Executive Summary

Myanmar has undergone a tremendous economic and political transformation since 2011. Following decades of economic and political isolation, democracy has been restored. Formerly a virtually closed economy with a regulatory framework for business based on a century-old colonial model, Myanmar is now an open economy with modern business regulations. Consecutive governments since 2011 have been able to give continuity to reforms oriented at further opening the economy and building a sustainable, private sector-led growth trajectory, fuelled in part by foreign investment, with the ultimate objective of improving the lives of Myanmar citizens. This aspiration and vision have been consolidated in the Myanmar's Sustainable Development Plan (MSDP) 2018–2030. But despite improvements, a peaceful Myanmar, open to the world and on a sustainable and inclusive development path, is still a work in progress.

The reform momentum needs to be sustained and deepened for the benefits of recent investment climate reforms to be shared widely and for growth to be environmentally sustainable, ultimately contributing toward the Sustainable Development Goals (SDGs).

The adoption of the new Myanmar Investment Law (2016) and the new Myanmar Companies Law (2017) went a long way in establishing a modern legislative framework for businesses, pioneering explicit investors' obligations to act responsibly and considerably reducing regulatory barriers to foreign direct investment (FDI), but implementation still lags behind in various areas and some critical complementary reforms have not kept pace. The overall legislative framework has not been renewed in all areas, most notably in the area of land, and institutional reforms have not by themselves resolved the issue of inter-ministerial co-ordination. The slow pace of the peace process and the humanitarian crisis in Rakhine State have also continued to weigh on Myanmar's investment climate.

The newly established investor grievance mechanism and recent laws concerning intellectual property rights and arbitration are laudable additions to an improved investment climate, as they bring Myanmar's legal framework broadly in line with international standards in these respects. But the success of these recent developments hinges on ongoing efforts to improve the independence and competency of the judiciary and the Myanmar courts. Myanmar is also at an important juncture in terms of its approach to investor protection in investment treaties. With relatively few investment treaties in force today, Myanmar is in a favourable position to review its approach to investment treaties so that its treaty network reflects the appropriate balance of preserving the government's right to regulate while contributing to Myanmar's efforts to attract FDI.

Myanmar's investment promotion and facilitation framework has also evolved considerably since the early days of reforms. The new Union Ministry of Investment and Foreign Economic Relations has been created to steer and co-ordinate investment policy, and development financing more broadly, and the Myanmar Investment Promotion Plan (MIPP) for 2016–2036 now provides long-term guidance for investment promotion activities. Important strides have also been made in streamlining procedures for establishing a business and in obtaining investment approvals and other needed licences with the one-stop-shop (OSS). The substantial progress made in the ease of starting a business has been attested by Myanmar's considerable improvement in the relevant World Bank's *Doing Business* sub-indicator. Nevertheless, more could still be done. Investors still complain about the lack of clarity and the burden of procedures for obtaining ministerial licences and permits necessary for operating their businesses, and the OSS system still operates more as a centralised information centre than an actual single window agency.

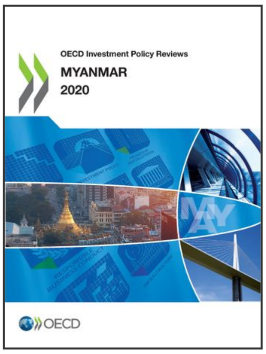
With the renewed investment framework in place, the Directorate of Investment and Company Administration, Myanmar's investment promotion agency, may also start to graduate to more sophisticated investment facilitation and promotion activities. Beyond strengthening its investment facilitation and policy advocacy functions, it could leverage its reputation and close proximity with investors to assist the relevant agencies in capacity building for domestic industries and linkage programmes with foreign investors.

Building on the experience of other countries and on Myanmar's own experience with the Thilawa Special Economic Zone (SEZ) and industrial zones, it is important that Myanmar's SEZ and Industrial Zones approach integrates a broader strategy and institutional eco-system for nurturing deeper linkages of such zones with the local economy. The Thilawa SEZ has been successful in attracting and diversifying investments and is charting the model for a successful operating environment for business nationwide, but without the development of domestic industry capabilities, the zone spillover potential will remain fairly low.

Increasing investments in transport connectivity and enhancing the efficiency of hard and soft transport infrastructure are other equally important elements for a thriving business environment. Myanmar's transport and logistics infrastructure is still underdeveloped and has failed to keep pace with the rising demand on the main logistics corridors. The Project Bank will contribute to channelling resources to priority projects, but such an endeavour would greatly benefit from improvements in the framework for public and private investments in infrastructure, the rehabilitation and modernisation of state-economic enterprises, and the strengthening of trade facilitation and other soft infrastructure.

Attracting investments that contribute to sustainable and inclusive development as sought in the MSDP and the MIPP could also be facilitated by a clearer and more ambitious government signalling of its expectations and commitments to promoting responsible business conduct (RBC) and green growth. With Myanmar's greater openness and integration into global value chains has also come increased international scrutiny. In a context where demands on RBC are rising globally, Myanmar has every interest in working towards strengthening the enabling framework for RBC and minimising businesses' exposure to RBC risks. Sending a stronger signal to investors about Myanmar's commitments to green growth, including by promoting renewable energy more aggressively and in a more structured manner, and ensuring the effective implementation of Myanmar's environmental impact assessment system, would similarly help to avoid locking the economy into an unsustainable development pathway.

Lastly, a truly inclusive and sustainable investment-friendly environment will only be possible when investors' and people's rights to land can be adequately secured. Few matters are as complex as land policy in Myanmar. Addressing the many weaknesses of the land regime will be challenging, not least because of the deeply rooted interlinkages between land governance and the peace process, but delays in finding a solution will continue to impose damaging consequences on the economy, the environment and the population. Moving forward with this complex process of land reform in a conflict-sensitive manner, taking into account land-related matters of the peace process and through wide engagement with stakeholders, is nonetheless essential for incoming investments to sustainably contribute to improving the livelihood of Myanmar citizens.



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