector and the economy at large, no country has developed its industrial base without

resorting to the infant industry protection.²⁹⁸ It is important to realize that opportunities that arise from trade liberalization come along with new challenges, especially for SMEs that are exposed to increasing competition of cheap foreign goods and do not have sufficient resources to compete with it. The Government should develop a legal framework for trade which represents the right balance between trade liberalization and protectionist measures. At the same time the Government should take action in providing SMEs with necessary tools to become more locally, regionally, and globally competitive without special protection. Therefore, promoting SME clusters; facilitating their access to capital and advanced technology; and providing them with special training and BDS should be the Government's priority.

B. Competition law

The purpose of competition law is to guarantee fair competition among firms and to eliminate or curtail uncompetitive business practices (also called restrictive business practices). Fair and equal competition encourages enterprises to operate efficiently and creates a wider choice for consumers, while reducing prices and improving quality of products and services.²⁹⁹ It also triggers innovation among businesses with regard to their product concept and design, and production techniques, through the adoption of new technology. Instead, some businesses may engage in restrictive business practices in order to prevent growing competition.

Restrictive business practices can take the form of an agreement among several firms, or they can be the practices of a single company with the intention to substantially limit competition in, or access to, a selected market. The first category of restrictive business practices comprises any agreement, arrangement, or understanding formulated between independent enterprises whose purpose or effect is to substantially lessen competition and protect the market from arrival of new firms. Such agreements are categorized as either horizontal (i.e., agreements among independent firms competing, or potentially competing, in the same market, on matters like price fixing, market sharing, output quotas, among others); or vertical (i.e., agreements between independent enterprises performing in different stages of production or distribution processes, on subjects like resale price maintenance).

Another category is related to the dominance of a single enterprise in a selected market. A dominant enterprise is one that retains a high level of control over the market that could not exist without the enterprise concerned being protected by relatively high barriers to the entry of new firms and not being subject to strong import competition or countervailing power from its customers. However, an enterprise is not considered to be hampering competition just because it has a monopoly or occupies a dominant position in a market. It is the way this enterprise uses its market power that will determine whether its dominance is legal or not. Competition law should prohibit the deliberate exploitation of a dominant market position which damages competitors, prevents other enterprises from entering the market, and generally lessens competition in the market.

The third type of restrictive business practice encompasses mergers and acquisitions. An acquisition occurs when a buyer acquires all or part of the assets or business of a selling

company.³⁰⁰ A merger, on the other hand, occurs when two equal firms combine into one entity.³⁰¹ Accelerated foreign investment inflows increase the number of transnational corporations acquiring smaller domestic enterprises or establishing joint ventures with them. Mergers can be horizontal, i.e., the union of directly competitive businesses in the same market; vertical, i.e., the acquisition of one company by another, providing that both are from different production chain stages; or conglomerate, i.e., a merger that concerns two businesses operating in different markets. Normally, competition law should entail a certain level of control over the mergers and acquisitions. This is because growing market concentration under a very limited number of enterprises may result in less efficient allocation of resources, higher prices, diminished incentives to innovate, and less pressure on firms to keep down their costs, due to substantially reduced competition.

These restrictive business practices can seriously harm other businesses as well as consumers. Thus, a policy for improved market openness which may trigger such behaviour needs to be complemented by a well-tailored competition law. In the case of Myanmar, the Department of Commerce and Consumer Affairs in the Ministry of Commerce has already started drafting the country's first-ever competition law. Its prompt implementation is becoming more and more important, particularly because of the forthcoming establishment of AEC.

C. Export diversification

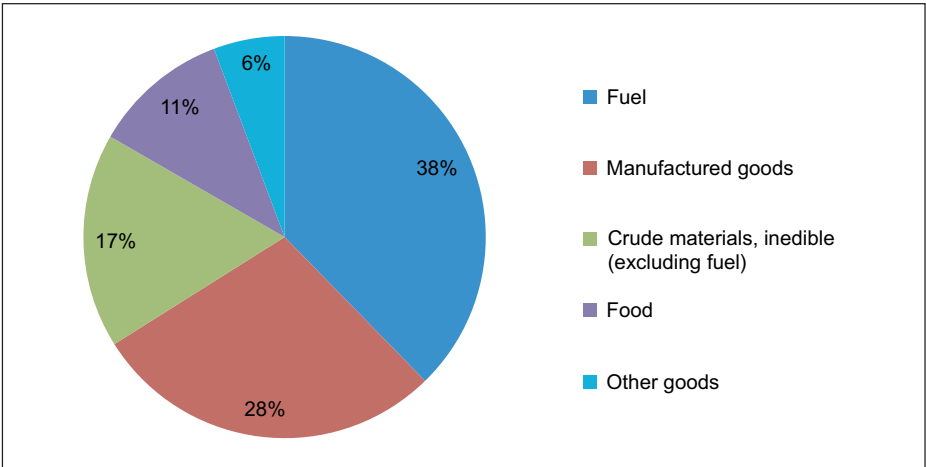
Export diversification should be a key policy objective for developing countries, because it can help manage risks that come with the benefits of market openness.³⁰² Ongoing openness of global markets rendered different economies more interconnected, turning them into one big marketplace.³⁰³ As a consequence, economic growth in globalized economies became vulnerable to shocks in foreign demand, commodity prices and assets, as well as to banking and financial crises.³⁰⁴ Economic growth can be affected by external shocks even more severely if a country's trade sector relies on the export of a limited range of goods such as agriculture commodities. This is why export diversification is vital for creating a less vulnerable economy and more sustainable growth.

Export diversification has been a key policy reform in developing countries like Bangladesh, Malaysia, and Nepal, where it yielded high economic returns. However, Myanmar's exports so far remain concentrated in very few trade sectors: fuel, manufactured goods (mainly garments and apparel), crude materials, and food (figure 17).

Figure 17 reveals that Myanmar's economy depends heavily on primary commodity exports (i.e., fuel), for which world prices are particularly unpredictable and volatile. Unstable commodity price or export quantity creates economic fluctuations in export revenues, while increasing revenues from natural resource exports may cause local currency appreciation. As such, the national economy may start suffering from "Dutch disease."³⁰⁶ The expression Dutch disease is used to illustrate an economic situation where the export of a primary commodity increases the value of the local currency and consequently makes exports of other industries (e.g., manufacturing, agriculture) more expensive and less globally and locally competitive. Although high economic growth achieved by the rapid expansion of the oil, gas, and mining industry is lucrative for the

country, such a resource-based growth strategy will put the economy on an unsustainable, non-inclusive growth path that may “crowd out” the other industrial sectors, leading to large increases in the prices of non-tradable goods (goods that are not traded internationally) and inflation.³⁰⁷ Therefore, it is still appropriate for Myanmar to develop a realistic industrial sector strategy, clarifying policy priorities for the diversification of the economy.³⁰⁸

Figure 17: Myanmar’s exports are concentrated in a few sectors (2013)



Source: ITC, Trade Map.³⁰⁵

Trade facilitation and lowering of entry barriers are among the available policy instruments for promoting export diversification. This is because trade facilitation and lower entry barriers help to foster increased competition and greater innovation in exports, as well as increasing technology transfer and learning-by-exporting, reducing markups, and improving efficiency. Exports also tend to increase firms’ productivity, which is the engine of long-term economic growth.³⁰⁹ Export diversification can also be achieved through the development of the private sector, which requires an enabling business environment; an adequate investment regime; special support for entrepreneurship; adequate access to institutional financing; advanced infrastructure; and reduced transaction costs. In addition, business and investment activity in a particular trade sector can be triggered through fiscal and credit incentives. Finally, international trade negotiations at the bilateral, regional, and multilateral levels can help diversify exports by improving domestic products’ access to foreign markets and by tapping the opportunities of regional and global production and distribution chains.³¹⁰

Implementing strategies for export diversification would put Myanmar on a path towards long-term sustainable growth and would render its economy more resilient to external shocks. Appropriate strategies should be developed during the preparation of country’s national export strategy (NES), which aims at developing an overall vision for export expansion and diversification.

Box 9: Garment and textile industry overview in Myanmar

In Myanmar, non-traditional exports like garments started to rise in 1988 after the implementation of several reforms dedicated to market openness, but have never gained real momentum. In addition, Western sanctions on Myanmar's production have strongly affected the garment industry. Difficult access to foreign markets was a key determinant in the garment and textile industry's stagnation over many years.³¹¹ However, this industry is of extreme importance in the region, contributing considerably to the economic growth of countries like Bangladesh, Cambodia, Thailand, and Viet Nam; thus, it has great potential to grow in Myanmar, especially because of current production networks that exist in the region.³¹² If compared to countries like Thailand or Viet Nam, Myanmar has a comparably abundant labour force and lower wages. As a result, the country possesses a comparative advantage in labour-intensive industries like garment and textiles.³¹³ This suggests the potential for workers' intensive participation in tangible production activities with core competencies in cutting, making, and trimming (CMT).

Yet, CMT activities are considered to have the least value added and are seen as highly unsustainable for long-term development. Thus, there should be a focus on accelerating the development of this industry in order to climb the value chains and generate profits from exports.³¹⁴ On the other hand, due to the fact that skilled workers are limited, the industry development might face a critical labour shortage, particularly for the high-value added segment. In addition, deficiencies in infrastructure and logistics, together with cumbersome administrative procedures, weaken the supply linkages as the products cannot move easily among the supply chain members. These problems could be addressed by foreign investors in the sector; however, the amount of foreign investment has been fairly limited, if compared to other manufacturing sectors, although garment and textile is a major sector which has created a number of new jobs, only behind the automotive sector. Figure 18 represents global Greenfield FDI inflows in manufacturing sectors of Myanmar from 2003 to 2013.

Despite the prevailing issues, it is strongly believed that garment and textile industry has large potential to become a leading export industry in Myanmar during the coming years. These expectations are especially related to the removal of trade sanctions imposed by the European Union and the United States, improving connectivity with the regional partners and further trade liberalization.

Figure 18: Greenfield FDI inflows into Myanmar's manufacturing sector (2003-2013)

GREENFIELD FDI INFLOWS IN MANUFACTURING SECTOR OF MYANMAR (2003-2013)		
Sector	Total jobs created	Total FDI (US\$ billion)
Automotive OEM	3,404	0.78
Metals	1,175	0.50
Food & Tobacco	653	0.13
Beverages	376	0.08
Textiles	2,861	0.08
Ceramics & Glass	358	0.07
Non-automotive transport OEM	813	0.07
Pharmaceuticals	205	0.06
Plastics	142	0.04
Consumer Products	351	0.02
Total	10,338	1.84

Source: ESCAP, 2014.³¹⁵

Box 10: The ceramics sector in Myanmar³¹⁶

Ceramics is a very old but enduring industry that has been practiced since the time of the world's earliest civilizations. Ceramics is considered to be the art and science of manufacturing products using organic and non-metallic materials as their essential components. Despite its antiquity, the ceramic industry is not stagnant. Newly-developed ceramic items opened up an era of newer world technologies in fields such as electronics and automotive industries, architecture, among others. However, large developed markets like the United States or the European Union had to shut down most of their ceramic production centres due to high labour costs. This scarcity in such economies means great opportunity for developing countries like Myanmar to become their supplier.

Myanmar has a significant comparative advantage in the industry, because in addition to low wages, the country possesses abundant reserves of raw materials and natural gas. Large quantities of quartz, feldspar, China clay, and ball clay, which are used in ceramic products like table wares, tiles and sanitary wares, are available in Myanmar, while untapped natural gas reservoirs can be used for energy supply, which is indispensable for the ceramics industry. This creates a great opportunity for Myanmar to foster pottery exports while staying independent in its production.

Box 11: Introduction of a national export strategy in Myanmar³¹⁷

Every country needs to have a coordinated national export strategy (NES), as exports constitute a fundamental part of GDP growth and a country's overall development. An NES is an important tool for export expansion and enhanced international competitiveness of a country's private sector, for which strong determination and well-coordinated efforts are required. To develop Myanmar's first ever NES, the Ministry of Commerce formed a partnership with the International Trade Centre (ITC) which will provide the country with technical assistance throughout the process. The key objective of Myanmar's NES is to guarantee sustainable export-led growth through cross-sector strategy accompanied by action plans. It is intended to be completed by the end of 2014.

An NES consists of an in-depth analysis of a country's trade performance at the national and sectoral levels. First, the NES reviews highly performing, growing, underperforming, and declining sectors; main export markets and global trends; domestic and foreign investment trends; and key competitors and related competitiveness issues. Second, it identifies the main strategic objectives, priority sectors (products and services), cross-sectoral issues, and required trade support services (e.g., trade finance, branding, quality management, managerial competencies, trade facilitation, market information, etc.). Third, it develops detailed strategies for a few priority products or services sectors and cross-sector strategies related to priority issues and trade support services. Finally, it should draft a plan of action that is a specific, targeted and measurable framework for coordination, monitoring, and evaluation.

For Myanmar's NES, a reasonable number of priority sectors, reflecting a balanced mix of traditional and non-traditional sectors of goods and services, have been already chosen. These sectors are fish and crustaceans, pulses and oilseeds, rice, wood products, textiles and garments, rubber, and, finally, tourism. The working team has also introduced a number of objectives such as sustainable and equitable export-led growth and value addition; a consistent, predictable, and transparent trade policy and regulatory framework supporting strong public-private dialogue and integration to the world economy; competitive, diversified, and branded exports responding to international market opportunities and requirements; and the development of export-related skills and capacities. The remainder of the objectives consists of fostering technology innovation to support export growth; building enabling and supportive institutions to respond to the diverse needs of current and emerging exporters; increasing logistics capacity; and building trade facilities across the country and at the regional level. The realization of the NES and all its objectives will be a long process, but should contribute significantly to the development of the private sector, the economy, and trade in Myanmar.

Conclusion

After enduring economic, political, and social instability, the recently convened civilian Government of Myanmar has set the country on a new development path. A number of reforms were introduced in order to accelerate the country's economic growth and development. However, Myanmar remains one of the least developed countries in the world. Achieving the country's economic and development goals requires the Government to undertake further reforms consistent with its recent measures. In particular, it is important to support the activities of the private sector, as the achievement of development goals is inextricably linked to the success of the private sector.

In summary, the Government needs to provide businesses with a favourable regulatory environment; strengthen businesses' competitiveness through human and physical capital advancement, new technology adoption, ICT sector development, and BDS provision and/or facilitation; and offer special support to the country's SMEs, which account for 99.4 per cent of all registered enterprises.³¹⁸ The latter initiative can be achieved by disseminating information about alternative sources of capital, adopting policies for SMEs' better integration into regional and global value chains, and encouraging their cluster formation. To address the needs of the private sector as a whole, the Government could also adopt a new corporate governance framework to guide the activity of enterprises. Additionally, reforms towards inclusive agri-business could foster private sector activity in rural areas and utilize the untapped potential there, while policies aiming at promoting techno-entrepreneurship would trigger the innovative spirit of businesses, rendering them more competitive.

Similarly, the Government of Myanmar should focus on enhancing the investment climate in the country in order to attract more FDI, which can either result in the establishment of new businesses or help the country develop by other means (e.g., PPP, technology transfer, knowledge sharing, among others). For that purpose, it is important to guarantee transparent information regarding upcoming rules and regulations related to investment, secure private and intellectual property rights, non-discriminatory treatment of investors, and the possibility to settle a dispute through arbitration. The Government could also engage in the investment promotion process, which could take the form of new IPAs, SEZs, or financial and non-financial incentives.

Finally, certain trade policy measures could be a benefit to both domestic businesses and foreign investors. Trade policy that allows freer product movement across borders is of great importance. This can be achieved through trade liberalization and trade facilitation as well as through regional economic integration. However, measures that increase product movement between countries will result in wider market openness, which may have some adverse economic and social impacts, hence the need for supplementary measures to prevent the realization of such effects. It is especially important to protect the country's economy from external shocks; infant industries from increased foreign imports; and all businesses from anti-competitive actions of rivals. Solutions would be to adopt policies for export diversification; to maintain higher barriers to trade in sectors where infant industries operate; and to introduce a new competition law. Finally, introducing the national export

strategy (NES) would be beneficial for individual business but also for export expansion and overall economic growth.

Due to the fact that a number of complex reforms should be undertaken in Myanmar in order to strengthen private sector capacity and foster development, the strong determination of the Government is required. In the end, the successful implementation of the recommended reforms should help to achieve inclusive and sustainable growth. Finally, such recommendations are summarized as follows (table 8):

Table 8: Summary of recommendations

Recommendations		Potential benefits
1.	Reduce the number of required administrative procedures for business start-up.	Less costly and less time-consuming for business start-up.
2.	Introduce a well-balanced labour law.	Competitive firms and sufficiently protected employees.
3.	Establish specialized courts for business disputes; uniform case and court management techniques; reporting procedures; a system for decision enforcement; a legal aid system; and a criminal defense system based on business principles, transparent accounting, and fundamental human rights.	Stronger capability of law enforcement; more trust in legal institutions.
4.	Strengthen Government commitment in putting anti-corruption and transparency measures into concrete actions; guarantee the full independence of a new anti-corruption committee; create space for the society and media to monitor public activity; enact "right to information" laws; replace commercial taxes with a value-added tax.	Reduction in corruption and bribery incidents.
5.	Accelerate the development of the financial sector; establish credit facilities and the relaxation of bank requirements; disseminate information about global pools of growth capital.	Better business access to financial products.
6.	Establish a timely, secure, and effective way to register land and other types of private ownership.	Increase in business and investment activities due to boosted confidence in protection of private property rights.
7.	Develop strict regulations regarding property nationalization and expropriation practices according to international standards; prepare a clear registry of what constitutes public property; offer equal protection to property owned by women and men.	

8.	Guarantee intellectual property rights; develop a patent regime and copyright laws.	Environment conducive to innovation; development of more competitive products and services through value-added and enhanced productivity.
9.	Incentivize and/or invest in research and development activities.	
10.	Support techno-entrepreneurship development programmes.	
11.	Invest in information and communications technology development for a rapid and widely spread Internet and mobile penetration.	More competitive and innovative private sector; more efficiency in trade; better reach of consumers; e-finance; e-education; online Government services; atomization of some administrative procedures; Internet-based tax payment; virtual interface to share information related to new rules and regulations in force; electronic customs clearance and data collection; environment less conducive to corruption and bribery.
12.	Encourage private sector participation in infrastructure and logistics development projects through public-private partnerships.	Improved physical capital without increasing public expenditure on related projects.
13.	Increase the share of public expenditure on education; fund educational institutions; raise teachers' wages; finance vocational and technical training; and invest more in female human capital.	Highly skilled human capital; better productivity; capacity to innovate; more competitive private sector; better female inclusiveness.
14.	Develop a range of business development services, enhance their outreach in the country and facilitate their supply by other providers.	Better business performance; easier access to other markets; and enhanced competitiveness.
15.	Develop an agricultural policy that takes into account gender differences, and fosters female participation in decision-making and agriculture-related science and research activities.	Better female inclusiveness in agri-business; creation of more jobs and stable incomes; higher productivity and supply capacity; increased competitiveness of agri-business.
16.	Provide transparent and regular information about existing and upcoming food safety and agricultural health standards; and require products to be in compliance with these standards.	Stronger agriculture supply chains; better access to national and global markets; more competitive agriculture sector.

17.	Develop a corporate governance framework that implies high-quality, timely, and transparent information disclosure; promotes awareness and observance of stakeholders' rights; sets high requirements for the performance of a board of directors.	Improved performance of individual companies; effective and equitable resource allocation; better access to external financing and larger markets for companies.
18.	Facilitate SME integration into regional and global value chains through efficient cross-border production linkages; and encourage SME cluster formation.	SMEs participation in the development of highly competitive products granting them easier access to global markets.
19.	Guarantee effective publication of already existing and newly adopted rules and regulations regarding investments and other relevant information; codify legislation in simple language.	Increased FDI inflows due to predictable, comprehensible, and transparent regulations.
20.	Abolish dual application of investment laws and adopt non-discriminatory treatment of foreign investors after their establishment in the country.	Increased FDI inflows due to competitive equality between national and foreign investors.
21.	Join the International Centre for Settlement of Investment Disputes	Greater FDI inflows due to increased foreign confidence in the legal system because of the availability of automatic recourse to arbitration to settle investment disputes between parties from Myanmar and investors coming from 152 countries worldwide.
22.	Establish an investment promotion agency and develop new special economic zones.	Increased FDI inflows due to sound investment promotion efforts.
23.	Continue to progressively reduce tariffs; eliminate non-automatic import and export licensing; abolish the practice of price control or maintain it only for the most important sectors; enhance the delivery of certificates of origin.	Improved market openness; easier, faster, and less costly trading across borders (regionally and globally); and better business integration into regional and global value chains.
24.	Eliminate complex customs clearance and pre-shipment procedures by eliminating unnecessary administrative steps and/or by introducing more simple ones; eliminate transshipment and trans-loading requirements; eliminate additional taxes at borders.	

25.	Introduce a single window for trade with other ASEAN members; encourage negotiations between regional partners for harmonized administrative requirements and unified system of standards; develop cross-border special economic zones with neighbouring countries; explore the possibility of concluding new RTAs.	
26.	Harmonize the tax system by eliminating distorting exemptions; use consumption taxes, like value-added tax (VAT) or excises; replace non-tariff barriers with tariffs; significantly cut excessive tariffs applied to some goods.	Recovery of lost revenue caused by the reduction in tariffs.
27.	Identify infant industries of the country and grant them with temporary protection if it appears that benefits outweigh the costs. Carefully, assess which measures are the most suitable for this purpose.	Emergence of vulnerable but dynamic industries.
28.	<p>Develop a realistic industrial sector strategy and take necessary measures to encourage exports in a variety of trade sectors:</p> <ul style="list-style-type: none"> • further reduce tariff and non-tariff measures; • encourage private sector activity through enabling business environment, adequate investment regime, support for entrepreneurship, better infrastructure, and lower transaction costs; • utilize fiscal and credit incentives; • continue negotiations with other countries for freer trade among them. 	Export diversification; sustainable and robust economic growth; resilient to external shocks.

Endnotes

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- ⁷³ Ibid. Principles are intended to serve as the first step towards authorities' consideration of private sector participation, offering a coherent catalogue of policy directions to be assessed as part of development strategies in light of particular national circumstances and needs.
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An entrepreneur focuses on bringing something new and different or on improving an existing process, product or service, while a businessman prefers leveraging something that has been already created and pays more attention to activities like business plan creation, management, and marketing that lead to increasing sales of a business's products or services. Juneja J.S., 2013. *Stimulating enterprises in Myanmar*, an input to this publication.

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¹¹⁵ "With small and medium businesses comprising 95 percent of enterprises in Myanmar, we have also initiated a financial sector mapping to identify areas where IFC could provide support needed to improve access to finance, particularly in the microfinance and SME banking sectors". IFC. Available from http://www.ifc.org/wps/wcm/connect/region__ext_content/regions/east+asia+and+the+pacific/countries/ifc+in+myanmar.

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¹²⁰ A product/service is said to have cross-border production linkages when it receives some substantial transformation by crossing a border, from one country to another. Thereby the transformation process, which may be of tangible or intangible nature, contributes to the value addition of the product/service and/or involves different processing operations. *ibid*.

¹²¹ A supply chain refers to “inbound and outbound logistics of particular firms”. It can be sometimes considered as a subset of a value chain which normally encompasses the entire range of productive activities associated with a given product or service, irrespective of firm boundaries. ESCAP, 2007. *Linking Greater Mekong Subregion Enterprises to International Markets: the Role of Global Value Chains, International Production Networks and Enterprise Clusters*. Bangkok: United Nations Economic and Social Commission for Asia and the Pacific.

¹²² Abe, M. and Dutta, M.K., 2014. *A new policy framework for Myanmar's SME development*. ARTNET Working Paper No. 142. February. Bangkok: ESCAP. Available from <http://artnet.unescap.org/pub/AWP-142-Masato-Abe.pdf>.

¹²³ The majority of these burdens are generally related to applied trade policy, and trade liberalization and trade facilitation reforms in particular.

¹²⁴ ESCAP, 2007.

¹²⁵ The GMS programme covers Cambodia, Lao PDR, Myanmar, Thailand and Viet Nam as well as two southern provinces of China.

¹²⁶ ESCAP, 2007.

¹²⁷ Savannavong, O., 2013. *Designing supply chains for success – the logistic challenges in the GMS*. Presentation prepared for the Myanmar Business and Development Week, 23-27 September. Yangon.

¹²⁸ *Ibid*.

¹²⁹ The GMS Business Forum is a private sector organization established in 2000 and composed of GMS Chambers of Commerce, and plays a central role in enhancing private sector participation and competitiveness via capacity building initiatives. Sotharith, C., 2006. *How can Mekong region maximize the benefits of economic integration: a Cambodian perspective*. Paper presented in a seminar on “Accelerating Development in Mekong Region: the Role of Economic Integration”. Cambodia, June, 2006.

¹³⁰ Greater Mekong Subregion Transport & Trade Facilitation. *What we do: Greater Mekong Subregion Cross-Border Trade Agreement*. Available from: <http://www.gms-cbta.org/cross-border-transport-agreement>.

¹³¹ Cattonar, S., 2005. *The Greater Mekong Subregion (GMS) Cross Border Transport Agreement*. Presentation given for ADB at the Regional Workshop on Managing Regional Public Goods: Cross-border Trade and Investment, Labor Migration, and Public Health, 15-21 June, 2005. Bangkok.

¹³² There need to be intermediate solutions to reduce costs and improve safety and insurance of the transport of goods across border such as: creating temporary facilities for transloading at border points; using existing customs guarantee systems; reducing the amount of steps for customs clearance and the use of original shipping documents; allowing multiple good clearance; and easing container clearance to allow return load for empty container. Souvannavong, 2013.

¹³³ ESCAP, 2007.

¹³⁴ A cluster can also be defined as a group of enterprises in the same, or related, industry value chains whose activities and performance are interdependent. ESCAP, 2007. It can be also understood as a “sectoral and geographic concentration of all enterprises that produce the same or similar products and face similar threats and opportunities” Boario, M., 2013. *Global value chains and enterprise clusters*. Presentation prepared for the Myanmar Business and Development Week, 23-27 September. Yangon.

¹³⁵ ESCAP, 2007.

¹³⁶ This section is based on UNIDO's cluster development approach. Boario, 2013.

¹³⁷ UNIDO, *Cluster Development*. Available from <http://www.clustersfordevelopment.org/seite.mv?10-30-20-00+&uid=51C0CAF4000B950D000011D500000000>.

¹³⁸ A cluster development agent is a neutral professional who works on the ground in the cluster and accompanies the process of cluster development in all its phases, from its initiation to phasing out.

¹³⁹ All the agents – persons or legal entities that play an active role in an economic process – within a given territory (a region, country, etc.) and the ways they interact with each other and with other agents outside that territory are defined as an economic system. An economic system is defined by the physical or technological factors which influence the way production is oriented (e.g., mainly towards agriculture, industry, etc.) and also by rules, regulations and other cultural and institutional factors that determine how it functions. OECD, 2008. *Understanding Economic Statistics*. Paris: Organisation for Economic Co-operation and Development. Available from <http://www.oecd.org/std/41746768.pdf>.

¹⁴⁰ A network is an alliance between a limited number of enterprises within a cluster that share joint business objectives.

¹⁴¹ “The SME cluster development approach has proved worthwhile in ensuring holistic development of SMEs and improving their global competitiveness”. Mekong Institute, 2013. SME cluster development in Myanmar – mango and fishery clusters. Research Working Paper Series. Available from <http://www.mekonginstitute.org/our-publications/working-paper-series/219-sme-cluster-development-in-myanmar-mango-and-fishery-clusters.html>.

¹⁴² Mekong Institute, 2013.

¹⁴³ Agri-business is the “part of a modern economy devoted to the production, processing and distribution of food, fiber products and by-products including the financial institutions that fund these activities”. Conig, da Silva and Mhilanga, 2013.

¹⁴⁴ Ibid.

¹⁴⁵ Inclusiveness is a private sector approach to providing goods, services, and livelihoods on a commercially viable basis, particularly targeting rural poor and vulnerable populations. Morris, D., 2013. *Inclusive agri-business in Myanmar*. Presentation prepared for the Myanmar Business and Development Week, 23-27 September. Yangon.

¹⁴⁶ The especially vulnerable population segment comprises the poorest of the poor and marginalized population segments, e.g., persons with disabilities, women, and girls, or ethnic minorities.

¹⁴⁷ As one women activist in Myanmar, who preferred to keep her name secret, summarized the situation “The presence of women in our (Myanmar) society is extensive but we are still invisible”. Tofani, R., 2012. *Women ‘Invisible’ in Myanmar*. Yangon: Inter Press Service, Saturday, 5 May. Available from <http://www.globalissues.org/news/2012/05/05/13573>.

¹⁴⁸ Agro-industry refers to the establishment of linkages between enterprises and supply chains for developing, transforming, and distributing specific inputs and products in the agriculture sector. Agro-industries are a subset of the agribusiness sector.

¹⁴⁹ Christy, R., et al., 2009. “Enabling environments for competitive agro-industries”. In Da Silva, C., et al. (eds.), *Agro-industries for development*, pp. 136-185. Wallingford: CABI with FAO and UNIDO. Available from www.fao.org/docrep/013/i0157e/i0157e00.pdf.

¹⁵⁰ UNIDO, 2013.

¹⁵¹ Hitchcock, K., 2008. *Agribusiness and competitive agro-industries in the Asia and Pacific region*. Paper presented at the LSFM Regional Forum Workshop and 7th AsiaDHRRA GA, Session 1a on Market Situation and the Challenges for Small Farmers. Hanoi, 8-10 June.

¹⁵² Gender roles are socially constructed differences in roles, tasks, power (control), opportunities, and responsibilities between men and women. WASME, 2013. *Participation of women in agri-business*. Presentation prepared for the Myanmar Business and Development Week, 23-27 September. Yangon.

¹⁵³ Ibid.

¹⁵⁴ Ibid.

¹⁵⁵ Sein, T.T., 2013. *Myanmar women in agri-business*. Presentation prepared for the Myanmar Business and Development Week, 23-27 September. Yangon.

¹⁵⁶ Ibid.

¹⁵⁷ WASME, 2013. *Participation of women in agri-business*. Uttar Pradesh: World Association for Small and Medium Enterprises. Presentation prepared for the Myanmar Business and Development Week, 23-27 September. Yangon.

¹⁵⁸ CEDAW, 1999. *Consideration of Reports Submitted by States Parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women: Myanmar, Initial Report of States Parties*. New York: Committee on the Elimination of Discrimination Against Women.

¹⁵⁹ Ibid.

¹⁶⁰ Corporate governance can be understood as the actual behaviour of corporations, in terms of performance, efficiency, growth, financial structure, and treatment of shareholders and stakeholders. Claessens S., 2003. *Corporate Governance and Development*. Washington D.C.: World Bank. Available from http://www.ifc.org/wps/wcm/connect/7fc17c0048a7e6dda8b7ef6060ad5911/Focus_1_Corp_Governance_and_Development.pdf?MOD=AJPERES.

¹⁶¹ This section is based on OECD report on corporate governance in Asia. OECD, 2011. *Reform Priorities in Asia: Taking Corporate Governance to a Higher Level*. Paris: Organisation for Economic Co-operation and Development. Available from <http://www.oecd.org/daf/ca/49801431.pdf>.

¹⁶² Claessens, 2003.

¹⁶³ A corporate governance framework is a set of different policies and laws related to the control and functioning of a corporation. It encompasses broad rules and regulations such as company law, securities law, listing rules, and voluntary codes. Framework formation often involves institutions like Ministries of Justice, securities regulators, central banks, private sector institutions, or Institutes of Directors. Ibid.

¹⁶⁴ Oo, 2013. *Private sector development reform & corporate governance in Myanmar*. Presentation prepared for the Myanmar Business and Development Week, 23-27 September. Yangon: Directorate of Investment and Company Administration.

¹⁶⁵ OECD, 2006.

¹⁶⁶ OECD, 2011.

¹⁶⁷ OECD, 2014. *Corporate Governance in Asia*. Paris. Available from www.oecd.org/corporate/48806174.pdf.

¹⁶⁸ Fung, B., 2014. The demand and need for transparency and disclosure in corporate governance. *Universal Journal of Management*. Vol. 2, pp. 72-80; OECD, 2011.

¹⁶⁹ Stakeholders are persons or groups who are directly or indirectly affected by a project, as well as those who may have interests in a project and/or the ability to influence its outcome, either positively or negatively. Linsell, D. and Skibola, N., 2014. *Introduction to CSR*. Available from <http://www.directorship.com/introduction-to-corporate-social-responsibility/>.

¹⁷⁰ OECD, 2011.

¹⁷¹ The OECD identifies several types of performance-enhancing mechanisms. For example, a work council, which could be consulted in case of important corporate actions, could be established. A compensation system could also be implemented to recognize the appreciation for good work by an individual or team. The system can take the form of cash or equity bonuses, which may include employee stock ownership or contribution to individual pension schemes. Ibid.

¹⁷² The 2008 global financial crisis has also shown that performance-enhancing mechanisms can create risks for the company. Therefore, these schemes and other remuneration-associated systems should be developed keeping in mind their alignment with the longer term interests of the company as well as an understanding of any associated risks. Ibid.

¹⁷³ Linsell and Skibolla, 2011.

¹⁷⁴ Osborne, S., 2008. Board's performance evaluation. *Global Corporate Governance Forum*. No. 9. Available from <http://www.gcgf.org/wps/wcm/connect/83c6900048a7e55da157e76060ad5911/GCGF%2BPSO%2Bissue%2B9%2Bscreen.pdf?MOD=AJPERES>.

¹⁷⁵ OECD, 2011.

¹⁷⁶ "A code of conduct outlines a set of fundamental principles (...). It helps the board define what is right, fair, just and good in those cases where it may be less than obvious which path constitutes the high road". Navran, F., 2002. *Developing a Code of Conduct for a Corporate Board of Directors: A Roadmap*. Arlington: Ethics Resource Center. 31 December 2002. Available from <http://www.ethics.org/resource/developing-code-conduct-corporate-board-directors-roadmap>.

¹⁷⁷ Osborne, 2008.

¹⁷⁸ Graff Zivin, J., and Neidell, M., 2012. "The Impact of Pollution on Worker Productivity". *American Economic Review*, Vol. 102, No. 7 (December 2012), pp. 3652-73. Available from: <http://pubs.aeaweb.org/doi/pdfplus/10.1257/aer.102.7.3652>.

¹⁷⁹ "The lasting interest implies the existence of a long-term relationship between the direct investor and the enterprise and a significant degree of influence by the direct investor on the management of the enterprise". OECD. Available from <http://www.oecd-ilibrary.org/sites/factbook-2013-en/04/02/01/index.html?itemId=/content/chapter/factbook-2013-34-en>.

¹⁸⁰ Ibid.

¹⁸¹ Chowdhury, A. and Mavrotas, G., 2006. *FDI and Growth: What Causes What?* Geneva: United Nations Economic Commission for Europe and Helsinki: UNU-WIDER. Available from <http://website1.wider.unu.edu/lib/files1/WE-29-1-06-2-Chowdhury.pdf>; Hansen, H. and Rand, J., 2006. On the Causal Links between FDI and Growth in Developing Countries. *The World Economy*, vol. 29, No. 2, pp. 21-41.

¹⁸² OECD. *Investment policy review: Myanmar. Module 1: Investment promotion & facilitation/Tax policy & incentives*. Presentation for the Seminar on the Policy Framework for Investment, 22 October 2012. Nay Pyi Taw.

¹⁸³ Clark, D.P. et al., 2007. FDI, technology, spillovers, growth and income inequality: a selective survey. *Global Economy Journal*, vol. 11, No. 2.

¹⁸⁴ Brems, H., 1970. A Growth model of international direct investment. *The American Economic Review*, vol. 60, No. 3.

¹⁸⁵ Jayaweera, S., 2009. *Foreign direct investment and export diversification in low income nations*. Available from: Available from: <http://ssrn.com/abstract=1566044>.

¹⁸⁶ OECD, 2006.

¹⁸⁷ UNCTAD, 2014. *UNCTADStat*. Available from <http://unctad.org/en/pages/Statistics.aspx>.

¹⁸⁸ Ibid.

¹⁸⁹ This part of the handbook is based on OECD, 2006.

- ¹⁹⁰ UNCTAD, 2012a. *Investment Policy Framework for Sustainable Development*.
- ¹⁹¹ Gelos, R.G. and Wei, S., 2005. "Transparency and International Portfolio Holdings". *The Journal of Finance*, vol. 60, issue 6, December 2005.
- ¹⁹² OECD, 2003. *Framework for Investment Policy Transparency*. Paris: Organisation for Economic Co-operation and Development. Available from <http://www.oecd.org/daf/inv/investment-policy/16793978.pdf>.
- ¹⁹³ OECD, 2006.
- ¹⁹⁴ Acemoglu, D., Johnson, S., and Robinson, J.A., 2001. The colonial origins of comparative development: an empirical investigation. *American Economic Review*, vol. 91, No. 5. Pp. 1369-1401; Knack, S. and Keefer, P., 1995. Institutions and economic performance: cross-country tests using alternative institutional measures. *Economics and Politics*, vol. 7, No. 3. Available from http://homepage.ntu.edu.tw/~kslin/macro2009/Knack&Keefer_1995.pdf.
- ¹⁹⁵ World Bank Group, 2014b.
- ¹⁹⁶ Securing intellectual property rights triggers FDI arrival, and it contributes to the diffusion of knowledge, technology, and innovation among businesses, consequently enhancing their performance and productivity. Therefore, a sound intellectual property regime is not only necessary for investors but also to the overall private sector development. Mingaleva, Z. and Mirskikh, I., 2013. The problems of legal regulation and protection of intellectual property. *Procedia – Social and Behavioral Sciences*, vol. 81, pp. 329-333.
- ¹⁹⁷ Oo, S.S., 2013. "Intellectual Property Group to Be Formed Ahead of Expected Law". *The Irrawaddy*, 9 December. Available from <http://www.irrawaddy.org/business/intellectual-property-group-formed-ahead-expected-law.html>.
- ¹⁹⁸ UNCTAD, 1999. *National Treatment*. Geneva: United Nations Conference for Trade and Development. Available from <http://unctad.org/en/docs/psiteitd11v4.en.pdf>.
- ¹⁹⁹ OECD, 2013a.
- ²⁰⁰ Aung Naing Oo, quoted in: Zin, Thike, 2014. "Foreign and domestic investors play by the same rules: DICA". *Democratic Voice of Myanmar*. Available from: <https://www.dvb.no/news/investment-reform-to-level-playing-field-burma-myanmar/36156>.
- ²⁰¹ UNCTAD, 1999.
- ²⁰² OECD, 2003. *Cheklis for Foreign Direct Investment Incentive Policies*. Paris: Organisation for Economic Co-operation and Development. Available from <http://www.oecd.org/daf/inv/investment-policy/2506900.pdf>; OECD, 2006.
- ²⁰³ UNCTAD, 1999.
- ²⁰⁴ OECD, 2013a.
- ²⁰⁵ Ibid.
- ²⁰⁶ Arbitration is a method of dispute resolution which is chosen by the parties themselves as an effective way of ending disputes between them. Blackaby, N. et al., 2009. *Redfern and Hunter on International Arbitration*. vol. 5. Oxford.
- ²⁰⁷ Watson, Farley, and Williams, 2013. *Natural Resources Briefing*. London. Available from [http://www.wfw.com/Publications/Publication1183/\\$File/WFW-MyanmarFDILaw.pdf](http://www.wfw.com/Publications/Publication1183/$File/WFW-MyanmarFDILaw.pdf).
- ²⁰⁸ Herbert Smith Freehills, 2013. "Myanmar signs the New York Convention: Additional investment protection", *Japan Dispute Avoidance Newsletter*, number 127. Tokyo.
- ²⁰⁹ China, India, Lao PDR, Philippines, Thailand, and Viet Nam.
- ²¹⁰ Myanmar has three enforced BITs signed with China, India, and Philippines. For comparison, Cambodia has signed 11, Lao PDR 19, Thailand 34, and Viet Nam 42 which are already enforceable. Currently, one of the most important developments related to Myanmar BITs is the country's negotiations with the European Union.

²¹¹ The centre was established in 1966 based on the World Bank initiative to create more certainty and a better investment climate for foreign investors. It is a special international institution that offers conciliation or arbitration services for the settlement of investment disputes between a member state and another member state.

²¹² OECD, 2006.

²¹³ Trník, M., 2007. *The role of investment promotion agencies at attracting foreign direct investment and their impact on economic development in Central Europe*. Hungary. Available from http://michal.trnik.com/prace/michal_trnik_ma_thesis.pdf.

²¹⁴ UNCTAD, 2008. *Evaluating Investment Promotion Agencies*. Geneva: United Nations Conference for Trade and Investment. Available from http://unctad.org/en/Docs/diaepcb20082_en.pdf.

²¹⁵ Trník, 2007.

²¹⁶ For example, the World Association of Investment Promotion Agencies (WAIPA) assists IPAs in advising their respective governments on the formulation of investment promotion strategies; the Foreign Investment Advisory Service (FIAS) provides investment climate diagnostic studies upon request from a host government, consisting of recommendations for a combination of policy, regulatory, and procedural reform, institutional frameworks for investment promotion and methods for monitoring effectiveness; UNCTAD's Advisory Services on Investment and Training (ASIT) also offer instruction programmes for IPAs' staff to improve their capacity. OECD, 2006.

²¹⁷ OECD, 2011 and 2006.

²¹⁸ UNCTAD, 2004. *Incentives*. UNCTAD Series on Issues in International Investment Agreements. New York and Geneva: United Nations Conference for Trade and Investment. Available from http://unctad.org/en/docs/iteiit20035_en.pdf.

²¹⁹ Telford, T.G. and Ures, H.A., 2001. "The Role of Incentives in Foreign Direct Investment". *Comparative Law Review*. Loyola of Los Angeles International and Comparative Law Review.

²²⁰ OECD, 2003.

²²¹ Ibid.

²²² OECD, 2006.

²²³ OECD, 2003.

²²⁴ OECD, 2013b. *Checklist for Foreign Direct Investment Incentive Policies*. Paris: Organisation for Economic Co-operation and Development.

²²⁵ Telford and Ures, 2001.

²²⁶ Morisset, J. and Pirnia, N., 1999. *How Tax Policy and Incentives Affect Foreign Direct Investment: A Review*. Washington D.C.: World Bank.

²²⁷ Matsui, Y., 2013. *Special economic zones: concept, types, experience and current trends*. Presentation prepared for the Myanmar Business and Development Week, 23-27 September. Yangon.

²²⁸ Others consider SEZs to be a "trade capacity development tool, with the goal to promote rapid economic growth by using tax and business incentives to attract foreign investment and technology". Ramananda, M.S. and Pandian, V.A., 2012.

²²⁹ Different types of SEZ have different functions. For example, free ports are devoted to pre-shipment, trans-shipment, processing, conversion of foreign commodities that arrive to the port and to other related functions. The function of free trade zones is marketing of domestic or imported goods for export or re-export, while the function of free transit zones is to relay imported goods from a landing country to neighbouring countries, which finally import the commodities.

²³⁰ Instructions and procedures provided by the SEZ Law of 2011 continue to apply if they do not run counter to the new law.

- ²³¹ According to the new law, the proportion of local skilled labour in SEZs should be a minimum 25 per cent in the first year, 50 per cent in the second year, and 75 per cent in the third year.
- ²³² Control Risks, 2012. "Myanmar: In the zone". *Asia Pacific Risk Watch*, No. 5, December. Available from <http://www.controlrisks.com/en/newsletters/asia-pacific-risk-watch/issue-5/page-2>.
- ²³³ The WTO currently has 159 member countries.
- ²³⁴ Fischer, S., 2003. *Globalization and its challenges*. American Economics Association, Washington D.C. Available from <http://www.iie.com/fischer/pdf/fischer011903.pdf>.
- ²³⁵ IFC, 2011.
- ²³⁶ Market access refers to the freedom to enter a market and sell goods and services. Financial Times Lexicon, 2014. *Definition of market access*. Available from <http://lexicon.ft.com/Term?term=market-access>.
- ²³⁷ Fischer, 2003.
- ²³⁸ Openness to trade is the degree to which countries are trading with other countries or economies. It can be measured by the trade openness index which is obtained from trade-to-GDP ratio.
- ²³⁹ ESCAP, 2014. *Asia-Pacific Trade and Investment Report 2014: Recent Trends and Developments*. Bangkok: United Nations.
- ²⁴⁰ Lee E., 2005. *Trade liberalization and employment*. DESA Working Paper No. 5. New York: UN/DESA. Available from http://www.un.org/esa/desa/papers/2005/wp5_2005.pdf.
- ²⁴¹ Opening up to international trade, countries like India and Viet Nam experienced higher economic growth and a significant decline in poverty rates. Dollar, D., 2001. *Globalization, Inequality, and Poverty since 1980*. Washington D.C.: World Bank.
- ²⁴² Ames B. et al., 2001. *Macroeconomic Policy and Poverty Reduction*. International Monetary Fund (IMF) and the World Bank.
- ²⁴³ World Bank Group, 2014b.
- ²⁴⁴ WTO, 2014a. "Tariffs". Available from http://www.wto.org/english/tratop_e/tariffs_e/tariffs_e.htm.
- ²⁴⁵ World Bank, 2014b. *Data: Customs and other import duties (% of tax revenue)*. Available from <http://data.worldbank.org/indicator/GC.TAX.IMPT.ZS/countries?display=map>.
- ²⁴⁶ Love, P. and Lattimore, R., 2009, *Protectionism? Tariffs and Other Barriers to Trade*. Paris: OECD. Available from <http://www.oecd-ilibrary.org/docserver/download/0109121ec005.pdf?expires=1400568571&id=id&accname=guest&checksum=CCAB833086DFD225CA157757C1872DB7>.
- ²⁴⁷ WTO, 2014b. *Trade Policy Review of Myanmar*. Geneva: World Trade Organization. Available from http://www.wto.org/english/tratop_e/tptr_e/s293_e.pdf.
- ²⁴⁸ PwC, 2014. *Myanmar Business Guide*. Available from http://www.pwc.com/sg/en/assets/document/myanmar_business_guide.pdf.
- ²⁴⁹ More details on the schedule of tariff commitments in Myanmar are available from https://www.dfat.gov.au/fta/aanzfta/annexes/aanzfta_annex1_myanmar_tariffschedule.pdf.
- ²⁵⁰ Sequeira, S., 2013. *Displacing corruption: Evidence from a Tariff Liberalization Program*. London: London School of Economics. Available from <http://eprints.lse.ac.uk/54367/>.
- ²⁵¹ Ibid.
- ²⁵² IMF, 2005. *Dealing with the Revenue Consequences of Trade Reform*. Available from <http://www.imf.org/external/np/pp/eng/2005/021505.pdf>.
- ²⁵³ This part is based on UNCTAD classification of NTM. UNCTAD, 2012b. *Classification of Non-Tariff Measures*. Geneva. Available from http://unctad.org/en/PublicationsLibrary/ditctab20122_en.pdf.
- ²⁵⁴ Ibid.

²⁵⁵ Ibid.

²⁵⁶ WTO, 1994. *General Agreement on Tariffs and Trade 1994, Article XI*. Geneva: World Trade Organization. Available from http://www.wto.org/english/res_e/booksp_e/analytic_index_e/gatt1994_05_e.htm#article11A1.

²⁵⁷ Anti-dumping measures are applied to compensate for dumping practices while countervailing ones are used for subsidies. Dumping is the practice of introducing a product into a market for a price that is significantly lower than a normal price of this product in exporting country. WTO, 2014c. "Technical Information on anti-dumping". Available from http://www.wto.org/english/tratop_e/adp_e/adp_info_e.htm.

²⁵⁸ Subsidies can be defined as a "financial contribution by a government or public body, or via government entrustment or direction of a private body (direct or potential direct transfer of funds, e.g., grant, loan, equity infusion, guarantee; government revenue foregone; provision of goods or services or purchase of goods; payments to a funding mechanism), or income or price support, which confers a benefit and is contingent in law or in fact upon export performance (whether solely or as one of several conditions)". Cadot, Malouche, and Saez, 2012.

²⁵⁹ Compliance with standards may require additional expenses which can either make overall production more pricy or limit/prevent exporters that cannot support additional costs from supplying their production. See <http://www.intracen.org/itc/market-info-tools/non-tariff-measures/understanding-ntms/for-more-details>.

²⁶⁰ SPS standards are measures applied to protect human or animal life from risks arising from additives, contaminants, toxins, or disease-causing organisms in their food; to protect human life from plant- or animal-carried diseases; to protect animal or plant life from pests, diseases, or disease-causing organisms; to prevent or limit other damage to a country from the entry, establishment, or spread of pests; and to protect biodiversity.

²⁶¹ WTO. Available from http://www.wto.org/english/docs_e/legal_e/22-roo_e.htm.

²⁶² Index of Economic Freedom. Available from <http://www.heritage.org/index/country/burma>.

²⁶³ To get a licence, importers must submit an application on the company's letterhead, the requisite fee, the pro-forma invoice, the sales contract, and, if required, recommendations from relevant government departments and/or organizations.

²⁶⁴ WTO, 2014b.

²⁶⁵ To apply for an export licence, exporters must submit an application form and a sales contract with an invoice to the Ministry of Commerce which issues export licences within 24 hours.

²⁶⁶ Export declaration requires documentation such as the export licence, invoice, packing list, sales contract, letter of credit, or general remittance exemption certification, as well as forest pass for the shipment of forestry produce, health certificate for the export of live animals, permit for the export of wild live animals, and other certificates and permits as required by the relevant government agencies.

²⁶⁷ WTO, 1998. *WTO: a Training Package: What Is Trade Facilitation?* Geneva: World Trade Organization.

²⁶⁸ A former United States Trade Representative, Robert Zoellick, called trade facilitation measures "an extension of market access procedures that lower transaction costs and increase timeliness of transit". ITC, 2013. *WTO Trade Facilitation Agreement: A Business Guide for Developing Countries*. Geneva: International Trade Centre. International Trade Centre.

²⁶⁹ World Bank Group, 2014b.

²⁷⁰ ESCAP, 2014.

²⁷¹ WTO, 2012. *World Trade Report 2012, Trade and Public Policies: a Closer Look at Non-tariff Measures in the 21st Century*. Geneva: World Trade Organization. Available from: http://www.wto.org/english/res_e/booksp_e/anrep_e/world_trade_report12_e.pdf.

²⁷² A single window means that trade related information and/or documents need only be submitted once at a single market entry point.

²⁷³ International Trade Center, 2013. *National export strategy in Myanmar*. Presentation prepared for the Myanmar Business and Development Week, 23-27 September. Yangon.

²⁷⁴ Crawford, J.A. and Fiorentino, R.V., 2005. *The changing landscape of regional trade agreements*. World Trade Organization Discussion Paper No. 8. Geneva: World Trade Organization. Available from <http://www10.iadb.org/intal/intalcdi/PE/2010/05132.pdf>.

²⁷⁵ As of 31 January 2014, some 583 notifications of RTAs (counting goods, services, and accessions separately) had been received by the GATT/WTO. Out of these, 377 were in force. WTO, 2014d. "Regional trade agreements". Available from http://www.wto.org/english/tratop_e/region_e/region_e.htm.

²⁷⁶ Ibid.

²⁷⁷ An RTA under the enabling clause implies differential and more favourable treatment of developing countries, without according such treatment to other contracting parties (an exception to the most-favoured nation principle). Hamanaka, S., 2012. "Unexpected usage of enabling clause? Proliferation of bilateral trade agreements in Asia". *Journal of World Trade*, vol. 46, issue 6.

To be valid, developed countries party to such an agreement must either grant products originating in developing countries with preferential tariff treatment or agree to a differential or more-favoured treatment of developing countries regarding NTMs. RTAs under the enabling clause can also be an agreement between developing countries implying mutual tariff and NTM reduction for the products imported from one another or an agreement between developing countries and LDCs where the latter category are granted with special treatment.

²⁷⁸ OECD, 2006.

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