3. Investment promotion and facilitation

This chapter examines investment promotion and facilitation policies in place in Myanmar. It analyses the institutional framework for investment promotion and facilitation, with a particular emphasis on the role and activities of DICA, Myanmar's investment promotion agency. It highlights key reforms and measures implemented by the government to improve the business environment and facilitate the process for incoming investors as well as to attract foreign investment. The chapter identifies continuing challenges and proposes recommendations to address them.

Myanmar's investment promotion and facilitation framework has also evolved considerably since the first review. On the institutional side, a new Ministry for Investment and Foreign Economic Relations (MIFER) has been established *inter alia* to steer investment policy and deepen investment climate reforms. Important strides have been made with regards to investment facilitation, notably the streamlining of procedures for establishing a business, obtaining investment approvals and other needed licences with the one-stop-shop (OSS), although there is still much room for improvement with regards to the latter. The Directorate for Investment and Company Administration (DICA) – Myanmar's Investment Promotion Agency (IPA) – has been strengthened to deliver on its mandate and has asserted itself as a leading reformist agency within the government. Myanmar has also established a long-term investment promotion plan – the Myanmar Investment Promotion Plan (MIPP) for 2016-2036 – which sets out an ambitious agenda and strategies for promoting further domestic and foreign investments.

This makes it timely to take stock of recent investment promotion and facilitation reforms and to provide possible directions for the government's ambitious agenda to attract investment for sustainable development. The OECD's survey of IPAs, which Myanmar also completed in the context of this review, allows for some benchmarking of country experiences across regions and provides additional insights on how best to organise Myanmar's promotional and facilitation efforts going forward.[1]

Much of the analysis in this chapter concerns investment facilitation, partly because investment promotion activities are still rather embryonic in Myanmar.[2] Apart from trips abroad where Ministers and the Director General of DICA meet potential investors and business groups and establishing a list of priority sectors for investment, investment promotion in Myanmar is still in its early stages. This is understandable given the weaknesses of the business environment that prevailed at the time of Myanmar's economic transition in 2011. Investing heavily in investment promotion and branding activities before building the foundations of a good investment climate would have likely been a waste of resources.

DICA has, therefore, wisely focused its efforts on facilitating investments and has gone a long way in this regard. Focusing on easing regulatory bottlenecks is also indirectly a valuable investment promotion activity as it increases the attractiveness of Myanmar as an investment destination, although there is still much room for improvement in investment facilitation. To some extent a first wave of business reforms has been achieved with the new Investment and Companies Laws, but reforms to 'second tier' regulations affecting business operations beyond establishment are still much needed. Investors still complain about the unclear and burdensome procedures for obtaining ministerial licences and permits necessary for conducting their businesses. The OSS still operates more as a centralised information centre than as an actual single window agency with authority to issue permits and licences on behalf of the various ministries and agencies represented there. This is in clear contrast to the OSS at Thilawa SEZ where officials have autonomy to take decisions on behalf of their ministries, making the process much less burdensome for investors.

Myanmar's investment framework has also reached a level of maturity that now allows DICA to take a more strategic look and graduate to more sophisticated investment facilitation and promotion activities. These include the development of capacity building programmes for domestic firms and industries, as well as being more active in facilitating business linkages with foreign investors. Co-ordination with other major actors active in promoting investments and private sector development in Myanmar, such as special economic zones (SEZs) and the SME Centre under the Ministry of Planning, Finance and Industry, could be strengthened for these purposes, although wide capacity gaps between domestic and foreign firms still remains a major barrier to greater linkages.

DICA has, nonetheless, developed a good reputation and reach with the business community and has an ample understanding of investors' interests and concerns. This can be leveraged in co–ordination with other relevant actors to build industry-specific business development services and 'first-stage' linkages between domestic and foreign investors. Investment promotion activities could also be strengthened in alignment with these objectives, for instance by targeting investors in activities and segments with a greater propensity to integrate with the domestic economy.

Main policy recommendations

- Strengthen investment promotion activities, while continuing to improve investment facilitation:
    - Myanmar has made big strides in improving the legal and regulatory framework for investor entry and establishment, including through institutional restructuring and the establishment of adequate mechanisms, like one-stop shops and an online business registration system. DICA may now start to scale up its investment promotion measures *per se*. This would require significant institutional adjustments, both within DICA (see the next recommendation) and in terms of co-ordination across different actors undertaking their own promotional activities, such as the Thilawa Special Economic Zone.
    - Developing its investment promotion functions may require strengthening and clarifying its legal mandate, which today is submersed in functions of the Myanmar Investment Commission, as well as possibly an institutional and budget rearrangement. The government should consider what would be the best organisation design for delivering on such a mandate. This may imply designing a new strategy to re-position the investment promotion branch of DICA, either remaining as part of a larger ministry or becoming more autonomous.
    - Commission a feasibility study by an independent body to analyse various institutional options for DICA, such as those proposed in the MIPP. Decisions on institutional arrangements and the status of the IPA in this regard require careful analysis of the expected outcomes of any reforms and the consequences on the budget, human resources and the overall effectiveness of investment promotion and facilitation.
    - Explore concrete opportunities and activities to foster MNE-SME linkages. DICA has the unique advantage of being close to foreign investors from the establishment phase and should thus seek to promote partnerships with local enterprises early on. This could extend to piloting initiatives in SEZs and industrial zones. Generally, the government should maintain efforts to strengthen the SME sector as a viable source of linkages with MNEs and for inclusive growth in Myanmar, while encouraging the private sector to establish its own industry-specific business development services.
    - Considering their institutional independence (reporting to different branches of the government), careful co-ordination between DICA and the other investment promotion agents in the country, such as special economic zones, is needed to avoid policy misalignment, duplication and wasted resources. This is particularly important when it comes to the use and management of investment promotion instruments that have an impact on public revenue, such as fiscal incentives. Fiscal and non-fiscal incentives for firms locating inside the zones are particularly aggressive vis-à-vis the applied regime outside zones. Co-ordination is therefore needed to avoid an unwarranted expansion of zones and the adequate phasing out of some of the excessive fiscal incentives available to firms inside zones, while at the same time seeking greater alignment of the outside regime with the non-fiscal regulatory innovations and improvements available to firms inside the zones (see Chapter 7 for a detailed discussion on how to improve industrial and economic zone policy).
- In terms of investment facilitation, priority should be given to enhancing the effectiveness of the DICA OSS, as well as intensifying support and co-operation with other ministries and agencies to streamline and improve second-tier regulations affecting business operations beyond establishment:
    - Enhancing the effectiveness of the DICA OSS could be achieved by (1) integrating other licences and permits processes into the OSS, including by securing autonomy of OSS

officials to decide on behalf of the various ministries and agencies they represent, similarly to current practice in the Thilawa One-Stop-Services-Centre (OSSC); and (2) by exploring further digital solutions for managing applications at the OSS. Moving away from the current paper-based system to digital record keeping not only provides documentation security, but can also allow for faster and more efficient analysis of the data. This could eventually be linked to a customer relationship management system that should be hosted at DICA, building on the customer service training DICA staff are already receiving through donor co-operation programmes.

  - An area requiring particular attention is the co-ordination between DICA and the Environmental Conservation Department (ECD), responsible for the Environmental Impact Assessment process. Because of the current dual approval process in place, investors with potentially poorly sited or designed projects may be led to believe that they have been given a green light to proceed from DICA, while this is not the case. In such situations, investors may seek to ignore or resist implementing ECD's recommendations. Conversely, investors may be equally concerned that implementing ECD's recommendation will invalidate their MIC permits. Expectations must be clarified at the outset to avoid frustrations and facilitate compliance with standards, which could be made easier if the two processes were integrated as recommended above.
  - Concerted efforts are still needed in improving and streamlining regulations affecting business operations beyond establishment. The MIC's request to the relevant ministries to develop standard operating procedures (SOPs) is a welcome initiative. The ministries should be assisted in developing the SOPs to ensure alignment around common objectives, which should be part of an overall strategy for regulatory improvements, inter alia, supporting the development the National Single Window.
  - Consider the distance to the frontier when embarking on continued efforts to improve on the Doing Business rankings. While Myanmar made impressive strides in some categories, such as in starting a business, future efforts could be targeted at categories where Myanmar lies far from the top frontier, such as in the areas of contract enforcement, getting credit, protecting minority investors and resolving insolvency.
- Strengthen its role in policy advocacy and support for good regulatory governance in business related areas:
  - Take advantage of the agency's strong links and frequent interactions with the private sector to involve them more systematically in defining and revising investment policies and priorities, including investment promotion strategies.
  - Continue implementing good regulatory practices in DICA and aim to pilot ex ante regulatory impact assessments. In the absence of a central government unit overseeing regulatory policy and implementation, including ex ante and ex post regulatory reviews, competent government units should seek international support and advice in undertaking reviews and assessments in policy areas within their remits. These experiences can offer valuable lessons for broader reviews of the stock of regulation in Myanmar and to optimise the regulatory framework, particularly as regards second tier regulations. In the near-to-medium-term, however, a central government unit with a mandate for regulatory oversight should be established.
- Enhance DICA's operational, accountability and transparency framework:
  - Launch the process of developing an operational strategy in DICA to define targets, core objectives, key performance indicators and budgets, as well as a sound monitoring and

evaluation (M&E) system. Such a strategy is a key step in designing the future institutional set up for investment promotion in the medium term.

- Strengthen the quality of DICA's annual report, highlighting its progress vis-à-vis core objectives, and make it public, including in English. This could be inspired by the reports of some leading IPAs and would form an integral part of the M&E system mentioned above.
- DICA is also well-placed to develop an M&E system that monitors and reports on approved and endorsed projects obligations, including on responsible business conduct commitments (see Chapter 4 for a more detailed discussion). The new online portal (MyCo) should facilitate publishing information concerning project proposals summaries, including before MIC approval, as well as ensuring and monitoring MIC-permitted and endorsed companies' compliance with their annual reporting obligations under the Myanmar Investment Rule (MIR) 196, including with respect to commitments made in the context of the their Initial Environmental Examination or Environmental Impact Assessments (see Chapter 6 for more information). In this respect, DICA could also propose a standardised template for investors to facilitate reporting, assessment and future policy orientations. For educational and transparency purposes, DICA could make public in its website all the non-confidential and not materially sensitive information reported by investors.
- Continue the on-going efforts to strengthen the 15 DICA branch offices. Beyond company administration tasks, these branches are key nodes for identifying upfront potential investor grievances, as well as for monitoring and ensuring investors compliance with obligations in their permits and endorsements.

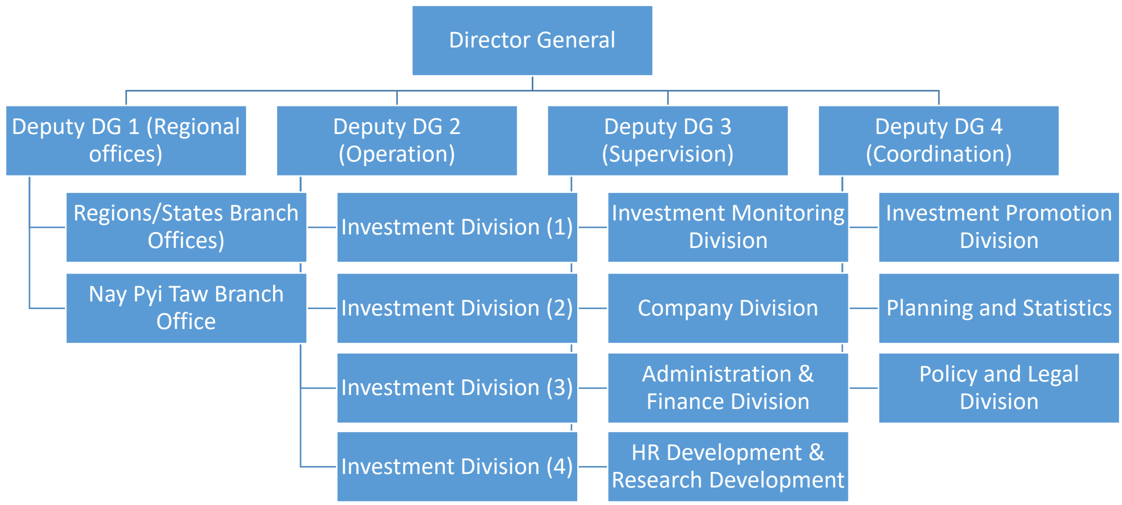
Institutional setting for investment promotion and facilitation

DICA, established in 1993, is the dedicated investment promotion agency (IPA), responsible for handling company registration and for coordinating investment promotion in Myanmar. The agency, located in the recently established Ministry of Investment and Foreign Economic Relations (MIFER), also spearheads major reform initiatives pertaining to the private sector. It has been a key driver behind the vast and consequent private sector related reforms since opening the economy in 2011 and the agency has matured significantly in its own right.

While its Director General also acts as the Secretary to the Myanmar Investment Commission, DICA fulfils a wide range of functions central to regulating business activity in Myanmar (Figure 3.1):

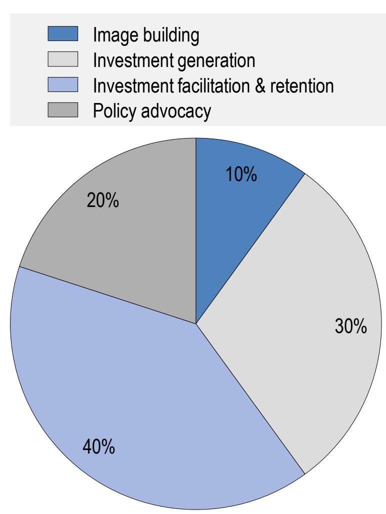
- Inward foreign investment promotion
- Domestic investment promotion
- Operating a one-stop shop
- Screening and prior approval of investment projects with foreign participations or investor registration
- Negotiation of international trade, investment and other agreements
- Export promotion
- Innovation promotion
- Granting of fiscal and financial incentives
- Granting of long-term land leases
- Promotion of regional development

Figure 3.1. DICA's structure



Source: DICA's website section: "Development and Structure of DICA" (accessed 2 August 2019).

Figure 3.2. DICA Investment Promotion Budget Use



Source: author's elaboration based on the OECD IPA Survey of Myanmar, 2019, conducted in the context of this Investment Policy Review.

DICA receives the entirety of its budget from the government and does not generate its own resources. Given the importance and recognition of the agency's mandate, DICA has managed to increase its budget steadily since 2014. In terms of budget use, it is encouraging to note that 40% is used for investment facilitation and retention measures (Figure 3.2). Improving the investment climate is DICA's priority at this stage of Myanmar's development and this has shown results as is seen further below. Its 500 staff also have a reputation with stakeholders of being very reactive and competent. In fact, the great majority of the staff have a university degree, with 80 having completed graduate or post-graduate studies (OECD IPA Survey of Myanmar, 2019).

The Investment Promotion Plan and related investment facilitation reforms

Developing strategic plans can be an effective way to provide a vision for countries such as Myanmar undertaking profound changes in terms of economic and political orientation. The Myanmar Investment Promotion Plan (MIPP) is one such plan spanning 2016-36 and providing a long-term set of objectives in a comprehensive manner, covering five categories: investment-related policies and regulations, institutional development for investment promotion, infrastructure development, business-related systems, and local industries and human resources.

It also includes a detailed implementation structure and plan. An Investment Promotion Committee and task forces covering the five categories have already been established as announced in the MIPP. It is chaired by the Union Minister of Investment and Foreign Economic Relations, with DICA serving as the secretariat of the committee. In terms of implementation, the MIPP is divided into master plans, reviewed every five years, allowing for adjustments to the MIPP as the economy evolves. If implemented accordingly, this reflects good regulatory practice.

A vision to have Myanmar become a middle-income country by 2030 is supported by objectives in the areas listed above. It is an ambitious plan and the intention of the government to link it to the Sustainable Development Goals (SDGs) illustrates a conscious effort to ensure coherence with broader development objectives. While reducing the regulatory burden for business can be part of a strategy to promote private-sector led growth, linking these efforts to broader societal benefits is central to enhancing the overall regulatory framework. Myanmar is thus taking an exemplary step in this regard and should be encouraged to keep a perspective on the broader development agenda, while implementing the plan.

One of the main drivers behind the MIPP was the need to review the 2014 Foreign Direct Investment Promotion Plan, as a number of key achievements proposed by the FDIPP had been reached (Table 3.1), and the government felt the need to progress to a next stage of reforms.

Table 3.1. Achieving the FDIPP targets

FDIPP Target	Results
Strengthen the functions of the One-Stop -Service (OSS)	The OSS has been established within DICA
Integrate the FIL and MCIL	Myanmar Investment Law promulgated in 2016
Review the Myanmar Companies Act	Revised Myanmar Companies Law enacted in 2017
Effective implementation of the SEZ Law	Applied to Thilawa SEZ, with issuance of required notifications
Strengthening establishments of PPPs	PPP unit established to promote PPPs across ministries
Enhance DICA investment promotion	Various initiatives completed: investment guides, seminars on investment promotion in regions, enhanced website, establishment of Japan Desk at DICA

Source: *Myanmar Investment Promotion Plan, 2018.*

Given the broad scope of the plan, this review focuses on some key strategic areas, so as to provide the government with tailored policy guidance. A number of specific areas are reviewed below.

Recent efforts in facilitating investment

> *"It is not enough just to enact new laws. Good implementation of the rules and bylaws must be carried out as well. But many government organisations still do not know the procedures to enforce the law."*

U Aung Naing Oo,

Permanent Secretary of MIFER, former Director General of DICA[3]

The government recognises that good investment facilitation depends on quality regulations, which allow companies to establish and begin operations and smoothly. As such, improving the regulatory framework for business is central to Myanmar's investment facilitation efforts, and Myanmar's ambitions in terms of improving its World Bank Doing Business ranking feature prominently in this regard. The Private Sector Development Committee oversees the Improving Myanmar's Doing Business Ranking Working Group chaired by the Deputy Minister of Commerce.

Considerable progress made on the ease of starting a business

According to the World Bank, Myanmar was one of the top 20 business climate reformers in 2019 (World Bank, 2019). The results also reveal different challenges that lie ahead and may provide indications of reform priorities going forward.

As shown in Table 3.2, it has become easier to start a business and to obtain construction permits. These are laudable achievements and illustrate that targeted efforts to reform can yield results. The improvements in starting a business were largely driven by the establishment of the online company registration platform, MyCo, as well as the lowering of the registration fees (World Bank, 2019). But such improvements did not span across all Doing Business categories. Enforcing contracts remains difficult, shedding some light on broader governance and rule of law issues that still need to be addressed. In trading across borders, Myanmar actually slipped to 168th from 159th in 2016. This reflects the challenges of implementing reforms that span across various line ministries and regulators. Generally, it is difficult to maintain consistent regulatory improvements in an environment where other countries also aim to improve their regulation for business amidst the international competition for investment. Such realities need to be considered when assessing progress under the MIPP.

Also, what matters at least as much as the actual improvements in the score is the distance to frontier, namely how far the country lies from international best practice in the respective category. For example, in starting a business, Myanmar has a score of 89.3, which is very close to the top frontier. Additional efforts to improve on the Doing Business ranking in this category might thus not be a priority. In getting credit and enforcing contracts on the other hand, Myanmar scores a low 10 and 26.4 respectively, far from the top frontier. Similarly, Myanmar is far from the top performers in resolving insolvency and protecting minority investors.

Table 3.2. Myanmar's Performance in the World Bank's Doing Business Index, by category, out of 190 countries included

	Starting a business	Dealing with construction permits	Getting electricity	Registering property	Getting credit	Protecting minority investors	Paying taxes	Trading across borders	Enforcing contracts	Resolving insolvency
2016	170	66	149	143	175	179	119	159	188	164
2020	70	46	148	125	181	176	129	168	187	164

Source: World Bank (2015, 2019), Doing Business Indicators.

Second-tier regulations affecting business operations are still in need of reform

The MIPP has set ambitious targets for Myanmar with respect to the overall ease of Doing Business in the country as measured by the World Bank's Doing Business ranking: to be in the top 100 by 2020, in the top 85 by 2025, top 60 by 2030 and to be in the top 40 by 2035. Reaching these objectives would require significant improvements in the various Doing Business categories and associated fast-paced deregulation. Many countries, including in Southeast Asia, have followed an aggressive approach to deregulation. Thailand, for example, launched the "regulatory guillotine" project in 2017 to cut down on permits and red tape, as part of a broader effort to improve government service delivery with citizens and businesses as the ultimate beneficiaries. The targets set by Myanmar might be overly-ambitious, especially since such rapid improvements require trade-offs, some of which may conflict with other sustainable development objectives, as with environmental licences. It is also questionable whether these targets take into account the distance to frontier considerations mentioned above.

Deregulation requires mature systems and institutions with the appropriate capacity to advance policies without a heavy regulatory burden. Low Doing Business scores are also correlated with low per capita income, further indicating that the discussion on improving the investment climate cannot be done in isolation from the fundamental sustainable development objectives of the country, particularly poverty reduction (Channel, 2007). While focusing on ambitious Doing Business ranking targets can be a driver for reform, reaching these targets does not necessarily address the underlying weaknesses of an investment regime. In fact, the link between FDI attraction and business regulation is not firmly established, as issues such as market size, political stability, proximity to markets and infrastructure are also crucial for investors. Hence, there must be a compelling motivation for prioritising strained government capacity into achieving the targets set in the MIPP with respect to Myanmar's performance in the Doing Business indicator.

More to the point, good and effective regulation adds to trust in the system, which offers elements of certainty for companies. Certainty and policy stability are key ingredients for a sound investment climate (OECD, 2015a). However, improving regulation is not always synonymous with deregulation. The latter is typically welcomed when permitting the removal of inefficient barriers to competition and administrative deficiencies, but it is not a solution for addressing market and co-ordination failures. The relevant matter in this case is finding out the most efficient regulatory setting for addressing the identified concern. Getting it right is not always straightforward and excessive pressures for rapid deregulation can sometimes be detrimental to achieving expected outcomes. The risk of failures and further inefficiencies are also likely higher in fast-evolving contexts as in Myanmar, where 232 pieces of legislation were passed between 2011 and 2016 (OECD, 2018b).

With this in mind, a thorough assessment of current regulations impinging on business operations, notably second tier regulations beyond entry and establishment, is needed and can provide avenues for substantial improvements in the business environment by simply improving regulatory efficiency and without compromising authorities' ability to fulfil their public policy objectives. The reform of the regulatory system for starting a business in Myanmar led by DICA is a good example of such how regulatory audits can help to identify inefficiencies in the system and its administration. As mentioned before, it allowed DICA to efficiently reformulate the previous system in order to significantly reduce the costs and time required for starting a business while still safeguarding consumers against potentially undesirable businesses failing to meet minimum acceptable standards for operating a business in the country.

Implementing such reforms may sometimes be politically challenging. Certain line ministries remain resistant to often resist cutting regulations, as a result of capacity weaknesses and turf wars. Nevertheless a revision of second tier regulations affecting business operations presents the next level of regulatory reform needed in Myanmar. One critical issue is the lack of clear and publicised standard operational procedures (SOPs) for obtaining approvals for permits and licences, as well as occasional disagreements among and within agencies about which procedure applies (see Chapter 8 for a discussion on land administration). Stakeholders consulted during this review reported that in some cases the conditions and the procedures for obtaining approvals are not well-documented within the responsible government agency, which leads to uncertainties and confusion for investors, as well as potential illicit behaviour by the officials involved in some cases.

A comprehensive overview of the regulatory stock is a critical first step in developing and improving existing SOPs governing the different regulations in place. According to the authorities, this is an on-going exercise.

Building on the example of the Thilawa SEZ One-Stop-Services-Centre (OSSC), the Myanmar Investment Commission (MIC) has instructed all relevant ministers to develop SOPs for delivering licences and permits under their responsibility. Clarifying SOPs with application forms and their legal/regulatory basis is the first step for transparency. Most SOPs have been developed by now according to the authorities and the MIC is currently in the process of prioritising key SOPs for simplification. The development of clear SOPs and their public dissemination would greatly contribute to easing the administrative burden on business and citizens, while adding transparency and efficiency to the system. This will also lead to improving DICA's OSS, discussed further below, in view of developing a true national single window.

Beyond SOPs, there is a general need to improve regulatory governance. Understanding the stock of regulations impinging on businesses and having a clear process for the review of existing regulations as well as developing new ones is vital to policy development. In the absence of such understanding, there is a risk that obsolete regulation stays in place and that new regulation is enacted without a formal process that clearly identifies the reason for its introduction and what problem it is intended to address. Also, the anticipated burden on the system created by the new regulation ought to be assessed (see Chapter 8 for a related discussion in the context of land-related legislation).

This issue is coupled with a limited knowledge within government as far as effective decentralisation and regulatory impact assessments are concerned. A weak, incoherent and often unnecessary stock of regulation can have detrimental effects on growth and society as a whole. Regulatory reform, understood as the changes that improve the quality of the regulatory environment, provides a real opportunity to stimulate economic activity, unlock productivity and growth, and foster inclusiveness. For DICA, easing the regulatory constraints on business is also an important objective to ensure inclusiveness, as larger firms suffer less from heavy public bureaucracy than smaller firms that struggle to deal with numerous regulatory demands.

High-quality regulation at one level of government can be undermined by poor regulatory policies and practices at other levels, adversely affecting the performance of economies and business and citizens' activities (OECD, 2015b). Achieving regulatory quality is difficult, especially in environments marked by fast-paced development where governments are left unsure of what and how to regulate.[4] As highlighted above, the aim should not be to cut regulation for the sake of improving Myanmar's Doing Business ranking, but rather to enhance the benefit of regulation for its citizens. In this regard, OECD's *Recommendation on Good Regulatory Policy and Governance* (Box 3.1) can support the government of Myanmar in its efforts to improve its regulatory framework and to decrease its stock of regulations effectively.

A Legislative Review Committee had been set up by the government, but its progress seems to have slowed down in recent years. DICA could thus be well placed to pilot some good regulatory practices. In the absence of a central government body in charge of *ex ante* and *ex post* regulatory reviews and impact assessments, DICA should be encouraged to pilot regulatory impact assessments (RIA) as part of its drive to reduce the regulatory burden, and *inter alia*, improve Myanmar's Doing Business ranking. The experience from undertaking an RIA can then be assessed, the methodology adjusted as appropriate, and then expanded to other ministries.

The new Myanmar Companies Law (MCL, 2017), replacing the outdated Company Act from 1914, has also allowed for some simplifications. For example, companies registering under the MCL now require only a minimum of one shareholder and one director. The MCL also stipulates that the registrar should establish a systematic process for the electronic record management, including authentication, submission (e.g. of annual returns), filing, storage and maintenance, facilitating the monitoring of compliance with the law. Signatures may be made through the entry of the signer's name in an electronic form, replacing the older practice of relying on paper. The general electronic process of incorporation will undoubtedly lead to easing the regulatory burden for registrants and eventually contribute to efficiency gains (PWC, 2018).

Box 3.1. OECD Recommendation of the Council on Regulatory Policy and Governance

Good regulation is essential for economies to function effectively, while meeting important social and environmental goals. Recognising the need for governments to be able to rely on clear and timely guidance on the principles, mechanisms and institutions required to improve the design, enforcement and review of their regulatory framework to the highest standards, the OECD developed the Recommendation in 2012. It advises governments on the effective use of regulation to achieve better social, environmental and economic outcomes; and calls for a whole-of-government approach to regulatory reform – emphasising the importance of consultation, co-ordination, communication and co-operation to address the challenges posed by the inter-connectedness of sectors and economies. It also provides a systemic governance framework that can deliver ongoing improvements to the quality of regulations.

It recommends that adherents to the Recommendation:

- Commit at the highest political level to an explicit whole-of-government policy for regulatory quality.
- Adhere to principles of open government, including transparency and participation in the regulatory process to ensure that regulation serves the public interest and is informed by the legitimate needs of those interested in and affected by regulation.
- Establish mechanisms and institutions to actively provide oversight of regulatory policy procedures and goals, support and implement regulatory policy, and thereby foster regulatory quality.
- Integrate regulatory impact assessment (RIA) into the early stages of the policy process for the formulation of new regulatory proposals.
- Conduct systematic programme reviews of the stock of significant regulation against clearly defined goals.
- Regularly publish reports on the performance of regulatory policy and reform programmes and the public authorities applying the regulations.
- Develop a consistent policy covering the role and functions of regulatory agencies.
- Ensure the effectiveness of systems for the review of the legality and procedural fairness of regulations and of decisions made by bodies empowered to issue regulatory sanctions.
- As appropriate apply risk assessment, risk management, and risk communication strategies to the design and implementation of regulations to ensure that regulation is targeted and effective.
- Promote regulatory coherence through co-ordination mechanisms between the supranational, the national and sub-national levels of government.
- Foster the development of regulatory management capacity and performance at sub-national levels of government.
- In developing regulatory measures, give consideration to all relevant international standards and frameworks for co-operation in the same field.

See OECD (2012) for full text of the Recommendation. Other useful OECD instruments in the area of regulatory policy and governance include:

- OECD (2015), "*OECD Regulatory Policy in Perspective: A Reader's Companion to the OECD Regulatory Policy Outlook*", OECD Publishing: Paris.
- OECD (2008), "Introductory Handbook for undertaking Regulatory Impact Analysis" OECD Publishing: Paris.

Source: OECD (2012).

The MCL has also introduced some elements to promote SMEs. For example, a small company is defined as a company and its subsidiaries that have at most 30 employees and annual revenue in the prior financial year of less than MMK 50 million. This is in line with the recommendation from the first OECD *Investment Policy Review of Myanmar,* which recommended reforms, such as the MCL, to include elements specific to easing the operational environment for SMEs (OECD, 2014). A company now falling into that category is exempted from holding an annual general meeting, preparing annual financial statements and having its financial statements audited, although it is still required to keep written financial records (PWC, 2018).

The SME Development Law (2015), at the time of implementation, was another step to improve the legal framework for SMEs, although according to the authorities many firms are still not aware of the law, which impedes opportunities to make full use of it. To address this shortcoming, the former Ministry of Industry, which merged in 2019 with the Ministry of Planning and Finance, established SME centres in the regions as well as SME roadmaps for individual regions.[5]

With the implementation of the MCL (2017), however, the duplication of the two legal frameworks creates market fragmentation and inconsistencies. SMEs can now easily register online through DICA's online registration system, MyCo (explained further below), but are still required to register with the Ministry of Planning, Finance and Industry (MOPFI) (an online system is also available) to be certified as SME and to qualify for access to preferential bank financing (e.g. the Two-Step Loan Scheme developed by JICA in co-operation with MOPFI and Myanma Economic Bank). A harmonisation of SME definitions across the two laws, as well as the consolidation of the two registration systems, would make it easier for SMEs to navigate existing bureaucracies.

Operating a business in Myanmar

Despite the structural challenges, Myanmar has gained a reputation, since 2011, of being reform-oriented with regard to improving the overall business environment, even if reforms have slowed down more recently. The 2019 Myanmar Business Environment Index by the Asia Foundation highlights some of Myanmar's achievements in terms of easing regulation for local businesses (Malesky et al., 2019). According to the Index, businesses find the administrative requirements to open up a business acceptable. Post-entry administrative procedures are seen as reasonable, although challenges remain in the area of regulatory inspections, with a high number of inspections and non-transparent costing of certain public service.

In 2014, Myanmar was the lowest ranked country (189th) in terms of starting a business but by 2019 had moved up to 70th place in this category (Table 3.3), primarily due to the introduction of the online registration platform and a reduction of the registration fees for business. Even in 2019, Myanmar was already recognised by the World Bank as a top reformer in this category, along with Brunei Darussalam, Viet Nam and Indonesia (World Bank, 2019).

Table 3.3. Doing Business in Myanmar and selected ASEAN economies, 2014 and 2020

Rankings out of 190 (in 2020) and 189 (in 2014) countries.

		Myanmar	Indonesia	Viet Nam	Cambodia	Malaysia
Ease of doing business	2020	165	73	70	144	12
	2014	182	120	99	137	6
Starting a business	2020	70	140	115	187	126

Note: The Doing Business methodology has changed between 2014 and 2019, which can partially explain some of the changes in the rankings.
Source: World Bank (2019).

The introduction of the online business registration system at DICA, MyCo (Myanmar Companies Online), has greatly eased the registration burden for companies, particularly for SMEs. According to some stakeholders, the time to register a company in 2010 was 4 months on average, whereas with MyCo, it can take as little as 15 minutes. Registering a business has become faster, simpler and more accessible. Given the 90% mobile coverage in Myanmar, the online platform can greatly help SME registration and use of online services, thereby also overcoming the informality barrier. The new Myanmar Company Law (MCL, 2017) has also greatly contributed to this simplification (Box 3.2).

Box 3.2. Key requirements and steps for setting up a business in Myanmar

The most common and practical form for a business in Myanmar is a Private Company Limited by Shares (PCLS), compliant with the following:

- At least one shareholder and one director. A single natural person can be both the sole shareholder and sole director;
- At least one director who is, as a rule, resident in Myanmar, meaning residing in Myanmar for at least 183 days in any 12-month period. The resident director does not need to be a Myanmar citizen;
- Have less than 50 shareholders;
- May use the services of a company secretary, even though secretaries are not compulsory.

There are no longer any minimum capital requirements for incorporating a PCLS, nor any minimum level of Myanmar ownership. Some local ownership and minimum capital requirements do apply to investment and operating permits/licences for certain business and investment operations in Myanmar. Under these conditions, the company's capital and ownership will need to be structured accordingly.

Below are the 12 main steps in starting a business in Myanmar (World Bank, 2019):

- Conduct a name check at the Company Registration Office (CRO) at DICA
- Request business incorporation certificate
- Obtain signature of the directors before a lawyer or certified public accountant
- Payment of stamp duty and registration fees
- Open bank account
- Obtain certificate of incorporation
- Submit certification of registration documents
- Obtain a company seal or a rubber stamp
- Register with the Tax Office
- Register for commercial tax
- Registration of employees at the labour office in township
- Registration with the Social Security Board for social security benefits

Source: Myanmar Companies Law (2017), Livingstons Legal (2019) and World Bank (2019)

The MyCo website also includes links to key framework documents, such as the MCL and a Company Director's Guide on how to interpret the MCL. The site also keeps track of registration activities, which will serve a valuable statistical function for reporting and analysis. All these reforms, mostly enacted in 2018, are likely to reflect positively in future evaluations and rankings of Myanmar's business environment, further supporting the momentum behind the MIPP.

Myanmar's early experiences with the one-stop shop model

The rise of supermarkets to simplify retail trade in the 1920s was early evidence of one-stop shops. Many governments have since adopted this concept as part of their efforts to improve service delivery for citizens. One-stop shops can serve many purposes; one of the most common objectives in terms of investment facilitation is swift business registration. Different contexts and local realities will also affect the form of the one-stop shop that works best. For example, in Viet Nam, some one-stop shops at the local level in the provinces have proven to be effective, whereas a nation-wide model for trade facilitation has been more difficult to achieve, with many goods being inspected numerous times by different bodies.[6] Box 3.3 provides some good one-stop shop practices.

The two most notable one-stop-shops for investment currently being implemented in Myanmar are the DICA One-Stop-Shop (OSS) and the Thilawa One-Stop-Shop-Centre (OSSC) (see also Chapter 7). The DICA OSS brings together the main departments from relevant ministries, providing guidance and necessary information for businesses, as well as licences, with the aim to eventually offer a single window for all business-related licences. However, unlike in the Thilawa OSSC, it still operates more as a centralised information centre than an actual single window agency with authority to issue permits and licences on behalf of the various ministries represented there. In Thilawa, OSSC officials have autonomy to take decisions on behalf of their ministries, which renders processes much less burdensome for investors.

An area requiring particular attention is the co-ordination between DICA OSS and the Environmental Conservation Department (ECD), responsible for the Environmental Impact Assessment approvals. Because of the current dual approval process in place, investors with potentially poorly sited or designed projects may be led to believe that they have been given a green light to proceed from DICA, while this is not the case. In these situations, investors may try to ignore or resist to implement ECD's recommendations. Inversely, investors may equally be concerned that implementing ECD's recommendation will invalidate their MIC permit. There is a clear need for expectations to be clarified at the outset to investors, which could be made easier if these two processes were integrated.

Beyond the issue of mandate and autonomy, setting-up fully operational one-stop shops is a gradual process and takes time. The DICA OSS is a good initiative. Its facilities seem well-organised, the premises appear structured and the staff are helpful and competent, but procedures still mainly rely on paper, which presents a documentation risk in case of paper loss and is less environmentally friendly. Just as DICA launched MyCo, similar initiatives aimed at making the OSS a paperless environment by taking advantage of various digital solutions are highly recommended. This would also allow DICA to use more advanced digital solutions to organisational challenges, such as a customer relationship management (CRM) system.

Box 3.3. One-stop shop inter-ministerial coordination

Apart from the MIC, line ministries are the traditional sources of approval/rejection for investment projects, and coordination with them is often the most difficult part of establishing an effective one-stop shop (OSS). The level of authority granted to the OSS and its staff in streamlining investment approval processes largely determines the extent and nature of interaction with the line ministries.

In its most basic form, the OSS may simply be a grouping of relevant ministry representatives, either in the same physical office or on the same online platform, each of which receives investor applications and sends them to their home ministry for approval. Similarly, there may be a single point of contact for investors which then passes along forms and applications to relevant ministries. As such, the OSS does not alter ministerial responsibilities and does not require any regulatory or legislative change. Apart from agreeing on the location of the OSS and assigning an employee to it, complex inter-ministerial communication is not required.

Even in the case where the ministry representative at the OSS has some approval/rejection authority, coordination between ministries and the OSS is often minimal. Such a representative may use the pre-existing guidelines from his/her ministry and only consult with ministry colleagues, effectively creating a ministry island in the OSS.

Experts therefore recommend that an OSS at least begin to combine approval processes and be capable of some approval/rejection on its own. It is at this stage that coordination with line ministries becomes crucial. Line ministries are frequently resistant to process consolidation and the sharing of approvals, as it may be perceived as usurping the power of the ministry, and possibly threatening ministry jobs linked to the role. On a more mundane level, it also necessitates operational change and extra upfront work.

Therefore, OSS-ministry coordination should begin with an inventory of all ministry approvals and processes, followed by a realistic appraisal of approvals and processes that are redundant or might be combined. There is no best practice as to how and when ministries are integrated into the review, but most studies stress that (1) a strong political mandate for reform is important in driving the process and (2) the scope of OSS jurisdiction should be strictly defined, suggesting that OSS configuration must take into account the concerns of the ministries.

Source: Adapted from OECD (2010)

Strengthening the autonomy of the IPA

The MIPP advocates for DICA to become an independent IPA in order to give investment promotion more institutional clout. A number of issues need to be considered along with such a strategy, especially since one size does not fit all. Different forms of IPAs, institutional settings, activities and strategies for investment promotion can match different government objectives but also different target enterprises. Even in similar geographic and development contexts, large differences exist among IPAs in terms of strategic priorities, functions, tools, organisational characteristics and governance policy. Investment promotion practitioners need to adapt to changing industry developments, sector trends and investment policy reforms.

An IPA's governance system can greatly affect its ability to support and service foreign investors. Some OECD members (16%) have chosen to establish their IPA under the authority of the head of government, such as in Turkey where the agency ISPAT has been reporting to the president's office since its creation. ISPAT is the only OECD IPA that reports exclusively to the head of state. The reason for putting the agency under the authority of the president was to make sure the agency was agile, flexible, and with a high level of political visibility towards the community of foreign investors.

The governance of an IPA is related to the way it is supervised, guided, controlled and managed. When IPAs are established, their legal status will determine many organisational and functional aspects of the agency. It will have a particular effect on the degree of autonomy the IPA has from the government, particularly in terms of financial and human resources management. The most common types of legal status for IPAs are the following:

- Governmental department or unit (often within a ministry)
- Autonomous public agency
- Joint public-private body
- Privately-owned organisation

Independence is not an end in itself: if independence truly provides a solution to efficiency and effectiveness in the agencies' operations, the results should be visible in terms of improved outcomes.

IPAs’ institutional independence may help them to be less subject to governments’ budget volatility and political cycles and thus more effective when it comes to accomplishing their functions. According to the IPA surveys conducted by the OECD, autonomous public agencies are the most common forms of IPA legal status across both developed and developing countries. For example, all IPAs in the Middle East and North African region and 60% of those in the OECD are autonomous public agencies. Across OECD agencies, the second most frequent legal status are governmental IPAs (part of a ministry) and the remaining 9% are private or semi-private (OECD, 2019). What is important is to find the right model that suits the current political, economic development and institutional context.

DICA, formerly under the Ministry of National Planning and Economic Development and then the merged Ministry of Planning and Finance has been transferred to the new Ministry of Investment and Foreign Economic Relations. The IPA is thus a governmental unit. Reporting to a minister is not uncommon – 59% of OECD IPAs report to a minister – but it nonetheless risks reducing the political visibility of investment promotion efforts. DICA nevertheless is on strong political footing and enjoys support from the government, as reflected in an 80% increase of its annual operational budget since 2014, all of which comes from the government, which has also allowed it to almost double its staff to over 500 in the same period (OECD IPA Survey of Myanmar, 2019). Stakeholders have commented that moving DICA to an investment focused ministry also sends a strong signal to the investment community, allowing the government to separate investment related polices from more contentious political issues.

In less than ten years, DICA has undergone a number of significant organisational reforms which have borne fruit given the influence, size, and stakeholder reputation of the agency. Its achievements provide reasonable grounds for further ambitions. Becoming an independent agency under the president’s office, as stipulated in the MIPP might thus be an option, although the institutional location of the agency is less important than high-level support from the government (Box 3.4). The latter is critical for a well-functioning IPA with the clout to attract and facilitate foreign investments.

Box 3.4. Rwandan Development Board

A panacea for investment promotion and facilitation?

The Rwandan Development Board (RDB) has often been hailed as a model for developing and emerging economies aiming to improve their investment climate and attract FDI. In 2000, after a decade of civil war and unrest, Rwanda launched an ambitious campaign aimed at civil reconciliation, economic growth and poverty reduction. The role of the private sector was central to this agenda and further recognised in Rwanda’s *Vision 2020* to lift the country to a middle-income economy and its 2007 Poverty Reduction Strategy Paper.

The RDB was established in 2008, combining 7 agencies and the Rwandan Investment Promotion Agency, with its CEO reporting to the president. It also has a board of directors. Its first head was the US-based trader, Joe Richie, in an effort to impress the international business community. Inspired by Singapore’s Economic Development Board, successes in terms of business facilitation were quickly achieved: a reform pipeline was created; in less than 10 years, 26 business regulation reforms were pushed through; trading across border formalities were improved by reducing 14 documents and 60 days needed to export to 8 documents and 29 days in just six years; company registrations surged. Overall, regulatory performance in Rwanda has improved significantly, and the RDB played a central role. The increased professionalism in the tourist industry marked by a boom in the sector is also notable. The tourism promotion agency is one of the government bodies that was merged with the RDB when it was established.

Nevertheless, the agency also encountered some problems. CEOs changed frequently and the quality of its staff below the level of director was often questionable. Other organisational issues also emerged characterised by hierarchical conflicts, a legacy from merging numerous powerful agencies. Some point to the success in terms of improving Rwanda's Doing Business ranking of the World Bank as being the result of the Doing Business Unit that was created in the RDB specifically for that purpose. A good number of Rwanda's broader investment climate improvements are linked to measures beyond RDB's remit. For example, the tax system was simplified and the private sector benefitted from a significant increase in the number of notaries to help businesses to formalise.

Creating an independent agency reporting directly to a head of state is likely to lift its visibility and give it additional clout. But it will only be able to perform effectively if other relevant government bodies have the resources and commitment to deliver on a common agenda and when there is an overall drive for economic development and regulatory improvement. It also needs to secure the adequate budget for its operations and should adhere to accountability and transparency principles like any other government or semi-public body.

Sources: *World Bank (2013) and Behuria (2018).*

Such a move should be carefully designed, however. It is highly recommended that a feasibility study by an independent body consider the objectives of institutional change and what shortcomings it is aimed to tackle. All viable alternative options and different scenarios need to be considered. Issues to consider prior to embarking on a strategy for an independent IPA should include the following:

- *Oversight*: An important part of the governance of IPAs is the board, which allows for an external entity to supervise and advise the work of the agency. Boards can vary greatly from one organisation to another in terms of their decision-making power and composition, with potential representatives from the public sector, private sector, research/academia, civil society or other parts of society. In OECD economies, over two thirds of IPAs (69%) have a board, either supervisory or advisory. The legal status of an IPA seems to have an influence on whether it has a board or not and on its nature. Those agencies with a higher degree of legal autonomy tend to be governed by a board (OECD, 2018a). Today, DICA reports to the Minister of Investment and Foreign Economic Relations (MIFER). Should it envisage to gain further independence, by, for example, moving to the president's office, oversight mechanisms should be considered. A board could thus be a viable solution, especially as the president will hardly be in a position to dedicate time to guide the agency.
- *Budget*: Autonomy can mean institutional/functional or budgetary autonomy. The latter is one of the key dimensions of independence. Not being embedded within a powerful ministry, such as MIFER, also means that DICA would have to secure some of its own funding streams. Full independence would require the development of products and services that would generate enough revenue for the IPA to fund its operations and staff – currently at about 500. This involves the implementation of a carefully designed cost-recovery strategy. Lack of resources can put the survival of the agency at risk and impede its capacity to make informed independent decisions.
- *Role clarity and accountability:* Independence does not mean that the agency will work in a vacuum, without appropriate checks on its work. Independence is hard to realise if the roles of the agency are unclear and ill-defined. A lack of clarity on the roles creates grey areas where the decisions on policy priorities and objectives of all actors involved in investment promotion and facilitation are mixed. Setting clear and transparent boundaries on who does what and which institution can be held accountable is essential to guarantee independence and accountability of the agencies (OECD, 2016).
- *Mandates*: Which mandates should be part of an independent agency, under the president's office, requires careful analysis. This goes back to a fundamental consideration of what shortcomings such a move is to address and how it would enhance efficiency, cut costs, and contribute to better

services for business and citizens. One option would be to follow the Rwandan example (Box 3.4), which merged and moved a large organisation under reporting lines to the president. Another approach would be to single out the investment promotion function of the IPA and shift it to the president's office, leaving the business registration (and company administration in the current DICA model) under a dedicated ministry. This was the option chosen by Georgia when it created Invest in Georgia and placed it under the prime minister's office (a model which was later reversed by merging the agency with Enterprise Georgia to allow for investment promotion activities to benefit from synergies with other functions, such as export promotion).

- *Human Resources:* Any strategic change to an organisation will lead to some adjustments in terms of human resources. In some cases new opportunities are created to reward staff that have been key in the success of the organisation, in others it can lead to staff dismissals due to re-organisations, optimisation efforts and new budget allocations. Any change, even if it appears to be positive on paper, will lead to a transition phase. Such periods are particularly challenging for staff who are facing uncertainty. For managers, this also poses challenges in terms of motivating staff, all while the organisation needs to deliver on strategic objectives. The human resources considerations of any change of format to an agency is squarely linked to the changes in functions of the agency described above. For example, if only the investment promotion units of an IPA move to a president's office, which staff stay with the IPA, and which staff stay with the investment facilitation and business registration units (wherever these may end up being located)? DICA has recently seen a change in reporting lines, having moved to MIFER and many key staff members were kept, which ensured continuity. Any future move thus needs to be managed carefully.

Other powerful actors are also involved in investment promotion and facilitation in Myanmar. Like in the Philippines, where many special economic zones (SEZs), such as those under the Philippines Economic Zone Authority, undertake their own investment promotion efforts and offer competent one-stop shop services to investor, the Thilawa SEZ in Myanmar is playing an active role in attracting investments (see Chapter 7). This is to be encouraged, especially since SEZs can often usefully pilot investment facilitation schemes. The one-stop shop centre in Thilawa, for instance, brings together 11 government bodies, has a front office with representatives to interact with investors, backed-up by a sizeable back office to follow-up on the various requests. These developments illustrate some of the laudable recent efforts the government has undertaken. It now becomes even more important to coordinate with the other investment promotion agents in Myanmar to avoid duplication and waste of resources.

Policy advocacy, investor targeting and aftercare?

DICA has taken advantage of various technical assistance and capacity building activities at its disposal, ranging from participating in international events to actively seeking assistance locally. It uses a large number of tools and instruments in its policy advocacy efforts, ranging from tracking international rankings to formally providing feedback to government. The recently established Investment Promotion Committee is an example of a new platform that was established to drive investment climate improvements, inspired by the experience of leading Southeast Asian economies using such practices effectively, like Malaysia.

While DICA engages with foreign investors as way of gauging their experience in Myanmar, this could be done more systematically, including in the form of a survey of expatriate employees of multinational enterprises. Enterprise Georgia, for example, uses such surveys as a tool to gauge the satisfaction of foreign enterprises and their staff about living and operating in the country

In an attempt to focus resources and efforts, DICA's investment promotion is guided by a list of priority sectors listed in MIC's Notification No. 13/2017, which includes:

- Agriculture and related services, agricultural value-added production;
- Livestock production, breeding and fishery;

- Industries with export potential;
- Industries with import substitution potential;
- Power sector;
- Logistic industries;
- Education services;
- Healthcare industry;
- Construction of affordable housing;
- Establishment of industrial estate.

While having a clear list of priority sectors can be helpful in the investment promotion and facilitation activities of the IPA, such prioritising needs to be undertaken very carefully and be subject to regular reviews. The Myanmar Investment Commission (MIC) has a leading role in defining the list, but the list is not reviewed in a systematic manner. Ideally, the list should be the result of consultations with key stakeholders in the business community and specialised bodies. It is vital that the elaboration of the priority list be given due attention and efforts, especially as it can translate into special treatment such as in the form of faster replies to inquiries and tailored investment facilitation solutions (OECD IPA Survey of Myanmar, 2019). DICA's frequent contacts with a broad range of institutions can be used to this end. For example, it already interacts with companies, industry associations, chambers of commerce and financial institutions many times per month on average (Table 3.6)(OECD IPA Survey of Myanmar, 2019).

A list of priority sectors is part of the investor targeting activities of an IPA, but targeting is a difficult function, even for mature IPAs. According to the fundamentals of investment promotion, targeting is a third generation type of investment promotion activity, after liberalising FDI regimes and implementing market-friendly policies (first generation) and marketing the country as an investment destination (second generation) (OECD, 2005). Myanmar's investment landscape is still evolving and seems to have moved on to the second generation type of activities given its strong achievements in terms of opening up its investment regime.

DICA undertakes many aftercare activities, including structured troubleshooting with individual investors (using account managers) and ombudsman-like interventions and mitigation of conflicts. Here as well, digital solutions, such as a CRM, could help DICA enhance this critical function, particularly as the number of clients can be expected to keep increasing as the MyCo portal is rolled out. In the medium-term, DICA may need to consider establishing of a dedicated aftercare unit.

Capitalising on the various DICA mandates

As seen above, IPAs can be either fully dedicated to investment promotion and facilitation – and exclusively focus on the core functions mentioned above – or be part of a broader agency that includes additional mandates, such as the promotion of exports, innovation, regional development, outward investment and domestic investment, among others. In practice, most IPAs around the world have multiple mandates and conduct activities that go beyond inward foreign investment promotion. In OECD economies, the most frequent combination of mandates in IPAs are with export promotion (56% of agencies) and with innovation promotion (also 56%) (OECD, 2018a).

DICA currently fulfils a broad range of functions beyond investment promotion. Despite the current debates about DICA becoming an independent IPA with a focus on investment promotion, the current structure does allow it to create synergies across various units. The experience of agencies that have undergone a merger of various functions, such as the IPA of France that merged investment and export promotion in 2015, often refer to factors linked to enhanced cost-efficiency, policy coherence and technical synergies as key underlying motivations. Table 3.4 below highlights the potential benefits and pitfalls of joint investment and export promotion mandates.

Table 3.4. Advantages and disadvantages of joint investment and export promotion mandates

Advantages	Disadvantages
Better coordination between trade and investment policy issues	Different objectives and potential loss of focus
Shared business services (e.g.: human resource management, information systems, IT)	Different profile and mindsets between staff in export and investment promotion. Risk of management and coordination challenges.
Enhanced business intelligence for better policy and promotion efforts	Long-term investment promotion efforts can be undermined by quick wins from trade promotion
Enhance the remit of the OSS to also assist export-oriented investors	Risk of loss of attention and resources for investment policy and promotion
Synergies through joint branding and international promotion activities	Different client bases and business intelligence
Stronger policy advocacy by being able to tap into a wider range of clients	

Source*:* UNCTAD (2009), Wells & Wint (2000) and Business France (2018)

Given its vast remit, DICA faces many of the realities highlighted in Table 3.4. An additional element is coordination with the Ministry of Commerce, in charge of export and trade promotion. One obvious challenge going forward is the coordination between the one-stop shops in DICA and Thilawa on one hand and the ASEAN Single Window initiative embodied in the Myanmar Customs Intelligence System and the Myanmar Automated Cargo System implemented with the support of development partners. The Ministry of Commerce has also launched the e-CO system in 2018 to facilitate the application of Certificates of Origin for exporters.[7]

DICA could potentially be well placed to promote linkages between foreign investors and local companies, in an effort to foster technology and knowledge transfer to the Myanmar private sector. Currently, DICA provides information on local suppliers and arranges meetings between foreign investors and potential suppliers but does not keep a systematic database of local suppliers. It could also consider going a step further and organise capacity building for potential suppliers, using its proximity to investors to identify their needs and requirements. If it is not in a position to provide the capacity building itself, DICA should encourage enterprises to provide their own industry-specific business development services. It can promote and facilitate private sector investments in the TVET system for instance. Once vocational or TVET institutes build the necessary capacity to deliver training that responds to market demands, they can become vital partners for DICA and other relevant ministries in strengthening business linkages and broader SME promotion. Developing a national skills strategy, which addresses supporting such institutes to provide services demanded by industry is typically an area where development partners can offer support.

Through its company administration mandate, DICA has a large database of companies which can prove extremely useful for sectoral analysis, policy and strategy making. The new MyCo platform can greatly help in this regard if used strategically, for instance to create company profiles for the purpose of matchmaking services in the future. For this DICA should seek to ensure that information in platform is complete and accurate. Otherwise, the information will have little strategic value.

Domestic coordination for investment promotion and facilitation

Effective investment promotion and facilitation requires careful institutional and policy coordination. In many ways, the smoother inter-ministerial coordination is, the easier it will be for investors to find their way among the numerous policies and regulatory requirements. In addition to one-stop shops, an IPA needs to ensure it has an effective national and sub-national coordination mechanism in place. Table 3.5 below illustrates a general IPA coordination framework.

Table 3.5. General framework of IPA institutional co-operation and co-ordination

	Strategic alignment	Operational co-operation and co-ordination
International level (representation abroad)	• Strategic marketing alignment ("one voice" / clear messaging) with authorities abroad	• Investment promotion co-ordination with diplomatic missions and governmental missions abroad
National level (central government and other national agencies and administrations)	• Overarching national investment policy and other national economic policies (e.g. industrial development policies) • National branding strategy • Strategic reporting and planning to the Head of Government and Sponsor authorities	• Co-ordination with other national promotion agencies (e.g. innovation and export promotion agencies) and with industry-specific initiatives • Co-ordination with national administrative bodies for facilitation services • Co-operation and co-ordination for troubleshooting (can require strong interactions with different Ministries)
Sub-national level (sub-national authorities and agencies)	• Attraction and promotion strategy formulation / offering definition • Strategic marketing alignment ("one voice" / clear messaging)	• Investment promotion at sub-national level • Investment facilitation services (e.g. site visits) • Aftercare (e.g. local cluster programmes) • Local administrative procedures (e.g. for local incentives) • Troubleshooting at sub-national level

Source*:* OECD (2018a)

DICA has its established coordination network and as such fulfils a crucial role of interlocutor between the private sector and the government. Table 3.6 identifies DICA's most strategic partners within the government. Not surprisingly, most interactions, at least once per month, take place with the agencies that have a close impact on the functioning of the regulatory framework for investment, such as the ministry responsible for investment, inter-ministerial investment committees, local governments and tax authorities. What is particularly promising is DICA's regular interaction with the private sector, either through its weekly contacts with individual companies or the monthly meetings with chambers of commerce and industry association. If used strategically, these provide a good basis for informing DICA's policy advocacy role.

Table 3.6. DICA's institutional interactions

	Strategic		Non-strategic	
More than weekly	• Ministry responsible for investment • Subnational IPAs • Individual private firms (e.g. consulting or legal firms)			
Once or twice a month	• Inter-ministerial Investment Committees • Ministry of Finance • Ministry of Foreign Trade • Sub-national / local government • Export promotion agency • Land-related agencies	• Customs • Tax • Immigration • Chambers of Commerce • Industry associations • Financial institutions • International organisations		
3 to 11 times a year	• Embassies and consulates • Ministry of education		• Innovation agency • Tourism promotion agency • Border regulatory agencies • Competition authority • Sectoral regulatory bodies (registration, permits etc.)	• Central Bank • Statistical office • Foreign Embassies • Influencers • Universities • Academic organisations
Once or twice a year	• Other National IPAs			

Source: OECD IPA Survey of Myanmar (2019)

DICA has also embarked on an ambitious decentralisation agenda, including setting up 15 regional branches. Part of its activities include the upgrading of these branches, which is a key part of the overall effort to strengthen the federal system and decentralise public administration. Beyond business registration and basic administration aspects, the regional branches are key nodes in the interaction with investors and could play a role in identifying upfront potential investor grievances and in co-ordinating efforts to monitor and ensure investors' compliance with obligations in their permits and endorsements. This would require the establishment of appropriate mechanisms to engage with investors and local communities, as well as a system to share the information with DICA headquarters whenever necessary.

The Investor Grievance Mechanism to be established in 2020 will partly address this, at least in relation to the processes for dealing with investors' complaints, but further support is needed for regional branches to adequately play a role in the monitoring of investors obligations. Continuous capacity-building is needed to ensure staff are adequately trained to fulfil this role. DICA is aware of capacity constraints and has been engaged in providing further training to officials in regional offices. For example, DICA has reported that it is providing capacity building for officials in the regional offices to monitor responsible business conduct of the private sector and establish processes for addressing misconduct.

Beyond coordinating with relevant institutions, initiatives driven by other institutions can also affect DICA's performance. In terms of export promotion, the International Trade Centre with the support of UK Aid is assisting the Ministry of Commerce through a dedicated investment and trade project, including developing an updated national export promotion strategy for 2020-25 and supporting the export viability of specific products.[8]

To foster linkages, the efforts undertaken under the purview of the Ministry of Planning, Finance and Industry to strengthen SMEs' capacity are critical. The capacity of SMEs to deliver products and services of the quality and in the quantities required by corporate customers, including multinational enterprises, is essential if SMEs are to enter into business linkages. This is particularly relevant for SMEs interested in participating in export-oriented activities, and hence integrating global value chains. Discussions with business stakeholders have revealed weaknesses in this regard, highlighting severe shortcomings, even in basic products and services sometimes (e.g. packaging, cleaning services and food safety). Building up this SME capacity will also strengthen their ability to absorb foreign knowledge and technology, but government endeavours in this regard need to be developed in partnership with the private sector, which better positioned to understand and deliver on the industries-specific capacity building needs. The government has an important role to play in facilitating investments by the private sector in industry capacity building programmes, as well as in leveraging donor partnerships to support such initiatives.

SMEs account for 99% of all businesses and 70% of total employment in Myanmar, mostly concentrated in the food and beverage industry (67%), followed by construction (8%) and garments (4%) (OECD, 2018b). Informality of business in Myanmar is high, even by developing country standards (World Bank, 2016). Informal firms tend not to see the advantages of entering the formal sector, which can be an indication of still too heavy a regulatory burden that outweighs the potential benefits associated with formality, such as the access to officially supported SME financing schemes (*idem*). Strengthening SMEs is crucial for inclusive growth in Myanmar, and improvements to the legal and regulatory framework for SMEs, such as with the Myanmar Companies Law, are critical.

A well-functioning national certification and standardisation system, aligned with international standards, is also lacking. This is key to improved and maintained quality control and standards, monitored at reasonable cost. For a system to work and cater to the needs of the private sector, DICA and other private sector development agencies need to cooperate with the Ministry of Education and Science and Technology and Ministry of Planning, Finance and Industry. The inter-ministerial Investment Promotion Committee established in May 2019 and chaired by MIFER plans to address the issue of standardisation under its Task Force No. 4.

These are all elements that could feature in a national skills strategy. Such an initiative, if done correctly, would address the challenges the country faces in terms of the technical and vocational education and training (TVET), standardisation and metrology, as well as the tertiary education system. Building the bridges between the relevant line ministries (for example, while TVET is under the Ministry of Education, policies for standardisation and metrology are developed by the Ministry of Commerce) and will be key to the success of a national skills strategy.

Policy monitoring and evaluation

Governments are facing growing pressures to deliver more and better for less, as economic, social and environmental challenges are becoming increasingly complex. Policy monitoring and evaluation (M&E) has a critical role to play to effectively design, implement and deliver public policies and services.[9] Ensuring that policymaking is driven by sound evidence on what works is essential to achieve key long-term objectives. M&E and its strategic use throughout the policy cycle from design and implementation to *ex post* assessment, can:

- Support strategic planning and policymaking by improving the links between policy interventions and their outcomes and impact;
- Enhance accountability and provide legitimacy for the use of public funds and resources;
- Promote learning and enhance policy efficiency and effectiveness.

M&E activities are important to manage FDI attraction and aftercare on the basis of results, to make sure that institutions and organisations learn from experience and improve, and to give new insights and innovation into the process. This also offers an opportunity to strengthen the national system so that other agencies with an investment promotion related mandate can understand the effect of different policies and strategies.

More generally, if an agency like DICA illustrates that it effectively monitors and evaluates its policies, measures and use of resources, it can act as a positive example for private sector development actors and the private sector itself. While the MIPP provides for a good macro-level set of targets that can allow for some M&E of the efforts undertaken in Myanmar, this should be cascaded down to the individual actors responsible for implementing the plan. This includes a relatively detailed action plan highlighting the action, the necessary measures ("promotional measures") and an indication of whether the target is of a short-, medium- or long-term nature. This could include a more concrete timeline with actual deadlines, as well as responsibilities for the different targets assigned to specific agencies within the government.

This would also apply to DICA, which could then usefully use the targets attributed to it in the MIPP to shape its own strategy, activities and necessary budget and resources. DICA produces an annual report in Myanmar language, available on its website. It could consider translating it in English to increase overall transparency of the governmental system and accountability of the agency. For example, UK Department for International Trade reports on its core objectives (DIT, 2018), while the Economic Development Board of Singapore reports annually as per investment generated, the value added of the investment and the associated job creation (EDB, 2018).

International policy frameworks to facilitate investment to Myanmar

Investment promotion and facilitation measures are also an element of the international policy framework the country operates in. This includes bilateral investment treaties, regional integration efforts, as well as initiatives at the global level, such as in the current WTO context. As part of the ASEAN Economic Community, Myanmar is thus part of various regional initiatives that it can use in its efforts to attract both intra-ASEAN and global investors. Chapter 2 elaborates on the various regional and international agreements Myanmar is a party to.

As discussed earlier in this *Review*, the regional dimension in Southeast Asia is a key driver of investment-related reform. Regional infrastructure, transparency and regulatory policy harmonisation are all ASEAN priorities that would benefit each member state as an investment destination along the ASEAN regional value chain. SEZs across ASEAN also play a key role in this regard.

DICA also uses its participation in international forums effectively, with an active programme of speaking engagements and networking activities. These include various OECD and World Bank technical events, as well as the ASEAN Investment Forum. It perceives its interaction with other national IPAs as highly strategic (OECD IPA Survey of Myanmar, 2019).

References

Behuria, Pritish (2018), "Learning from Role Models in Rwanda: Incoherent Emulation in the Construction of a Neoliberal Developmental State", *New Political Economy*, 23:4, 422-440.

Business France (2018), "Merging Investment and Export Promotion", presentation at the OECD-MENA Workshop, EU-OECD Programme on Promoting Investment in the Mediterranean, Rabat, 31 Jan 2018.

Channell, W., (2007), "Uses and abuses of Doing Business indicators", Economic Growth Officers Workshop, United States Agency for International Development (USAID), Washington, D.C.

Department of International Trade, UK (2018), *Annual Report and Accounts 2017-18*, United Kingdom, London, July.

Lincoln Legal Services (Myanmar) Limited (2019), "Newsletter 69", 5 December 2019.

Livingstons Legal (2019), "Incorporating a Private Company Limited by Shares in Myanmar", Yangon, Myanmar.

Malesky, E., Dulay, D. and Jon Keesecker (2019), *The Myanmar Business Environment Index: Measuring Economic Governance for Private Sector Development*, The DaNa Facility and The Asia Foundation: Yangon, Myanmar.

OECD (2019), "OECD Mapping of Investment Promotion Agencies - The Mediterranean, Middle East and North Africa", OECD, Paris, October 22, http://www.oecd.org/daf/inv/investment-policy/mapping-of-investment-promotion-agencies-med.htm

OECD (2018a), "Mapping of Investment Promotion Agencies in OECD Countries", OECD, Paris, October 22, http://www.oecd.org/investment/Mapping-of-Investment-Promotion-Agencies-in-OECD-Countries.htm

OECD (2018b), *Good Regulatory Practices to Support Small and Medium Enterprises in Southeast Asia*, OECD Publishing, Paris, https://doi.org/10.1787/9789264305434-en

OECD (2018c), *OECD Investment Policy Reviews: Cambodia 2018,* OECD Investment Policy Reviews, OECD Publishing, Paris, https://doi.org/10.1787/9789264309074-en.

OECD (2016), *Being an Independent Regulator*, The Governance of Regulators, OECD Publishing, Paris, https://doi.org/10.1787/9789264255401-en.

OECD (2015a), *Policy Framework for Investment, 2015 Edition*, OECD Publishing, Paris, https://doi.org/10.1787/9789264208667-en.

OECD (2015b), *OECD Regulatory Policy Outlook 2015*, OECD Publishing, Paris, https://doi.org/10.1787/9789264238770-en

OECD (2012), *Recommendation of the Council on Regulatory Policy and Governance*, OECD Publishing, Paris, https://doi.org/10.1787/9789264209022-en.

OECD (2010), "One Stop Shops: an Overview of Best Practices Related to Three Key Issues", Discussion Paper, MENA-OECD Training Workshop, Beirut, March 10-12, http://www.oecd.org/mena/competitiveness/privatesectorinitiatives/44795978.pdf

OECD (2005), “A Policy Framework for Investment: Investment Promotion and Facilitation”, Discussion Paper, Conference on Investment for Asian Development: Lessons so far, Challenges for the Future, organised by the OECD, ADB, and UNESCAP, Jakarta, July 5-6, https://www.oecd.org/investment/investmentfordevelopment/35034744.pdf

OECD (2000), “*Reducing the Risk of Policy Failure*: *Challenges for Regulatory Compliance*”, OECD, Paris, https://www.oecd.org/gov/regulatory-policy/1910833.pdf

PriceWaterhouseCoopers (2019), “Myanmar Business Guide”, Yangon, Myanmar

Singapore Economic Development Board (2018), “EDB Annual Report 2017/18”, Singapore.

UNCTAD (2009), “Promoting Investment and Trade: Practices and Issues”, *Investment Advisory Services Series A, No. 4*, United Nations, New York.

Wells, L. T. and Wynt A. G. (2000), “Marketing a Country”, *FIAS Occasional Paper, Vol. 13*, The World Bank Group, Washington D.C.

World Bank (2019), *Doing Business 2020,* World Bank Group, Washington D.C.

World Bank (2016), “Informal Firms in Myanmar”, *Enterprise Note Series No. 33*, Enterprise Survey, World Bank Group, Washington D.C.

World Bank (2013), *Rwanda: fostering prosperity by promoting entrepreneurship*, World Bank Group, Washington D.C.

World Bank (2013), *Doing Business 2014*, World Bank Group, Washington D.C.

World Bank (2006), *Doing Business 2006: creating jobs*, The World Bank Group, Washington D.C.

World Economic Forum (2018), *Global Competitiveness Index 2018*, WEF, Geneva.

Notes

[1] See OECD’s work on Investment Promotion and Facilitation for more information: https://www.oecd.org/investment/investment-promotion-and-facilitation.htm

[2] The terms investment promotion and facilitation are often used simultaneously but imply two very different functions. One is about promoting a country or region as an investment destination, while the other is about making it easy for investors to establish or expand their existing investments.

[3] Extracted from newspaper article: MyanmarTimes (2019), “Better implementation of the law needed to draw foreign investors”, website article, June 10 (Accessed on 15 September 2019).

[4] See the work of the OECD on Measuring Regulatory Performance: http://www.oecd.org/gov/regulatory-policy/measuring-regulatory-performance.htm

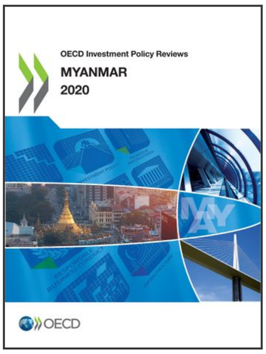
[5] As of March 2019, four roadmaps had been elaborated.

[6] See, for instance, newspaper article: Voice of Vietnam (2018), “Vietnam faces challenges in promoting trade facilitation”, website section, September 11 (accessed on 1 August 2019).

[7] For further information, see the ASEAN Single Window (2019) website: “Myanmar General Information: Current Updates of Myanmar National Single Window”, website section (accessed on 1 August 2019).

[8] For further information, see press release at ITC's website: ITC (2019), "ITC, UK and Myanmar join hands to launch the Trade and Investment Project", website news section, March 4 (accessed on 1 August 2019).

[9] See OECD's work on policy monitoring and evaluation: http://www.oecd.org/gov/policy-monitoring-evaluation.htm



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