

MYANMAR: OPENING UP TO ITS TRADE AND FOREIGN DIRECT INVESTMENT POTENTIAL

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Abstract

Myanmar, which is one of the 13 least developed countries (LDCs) in Asia and the Pacific, is relatively rich in natural resources, has young workforce, and is close to the world's most dynamic trading economies, including China and India. With an appropriate policy mix, improved business environment and a stable, but reformed political system, the country is expected to fulfill its considerable potential and move ahead with delivering on economic development. As Myanmar starts to rebuild its trade and investment links with the region and the global economy, policymakers and business leaders will need various data, information and advice from analysts and researchers to be able to make proper decisions. Unfortunately this will not be a straightforward process as macroeconomic, trade and investment data for the country are incomplete, and available data are not always reliable. Furthermore, because of the years of isolation imposed on Myanmar, the trade and investment flows recorded during those years do not necessarily reflect the flows that actually occurred, or the patterns of specialization and competitiveness that would have occurred without such isolation. This paper presents a picture of the country's trade and foreign direct investment (FDI) patterns in the past two decades and an introductory survey of selected policies that affect Myanmar's trade and FDI potential within its new political and macroeconomic framework. To provide more complete guidance on the integration of Myanmar's producers into the regional and world economies, a traditional trade competitiveness diagnostics study is necessary. Such an analysis will only be possible once more complete datasets have been compiled after some time of normal trade and investment relations.

Key words: Myanmar, reform, market access, trade policy, investment policy, regulation, exchange rate, small and medium-sized enterprises (SMEs).

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Introduction

Myanmar is one of the 13 least developed countries (LDCs) in Asia and the Pacific.¹ The country is relatively rich in natural resources, has young workforce, and is close to the world's most dynamic economies, including China and India. With an appropriate policy mix, improved business environment and stable political system the country is expected to fulfill its considerable potential and move ahead with economic development.

Decades of poor economic management and a heavily controlled economy have resulted in a weak private sector and an underdeveloped financial market. This has been exacerbated by misallocation of public resources with relatively small public spending on basic services and economic isolation from most of developed economies.²

Myanmar remains a primarily agricultural economy with a share of 38.2 per cent³ of its gross domestic product (GDP) derived from agriculture, livestock and fisheries, and forestry; however, exports of gas and other natural resources are becoming increasingly significant. Once the top exporter of rice in the world, Myanmar's rice exports now account for a negligible share of the world market, and only 1.8 per cent per cent of the national exports (figure for 2011). Manufacturing constitutes a small share of recorded economic activity, and state enterprises continue to play a large role in that sector.

The current Government of Myanmar faces an historic opportunity to jump-start economic development and lift the living standards of its people. This will require the help and support of the international community. As Myanmar starts to rebuild its trade and investment links with the region and global economy, policymakers and business leaders will need various types of data and information from analysts and researchers to enable them to make proper decisions. Unfortunately, this will not be straightforward as existing economic, trade and investment data for the country are incomplete and not always reliable.⁴ Furthermore, because of the years of isolation imposed on Myanmar, the trade and investment flows that were recorded during that period do not necessarily reflect actual flows that occurred, or specialization and competitiveness patterns that would have occurred without such isolation.

This paper presents a picture of the country's trade and FDI patterns in the past two decades and provides an introductory survey of selected policies that affect Myanmar's trade and FDI potential within its new political and macroeconomic framework. To provide more complete guidance on the integration of Myanmar's producers into the regional and world economies, a traditional trade competitiveness diagnostics study is necessary. Such an analysis will only be possible after the country has been functioning for a reasonable period under normal trade and other relations with the rest of international community. More complete datasets could then be compiled on trade and investment flows and patterns as well as on available pools of labour and skills, technological levels of firms, availability of resources and infrastructure, and the various types of regulations. Even with available data, Myanmar, like many other LDCs and developing countries, lacks the capacity to undertake such analyses, and to translate the findings into actionable measures and policies. However, the ESCAP secretariat, together with its partners and current projects such as ARTNeT

¹ Normally this group also includes Yemen, but since it is not a member of ESCAP it has been excluded here.

² U Myint, the most senior adviser to the President of Myanmar, was recently cited as saying: "We have to acknowledge that over half a century since we gained independence, it has not been [a] lack of resources but rather misconceived ideas and flawed policies that have been our undoing" (Robinson, 2012a).

³ CIA World Factbook, 2011 data.

⁴ According to the national data sources, Myanmar's GDP growth rate in real terms has been 12.9 per cent annually since early 2000. However, IMF estimates indicate that economic growth ranged between 5 per cent and 6 per cent annually in the same period.

and UNNexT, is well placed to support efforts to strengthen evidence-based policymaking for trade and investment in Myanmar.

1. Trade and foreign direct investment performance

1.1. Trade performance

The former military rule resulted, over time, in negative reactions and the imposition of economic sanctions by Myanmar’s trading partners. The bans, put in place after 2000, on imports of Myanmar’s products and on the provision of financial services to Myanmar firms affected country’s trade flows, both in terms of products exported and the choice of trading partners (tables 1 and 2⁵). In fact, the commodity and geographical patterns of trade after the sanctions were similar to those at the end of 1980s, as shown in the earlier version of this paper.

Table 1. Top 10 exported product clusters at the HS2-digit level, 2000 and 2011⁶

Product cluster	Export value (US\$ ‘000), 2000	Share of total exports (%)	Product cluster	Export value (US\$ ‘000), 2011	Share of total exports (%)
Apparel and clothing accessories, knitted	516057.1	27.2	Mineral fuels, oils etc.	3146345.8	38.9
Wood, wood products	418706.0	22.1	Wood, wood products	1006246.3	12.4
Apparel and clothing accessories, not knitted	281178.2	14.8	Edible vegetables	828979.6	10.3
Fish and crustaceans	185122.7	9.8	Pearls, stones, precious metals	798068.3	9.9
Mineral fuels, oils etc.	119306.7	6.3	Apparel and clothing accessories, not knitted	794116.0	9.8
Edible vegetables	85011.2	4.5	Fish and crustaceans	282135.5	3.5
Copper and articles thereof	45842.3	2.4	Ores, slag and ash	244760.1	3.0
Oil seeds, misc. grain	31117.2	1.6	Rubber and articles thereof	222154.3	2.7
Pearls, stones, precious metals	26416.4	1.4	Cereals	180313.2	2.2
Electrical machinery and equipments	20880.5	1.1	Footwear, gaiters and the like, parts thereof	101812.2	1.3

Source: Comtrade data from WITS database, downloaded on 13 December 2012. See footnote 5 for use of mirror data.

In 2000, Myanmar specialized in exports of apparel and clothing accessories (knitted), which accounted for 42 per cent of the country’s total exports, with the top six product clusters accounting for roughly 85 per cent of total exports. By 2011, the apparel and clothing accessories (knitted) plummeted to less than 1 per cent of the country’s total exports, and the top exported product cluster was mineral fuels and oils, accounting for 39 per cent of total exports, compared with a share of 6.3 per cent in 2000. The changes in the export structure since 2000 appear to be related to changes in the geographical trade patterns, which, in turn, have been affected, inter alia, by the imposition of trade and payments sanctions. For example, the decline of the garment industry’s export has been largely due to the sanctions imposed by United States, which was the

⁵ In the calculation, mirror data has been used. The mirror data comprise trading partner data instead of national data. Given the unreliability of Myanmar data, the use of mirror data is considered advisable in this case.

⁶ The data used to show the trade pattern before the sanctions are for 2000. Officially the ban on trade with Myanmar was imposed by most countries in the past decade (United States, 2003; Canada, 2007; European Union, 2008).

major importer of these products in 2000⁷ (ADB, 2012), while the specialization on the export of mineral fuels is related to the increasing importance of role of Thailand and China as trading partners of Myanmar (table 2).

Table 2. Major importers, 2000 and 2011

Importer	Export value (US\$ '000), 2000	Share of total exports (%)	Importer	Export value (US\$ '000), 2011	Share of total exports (%)
United States	507437.5	26.7	Thailand	3268317.9	40.4
Thailand	259863.9	13.7	China	1679872.8	20.8
India	178498.7	9.4	India	1262044.3	15.6
China	124820.1	6.6	Japan	590013.8	7.3
Japan	119417.2	6.3	Korea, Rep.	298680.8	3.7

Source: Comtrade data from WITS database. Accessed online on 13 December 2012. See footnote 5 for use of mirror data.

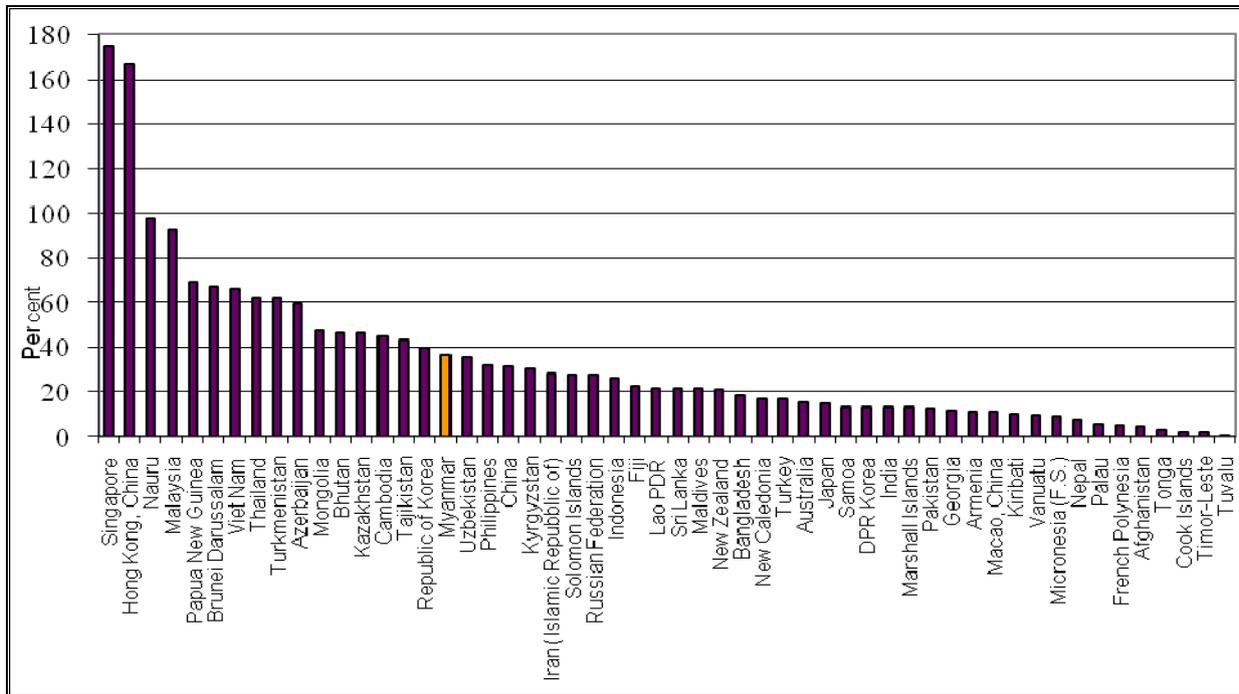
The imposition of trade sanctions goes some way in explaining why United States, Canada, and the European Union do not feature among larger trading partners of Myanmar at present, even though the United States was the largest trading partner in 2000. However, since the beginning of 2012 the trade restrictions have become less restrictive as the European Union and the United States have started to slowly dismantle the sanctions. The exception is still with the regulation on arms trade.

The main changes during the period of trade sanctions can therefore be summarized as (a) the emergence of Thailand and China as major trading partners, which replaced the United States and (b) mineral fuels became the leading export product cluster, instead of apparel and clothing cluster.

While analyzing Myanmar's trade flows over time is not straightforward because of the data incompleteness as well as some reliability issues with even mirror trade data, it is still possible to make some inferences with regard to the importance of trade for Myanmar's economy, relative to other countries at a similar level of development or in the same region. For example, based on data from the *ESCAP Statistical Yearbook, 2011*, a comparison with selected Asia-Pacific economies indicates that export dependence (export share in GDP) of Myanmar for 2006-2009, at around 37 per cent, was lower than for most Association of Southeast Asian Nations (ASEAN) members, but still higher than that of many smaller least developed and developing countries in the Asia and the Pacific (figure 1). Furthermore, the country's trade balance was positive until recent months, while the current account balance has been in deficit since 2008.

⁷ The United States imported 60 per cent of the total Myanmar's exports of apparel and clothing accessories (knitted) and 44 per cent of total export of apparel and clothing accessories (not knitted).

Figure 1. Merchandise exports as a share of GDP, in selected Asia-Pacific economies



Source: Based on data from the ESCAP Statistical Yearbook 2011 online database. Available from <http://www.unescap.org/stat/data/statdb/DataExplorer.aspx>.

1.2. Foreign direct investment performance

Similar to the trade patterns, the FDI pattern appears to have been heavily affected by the sanctions imposed to the country. After 1997, the year in which US imposed sanctions on FDI,⁸ Myanmar experienced a continuous decline in FDI inflows until 2006, with the only exception of 2003 (figure 2). In the late 2000s, investment from ASEAN and China made a considerable contribution to an increase in FDI inflows to Myanmar. However with the global economic crisis setting in, the country experienced a new slowdown in FDI in 2009 and 2010, even though the contraction could also be related to the sanctions on FDI imposed by Canada in 2007⁹ and by the European Union in 2008.¹⁰

Economic sanctions resulted in multinational corporations (MNCs) pulling out investments from Myanmar. For example, Adidas and Levis Strauss shut down their production plant, and stopped sourcing intermediaries and materials from that country due to public pressure from human rights groups. Other examples are Wal-Mart and Tommy Hilfiger.¹¹ Consequently, FDI inflows to Myanmar from Western countries sharply decreased, while the interest of Asian countries increased gradually.

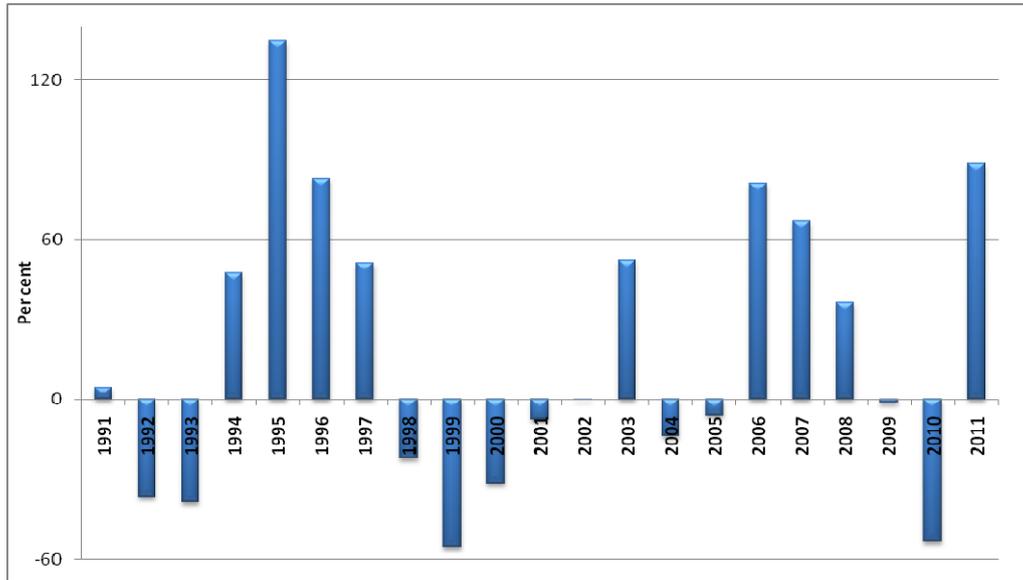
⁸ For more information see <http://www.treasury.gov/resource-center/sanctions/Documents/burma.pdf>.

⁹ For more information see http://www.canadainternational.gc.ca/thailand-thailande/bilateral_relations_bilaterales/canada-burma-birmanie.aspx?view=d.

¹⁰ For more information see http://www.hm-treasury.gov.uk/fin_sanctions_burma.htm.

¹¹ Examples cited from Rand, 2003.

Figure 2. Annual change in FDI inflows to Myanmar, 1991-2011



Source: Based on data from the ESCAP Statistical Yearbook 2011 online database. Available from <http://www.unescap.org/stat/data/statdb/DataExplorer.aspx>.

Thailand was perceived as the largest foreign investor (among ASEAN countries) in Myanmar between 1988 and 2008, accounting for more than 50 per cent of FDI inflows (East Asia Study Centre, 2009). The combined total FDI inflow into the power and oil and gas sector represented about 65 per cent of the total investment in the same period (Khine, 2008).

However, more recent data from Myanmar’s Ministry of National Planning and Development, which records the FDI inflows to the country up to October 2012, indicates that the largest investor based on cumulative amounts of investment has been China (table 3). FDI from China has increased exponentially in recent years, reaching a peak and accounting for 34.4 per cent share, while Thailand accounted for 23.3 per cent. According to the recent Ministry of National Planning and Development estimates cited in ESCAP (2012d, Table 3.1., p.52), the accumulated FDI in the country is more strongly biased to the power and oil and gas sectors compared with the 1988-2008 period, jointly accounting for 80.9 per cent of total FDI, followed by mining sector (6.9 per cent), manufacturing sector (4.5 per cent), hotel and tourism sector (2.6 per cent) and real estate sector (2.6 per cent).

It is interesting to highlight the growth of FDI inflows since the new Government of Myanmar started the process of political and economic reforms. FDI in Myanmar amounted to almost US\$ 20 billion in fiscal 2010/11,¹² primarily from neighbouring countries, as most of the sanctions by other countries were still in place. However, for 2011/12, a slower growth of FDI inflows is expected, probably a result of uncertainties related to the long-awaited enactment of the new foreign investment law (see also section 5.2).

¹² Data from e-mail communication with the Ministry of Commerce of Myanmar.

Table 3. Cumulative FDI of enterprises holding permissions to invest in Myanmar as of 30 June 2012, by economy of origin¹³

Investor	FDI value (US\$ million), 1989-2012	Share of total FDI	Number of projects
China	14 142.7	34.5	34
Thailand	9 568.1	23.3	61
Hong Kong, China	6 371.5	15.5	40
Republic of Korea	2 954.1	7.2	51
United Kingdom	2799.2	6.8	54

Source: Ministry of National Planning and Development of Myanmar as cited in ESCAP (2012d, Table 3.2 p.53).

Note: United Kingdom includes enterprises incorporated in the British Virgin Islands, Bermuda Islands and Cayman Islands.

In terms of investment agreements, Myanmar has signed six bilateral investment agreements, three of which have entered into force already (table 4). It is also part of the ASEAN-led process of investment flow liberalization.

Table 4. Myanmar bilateral investment agreements

Partner	Date of signature	Date of entry into force
China	12 December 2001	21 May 2002
India	24 June 2008	8 February 2009
Lao, PDR	5 May 2003	-
Philippines	17 February 1998	11 September 1998
Thailand	14 March 2008	-
Viet Nam	15 February 2000	-

Source: UNCTAD IIA online database, accessed on 15 December 2012.

2. Trade policy and market access

Despite its international isolation for years, Myanmar has kept its membership in a number of international economic forums, although mainly in area of trade and regional integration. Myanmar is also a member of the International Monetary Fund (IMF) and the World Bank (see IMF, 2012, for more details on current relationships), and was a founding party of the General Agreement on Tariffs and Trade (GATT) in 1947 as well as a member of the group of countries that established the World Trade Organization (WTO) in 1995. Myanmar was accepted as a fully-fledged member of ASEAN in 1997. It is also a member of the Global System of Trade Preferences (GSTP) among developing countries, signed in 1988 by 44 countries and revised in 2010.¹⁴

2.1. Membership in preferential trade agreements

¹³ The United Kingdom was the leading investor in Myanmar with an accumulated FDI value of US\$ 1.38 billion (share of total FDI: 19.4%) for the period 1989-2001. FDI investments by three of the ten ASEAN members - Singapore, Thailand and Malaysia – amounted to US\$ 1.35 billion (share of total FDI: 19.0%), US\$ 1.19 billion (share of total FDI: 16.7%) and US\$ 599 million (share of total FDI: 8.4%), over the same period, respectively and the United States was the fifth largest FDI investor in Myanmar with an accumulated amount of US\$ 583 million (share of total FDI: 8.2%).

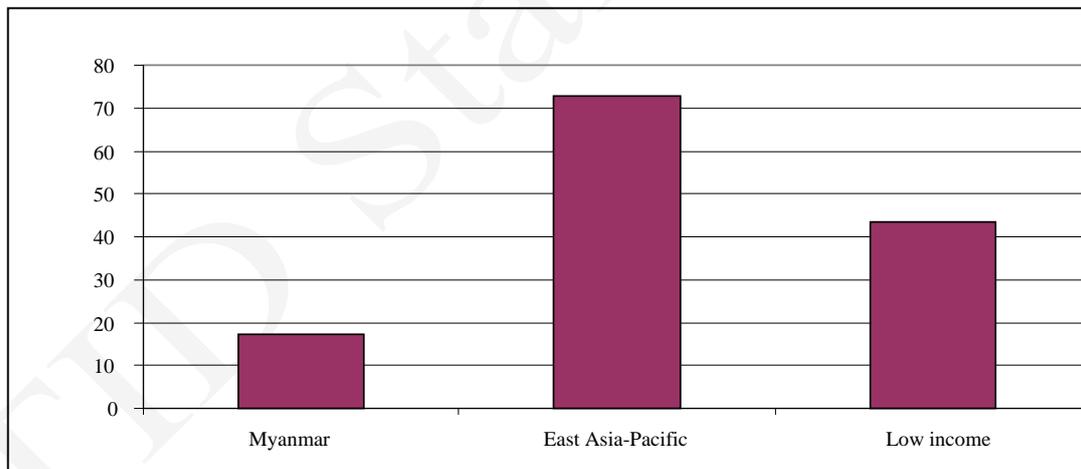
¹⁴ In 2010 the ministers of eight GSTP members signed the so-called Protocol of Iguazu which stipulates a reduction of tariffs by 20% on at least 70% of products exported among the parties. It is expected that remaining GSTP members will sign this protocol in due time too.

As a full member of ASEAN, Myanmar is not only a member of ASEAN-level agreements on trade in goods (ATIGA), services (AFAS), investment (AIA) and other areas of ASEAN Economic Community (AEC)-related integration and cooperation, but is also a member of all ASEAN + 1 agreements (five now in force: Australia-New Zealand, China, India, Japan, and the Republic of Korea). These agreements have considerable potential to enhance international trade and investment by Myanmar as they cover important trading partners of Myanmar. Based on data recorded from 2007 to 2009, more than 88 per cent of Myanmar’s exports and 94 per cent of its imports were with members of these preferential trade agreements.¹⁵ In addition, the country is also a member of the Bay of Bengal Initiative on Multi-Sectoral Technical and Economic Cooperation (BIMSTEC), which is still negotiating rules of origin for its free trade agreement.

2.2. Import barriers: Merchandise

In general, the levels of applied tariffs by Myanmar are relatively low compared with the average tariffs of East Asia-Pacific economies and low-income countries.¹⁶ However, the Government of Myanmar has created significant policy space in its WTO commitments by accepting only a combination of low binding coverage and high final-bound rates. Based on data from WTO’s world tariff profile, the average final bound tariff on all goods is currently 83.4 per cent.¹⁷ Sectoral data show that the average bound tariff rate on agriculture products is very high at 103.4 per cent, while that of non-agriculture products is only 23.0 per cent. Final bound duties on products in the group of beverages and tobacco are very high with an average duty of 295.3 per cent. Coffee and tea, fruit and vegetables, animal products, cereals and preparations are the product groups with an average final bound that is higher than 100 per cent. The binding coverage is only 17.6 per cent of total tariff lines, and the ratio has increased only slightly during the past 10 years. The binding coverage of Myanmar is relatively low compared with the average of East Asian and low-income countries (figure 4).

Figure 3. Binding coverage, average for 2006-2009



Source: World Bank’s World Trade Indicator database at <http://info.worldbank.org/etools/wti/3a.asp>.

¹⁵ Data from ESCAP, 2011, and APTIAD database at www.unescap.org/tid/aptiad/agg_db.aspx.

¹⁶ The statistics are based on the World Bank database. According to the World Bank’s definition, East Asia-Pacific economies include: (a) low-income economies (Cambodia, the Democratic Republic of Korea, the Lao People’s Democratic Republic, Myanmar and Viet Nam); (b) lower-middle income economies (China, Indonesia, Kiribati, Marshall Islands, Micronesia, Mongolia, Papua New Guinea, the Philippines, Samoa, Solomon Islands, Thailand, Timor-Leste, Tonga and Vanuatu); and (c) upper-middle income economies (American Samoa, Fiji, Malaysia and Palau).

¹⁷ WTO World Tariff Profile database, updated in April 2012. Available at <http://stat.wto.org/tariffprofile/wsdbtariffpfview.aspx?language=s&country=mm>.

In practice, the actual tariff protection is much lower than what is shown by the binding rates. The maximum applied tariff is about 40 per cent. The overall simple average applied MFN tariff is only 5.6 per cent. As in many other countries in the region, agricultural goods receive more protection (on average, 8.7 per cent) than non-agricultural products (on average, 5.1 per cent). Compared with East Asia and low-income countries, tariff protection in Myanmar is significantly lower (table 5).

Table 5. Simple average applied MFN tariffs

(Unit: Per cent)

	Myanmar			East Asia-Pacific	Low-income countries
	1995-1999	2000-2004	2005-2008	2006-2009	2006-2009
Simple average – all goods	5.51	5.60	5.60	9.99	12.44
Agricultural goods	8.51	8.66	8.66	16.07	15.22
Non-agricultural goods	5.05	5.14	5.14	9.07	12.01
Maximum – all goods	40.00	40.00	40.00	330.7	82.48
Agricultural goods	40.00	40.00	40.00	366.5	61.57
Non-agricultural goods	40.00	37.83	37.83	97.82	55.64
Applied MFN, including preferences	4.61	5.53	5.52	10.32	12.78
Agricultural goods	9.68	8.53	8.51	16.48	15.52
Non-agricultural goods	4.20	5.07	5.06	9.38	12.37

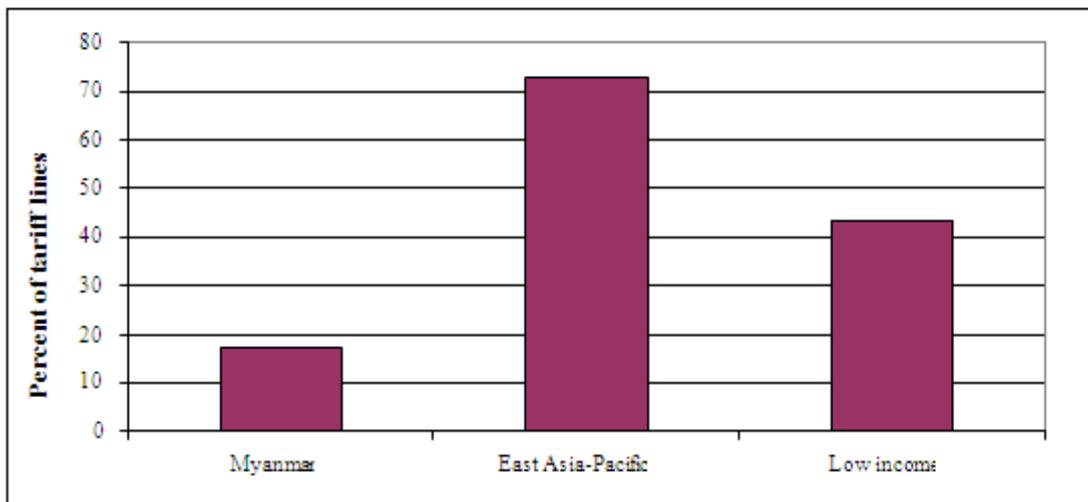
Source: World Bank’s World Trade Indicator database at <http://info.worldbank.org/etools/wti/3a.asp>.

Notes:

1. MFN applied tariffs includes ad valorem and ad valorem equivalents of specific tariffs, available at the HS 6- digit product level in a country’s customs schedule.
2. Agricultural goods are all good covered by the Agreement of Agriculture.

Apart from MFN tariffs, other customs and import duties can give a rise to implicit ad valorem border taxes. On average, customs and other import duties together accumulated to an implicit tariff of 182 per cent. Although the data period is slightly different, the ratio is much higher than the average calculated for the subregion and low-income country groups (figure 5).

Figure 4. Implicit ad valorem tariffs, customs and import



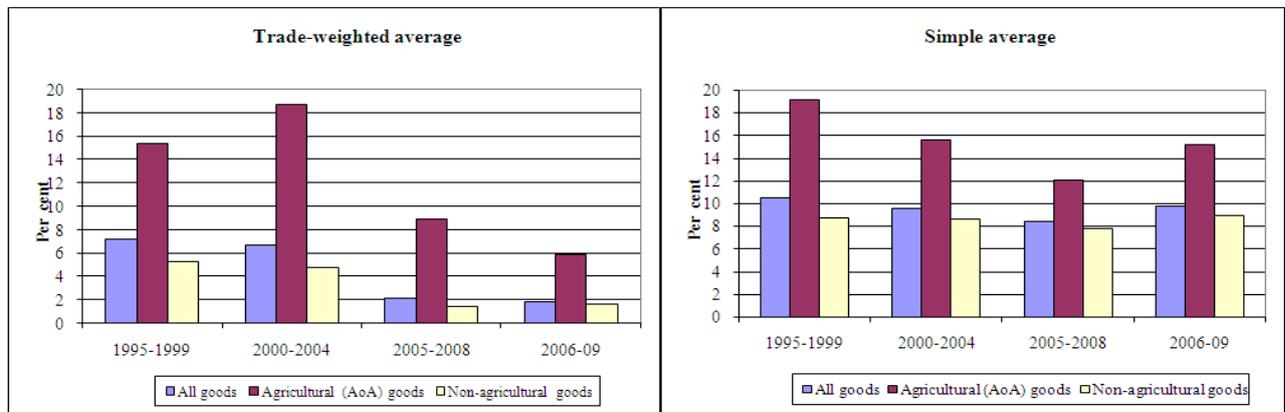
Source: World Bank’s World Trade Indicator database available at <http://info.worldbank.org/etools/wti/3a.asp>.

2.3. Barriers faced by Myanmar’s exports

There are many direct and indirect barriers that trading partners can impose on a country’s exports. An exporting country does not have much power to avoid those barriers except through trade liberalization agreements in multilateral, regional and bilateral initiatives.

In the case of Myanmar, due to trade liberalization at the global and regional levels as well as partially changed export composition over time, applied tariffs faced by Myanmar’s exports have been decreasing continuously on a trade-weighted average basis during the past decade (figure 6). From 2006 to 2009, the trade-weighted average of applied tariffs, including unilateral and reciprocal preferences, facing Myanmar exports were only 5.9 per cent for agricultural goods and 1.7 per cent for non-agricultural products. Notably, a significant difference between trade-weighted average and simple-average rates reflects the fact that the export structure of Myanmar has been increasingly directed towards low-tariff categories, mainly raw materials.

Figure 5. Applied tariffs facing Myanmar exports

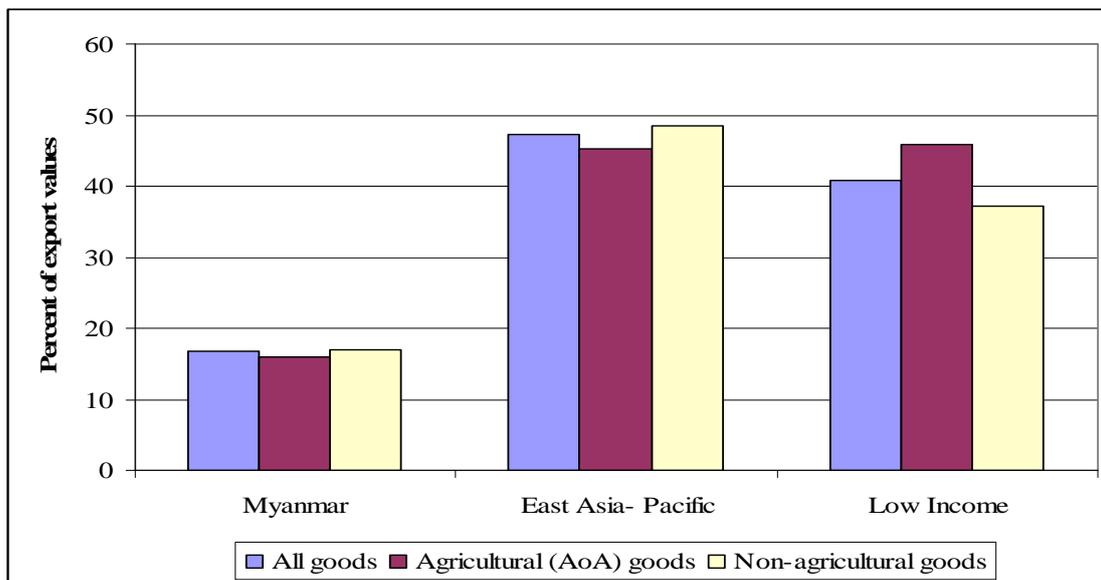


Source: World Bank World Trade Indicator database available at <http://info.worldbank.org/etools/wti/3a.asp>.

Notes: The average applied tariff rates, including preferential rates, applied by the rest of world to each country. Available at the HS 6-digit product level in Myanmar’s customs schedule.

Although applied tariffs facing Myanmar’s exports are already low, there is still room for Myanmar to capture better market access through trade agreements. Currently, the share of Myanmar exports facing zero duty is relatively small compared with East Asia-Pacific countries and the low-income group (figure 7). For example, while almost 50 per cent of agricultural exports and 40 per cent of non-agricultural exports by the low-income group are exported to the world under zero MFN duty, only about 16 per cent of Myanmar’s agricultural exports have received such market treatment.

Figure 6. MFN duty-free exports, 2006-2009



Source: World Bank World Trade Indicator database, available at <http://info.worldbank.org/etools/wti/3a.asp>.

2.4. Barriers in services imports

Allowing better access by domestic producers and consumers to high-quality services will benefit the whole economy of Myanmar by increasing productivity in all sectors, and will help to build up productive and export capacity throughout the economy. Therefore, liberalization of trade in services, in particular infrastructure-related services, is very important. Currently, the service sector is highly protective. Myanmar has given market access and national treatment commitments on tourism-related services through its GATS schedules of the Uruguay Round, including hotel, travel agencies and tour operators’ services, and tourist transport operation. For most service sectors, except tourism and transport services, Myanmar’s scores on the GATS commitment index were considerable lower than the regional average and the average of low-income countries (table 6). Overall, Myanmar’s extent of GATS commitment is very low, with a score only 4.9 out of 100 for 2006 to 2009.¹⁸

Table 6. GATS commitments restrictiveness index scores (2006-2009)

Sectors	Myanmar	East Asia- Pacific	Low-income countries
All service sectors	4.94	22.08	14.06
Business services	0.00	16.35	9.62
Communication services	0.00	27.77	11.48
Construction/engineering services	0.00	31.18	21.16
Distribution services	0.00	16.35	12.22
Educational services	0.00	15.32	10.05

¹⁸ The GATS commitment index measures the extent of GATS commitments for all 155 services subsectors as classified by GATS and in the four modes of GATS. Each entry in the country’s schedule is assigned scores based on its relative restrictiveness, using a criteria established by Bernard Hoekman’s methodology. That has resulted in 1,240 scores, ranging from zero (unbound or no commitments) to 100 (completely liberalized), with an intermediate value of 50 for partial commitments. A simple average of the subsectoral scores was used to generate aggregate sectoral scores (for the 12 main services sectors as classified by GATS), modes scores, and market access and national treatment scores. The overall GATS commitment index is a simple average of the sectoral indices.

Environmental services	0.00	24.52	10.88
Financial services	0.00	43.57	15.47
Health/social services	0.00	9.95	15.92
Tourism/travel services	93.75	68.12	65.55
Recreational/cultural services	0.00	8.81	15.28
Transport services	18.83	16.10	9.25
Other services	0.00	5.77	2.34

Source: World Bank World Trade Indicator database available at <http://info.worldbank.org/etools/wti/3a.asp>.

Notes: Score 0 (closed) to 100 (most liberal).

3. Foreign direct investment policies

FDI in Myanmar has only been permitted since 1988 (JETRO, 2007) under the Union of Myanmar Foreign Investment Law, and the level and variety of investment were limited. Sectors that are eligible for foreign investment include manufacturing, oil and gas exploration and development, mining (except gold and precious stones), jewellery production and agriculture.¹⁹

Until recently, bureaucratic procedures and an antiquated and inadequate infrastructure hampered foreign and local investments. Three areas were of major concern among the investor community:

- (a) Foreign entities could not own land in Myanmar;
- (b) The Government's adherence to an official exchange rate for the domestic currency, the kyat, which was overvalued by some 60 times its unofficial (black market) value. By the start of 2002 that disparity had reached about 100 to 1, constituting a major obstacle to foreign investment;
- (c) Foreign investors had to face potential criticism at home (that is, in Western countries) for investing in a country with a long record of military rule and alleged human rights violations.²⁰

The recent economic and political transition of Myanmar has brought about expectation in the international community that the above concerns will eventually dissipate. Apart from lifting economic sanctions imposed by the United States, the European Union and Canada, a new foreign investment law – which replaces the Myanmar Foreign Investment Law (FIL) of 1988 – was signed on 8 November 2012 by the President of Myanmar, and a managed-float exchange rate system has been officially adopted (subsection 5.1 provides more details about the currency issues). Despite the enactment of the new foreign investment law (subsection 5.2 provides more details about FDI issues), the procedural regulation for the Myanmar Foreign Investment Law of 1988 and even older statutory authority will continue to be the main framework for foreign investors seeking to establish a business presence in Myanmar. The general approval procedures for foreign investment projects include three steps: (a) obtaining a permit issued by the Myanmar Investment Commission (MIC)²¹ for a foreign investment project; (b) obtaining a “trading permit”; and (c) completing formalities with the Companies Registration Office. These procedures are essential requirements for a foreign

¹⁹ The economic activities allowed for FDI are listed in Notification No. 1/1989 of the Union of Myanmar Foreign Investment Commission, which is available at www.dica.gov.mm/unfi.htm. For more information, consult the Directorate of Investment and Company Administration website at www.dica.gov.mm/dica.htm.

²⁰ Some examples are listed in section 1.2 above.

²¹ Formed in 1994, the MIC is responsible for a wide range of activities such as scrutinizing the proposal with regard to financial credibility, economic justification and appropriateness of technology, granting terms and conditions on issuance of permit, monitoring and evaluating foreign investment situation, relaxing and amending the terms and conditions previously defined, providing suggestions and recommendations to facilitate and promote foreign investment, taking necessary and prompt action in respect of issues regarding foreign investment, acting as an authority for both foreign and Myanmar citizens' investments. Since September 2012, the commission has re-invented itself, granting foreigners much more rights and possibilities than before. Since the enacting of the latest foreign investment law, Myanmar's Parliament will increasingly rely on the MIC's work. For example, it will be responsible for approving foreign investment applications and calculating the shareholding ratio in a foreign joint venture. This procedure does not only secure foreign investments, but also provides local businesses with a reliable partner (The Nation, 2012).

investment project to qualify for preferential tax treatment in Myanmar, and they will continue to remain in place under the new foreign investment law.

A “trading permit” is issued by the Directorate of Investment and Company Administration (DICA) of the Ministry of National Planning and Economic Development, pursuant to the Myanmar Companies Act, 1913 (the Myanmar Companies Act). The trading permit functions as the equivalent of a business license. Upon obtaining a MIC permit and a trading permit, a foreign company obtains a certificate of incorporation from the Companies Registration Office, allowing the formal establishment of the corporate existence of the enterprise in compliance with the Foreign Investment Law. Alternatively, a foreign company in the form of a branch is established following the issuance of a certificate of registration from the Companies Registration Office.

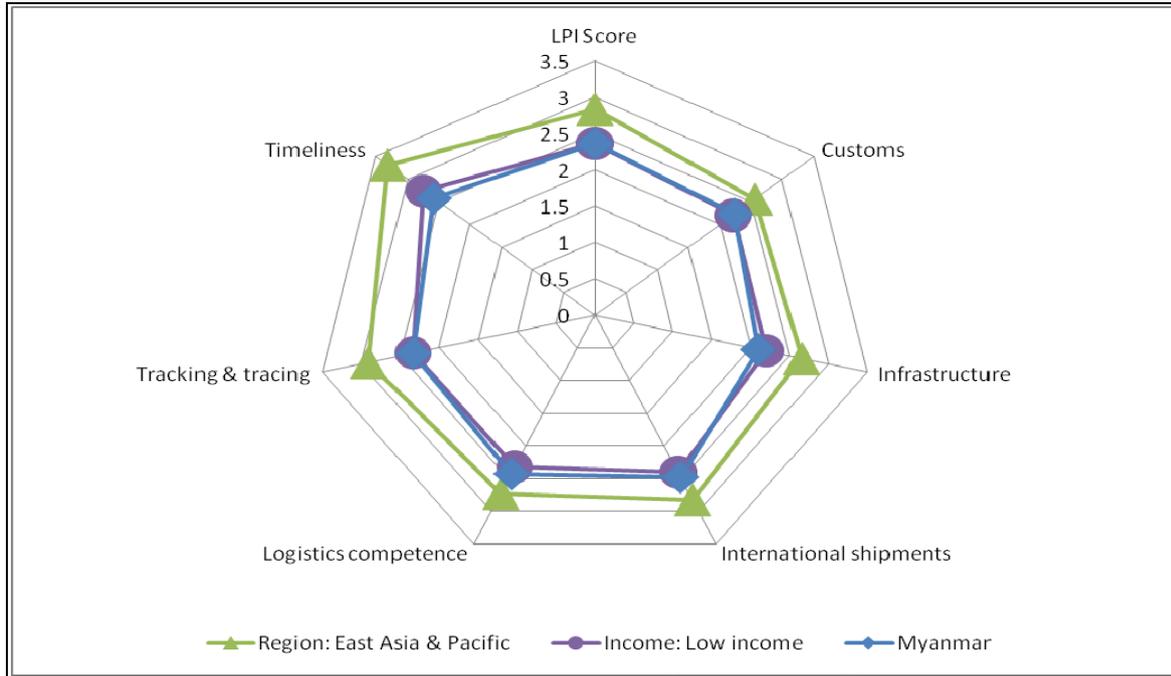
4. Trade facilitation and trade infrastructure

Adopting better border-crossing practices, mainly for customs procedures, could enable least developed countries, including Myanmar, to export more efficiently.

The logistical performance index (LPI) for Myanmar shows that moving goods across borders is, relatively difficult compared to East Asia-Pacific countries (figure 8). The overall LPI score for Myanmar in 2012 is 2.37, equal to the average for low-income countries and lower than the average for East Asia-Pacific countries (2.84).²² The relatively low logistics performance, in all the six variables specified in the LPI, translates into relatively high trade costs, which is an obstacle to Myanmar benefitting from its trade potential.

²² The overall LPI index reflects the perception of a country’s logistics environment based on about 1,000 responses to a survey of logistics performance evaluated from six key criteria. These subcategories are: (a) efficiency of the customs clearance process; (b) quality of transport and transport-related infrastructure; (c) ease of arranging competitively priced shipments and competence; (d) quality of logistics services; (e) tracking ability; and (f) timeliness of shipments. The value of the index ranges from 1 to 5, with a higher score representing a better performance. The overall international LPI was calculated using standard statistical techniques for aggregation, and approximates the simple average of the scores of the six subcategories.

Figure 7. Logistics performance index, 2012



Source:

World Bank’s World Trade Indicator database,
<http://lpiurvey.worldbank.org/international/scorecard/radar/254/C/MMR/2012/R/EAP/2012/I/LIC/2012#chartarea>.

Prerequisites to bringing down trade costs include reforms in custom procedures and regulatory framework. Furthermore, as a study by the ESCAP secretariat has shown (ESCAP, 2011) inefficiency in maritime connectivity as well as information and communication technology (ICT) account for up to 25 per cent of bilateral comprehensive trade costs. Therefore, infrastructure development – especially in transportation services and ICT – is essential. Regarding maritime connectivity, the UNCTAD Liner Shipping Connectivity Index (LSCI) provides a measure of an economy’s level of integration into the existing global liner shipping network.²³ As shown by the LSCI scores in table 7, Myanmar’s maritime connectivity has been relatively poor on average compared to countries in the East Asia-Pacific region and among the low-income countries. In this regard, the construction of the Dawei deep-sea port in Myanmar’s Tanintharyi region, when completed, is expected to help connect Myanmar to international shipping routes.

Table 7. Trade facilitation infrastructure

	Myanmar		East Asia-Pacific	Low income
	2005-2008	2006-2009	2006-2009	2006-2009
Transportation				
UNCTAD Liner Shipping Connectivity Index	3.19	3.63	19.73	8.21
Air freight (million tons/km)	2.79	2.87	1 028.2	42.44
ICT				

²³ The LSCI is an index for efficiency in shipping which combines components: a) number of ships; (b) the container carrying capacity in 20-foot equivalent units (TEUs) of those ships; (c) the number of companies; (d) the number of services; and (e) the maximum ship size, always referring to ships that are deployed to provide liner shipping services to an economy’s port(s). The score ranges from 0 to 100.

Mobile and fixed-line telephone subscribers (per 100 people)	1.67	2.01	47.27	25.48
Population covered by mobile cellular network (%)	10.00	10.00	62.13	56.58
Personal computers (per 100 people)	0.88	0.93	7.25	2.43
Internet users (per 100 people)	0.07	0.08	10.60	3.68
Internet subscribers (per 100 people)	0.01	0.01	3.70	0.44
Trade finance				
Export credit insured exposures – short term (per cent of goods exports)	2.09	2.33	89.37	28.10

Source: World Bank World Trade Indicator database available at <http://info.worldbank.org/etools/wti/3a.asp>.

However, to accommodate the integration of Myanmar into global trade, considerable investment in increasing its air-freight capacity and ICT connectivity is also essential. As table 7 shows, Myanmar has a negligible volume of air freight and poor coverage of ICT connectivity even when compared with the low-income country benchmark.

In addition, soft infrastructure such as trade finance is highly essential for small exporters such as small and medium-sized enterprises (SMEs). The coverage of short-term export credit covers only 2.33 per cent of goods exports, which is significantly lower than the average of low-income countries (28.1 per cent).²⁴

5. Recent reforms

Since the 2010 elections, the Government of Myanmar has embarked on a series of political and economic reforms that reflect the Government's willingness to re-engage with the international community. The reforms include the release of pro-democracy leader Aung San Suu Kyi from house arrest, the establishment of the National Human Rights Commission, general amnesties for more than 200 political prisoners, the implementation of new labour laws that allow labour unions and strikes, the relaxation of press censorship, and the regulation of foreign exchange currency practices. The recent reform as well as the revision and implementation of the latest foreign investment law have created the basis for the country to benefit from a stronger non-resource sector and integration into regional production networks (ESCAP, 2012a).

5.1. Exchange rate reform

On 1 April 2012, the start of Myanmar's fiscal year, the Central Bank of Myanmar replaced a pegged exchange rate with a managed floating exchange rate for the national currency. It is now expected that multiple exchange rates of its national currency,²⁵ which have been an important obstacle to international trade and foreign direct investment for more than 50 years, will finally be solved. IMF mission chief Meral Karasulu stated, that in recent month the exchange rate had appeared stable which has led to international reserves increasing to US\$ 4 billion (McLaughlin, 2012). While the managed float system allows market forces to determine the value of the kyat the Central Bank is reserving some flexibility in influencing the exchange rate. Under the new managed float, the kyat is being traded at near the current free-market rate, fluctuating between 800 and 830 kyat for one United States dollar. The reference rate has been set by the Central Bank at 818 kyat, with a fluctuation band of 2 per cent on either side of this rate.

²⁴ Short-term export credit insured exposures represent a country's export credit, direct insurance or lending, with credit terms up to and including 12 months as a percentage of goods exports.

²⁵ A multiple exchange rate regime comprises an official exchange rate that coexists with informal parallel market exchange rates.

However, the process of exchange rate unification is still in the initial phase, and the completed unification is yet far from completion. Myanmar has to work on: (a) removing its complex exchange rate restrictions; (b) creating a formal foreign exchange market and necessary financial market infrastructure; and (c) setting out a monetary policy framework and a proper management system; and (d) financial market and banking regulation. These reforms are vitally important, especially in the light of the strong appreciation of the parallel market exchange rate in past years,²⁶ driven by large inflows of FDI, which has worsened the competitiveness of the country. As indicated by Meral Karasulu, Deputy Division Chief, Asia Pacific Department of the International Monetary Fund, “the unification of the exchange rate would require moving away from the ‘export first’ policy” (IMF, 2012), as it will probably lead to high FDI inflows. However, the appreciation pressures can be counteracted by relaxing exchange restrictions on current international payments and transfers, as was done in September 2011 when foreign currency purchases for a car import programme, and for health and travel expenses abroad from apposite foreign exchange counters.

5.2. Revision of the foreign investment law

The new foreign investment law, for which the full code has not been published, is actually a revision of the Myanmar Foreign Investment Law of 1988 (Table 8). It sets out incentives for FDI, land-use terms and legal structures to address concerns expressed by foreign investors.

Table 8: Evolution of the Foreign Investment Law between 1988 and 2012

1988	2012
The foreign investment ratio is 50% maximum and 35% minimum in 13 restricted sectors	Foreign investment ratio is negotiable between the investor and the local partner ²⁷
Foreigners cannot own full stake in businesses without any local partner	A ban on 100% foreign ownership of ventures in certain sectors only, with the permitted foreign ownership percentage likely to be published in the FI Rules ²⁸
--	New labor requirements concerning the usage of local staff in skilled and unskilled positions
Land-use rights for up to 30 years, extendable to thereafter for two additional 15-year terms	Land-use rights of up to 50 years, extendable thereafter for two additional 10-year terms
The period of exemption from corporate income tax is 3 years	The period of exemption from corporate income tax is 5 years, retention of the previous Law's discretionary tax benefits, and addition of some customs duty and commercial tax exemptions for exports
Government will never grant foreigner entrance into restricted sectors	The additional requirement to obtain certain state and regional approvals for foreign projects that must be approved by the national MIC
--	The inclusion of new activities, such as import substitution, for which an investment permit must be obtained from the MIC
--	The stipulation of investors' rights and duties, based on similar provisions in the Myanmar Citizens

²⁶ A nominal appreciation of 23 per cent and a real appreciation of 29 per cent have been registered since the end of fiscal 2009/10 (IMF, 2012).

²⁷ A new capital requirement minimum will be specified in the FI Rules; until then, the current minimum of US\$500,000 for industrial projects and US\$300,000 for services-related projects will still apply.

²⁸ The restricted sectors include public health; natural resources and the environment; manufacturing and services operations that Myanmar citizens are capable of handling (to be specified in the FI Rules); and agriculture, livestock raising, and fisheries (to be specified in the FI Rules)

	Investment Law
--	A guarantee that, after the investment period has expired, the investor can remit investment gains overseas in the same foreign currency that it brought in at the outset
A guarantee against nationalization to the effect that without "sufficient cause," approved investment activities will not be terminated during the contract period or its extension	A guarantee against nationalization to the effect that approved investment activities will not be terminated during the contract period or its extension

Source: The New Library of Congress (2012).

The enactment of the new and final version of the Myanmar Foreign Investment Law had been delayed several times, and it was subject to significant revisions in the Parliament. The final version of the law includes several areas of special interest to foreign investors, as follows.

1. It will grant a five-year income-tax exemption to a foreign company with a permit issued by MIC for an investment project. In addition to that, preferential tax treatments for the reinvestment of profits or deduction for taxable income are available to foreign companies holding a MIC permit.

2. The new law purportedly allows foreigners and foreign companies to obtain leasehold for real estate for 50 years, with two extensions of 10 years each, depending upon the size of the investment. Moreover, foreign investors will be allowed to lease privately-owned land, while the 1988 law only allowed leases of land owned by the Government (Thidar Kyaw and Shwe Gaung, 2012).

3. It sets out the obligation for foreign companies to employ local workforce in skilled positions on the basis of increasing the share of local employees: in the first two years, Myanmar nationals must constitute at least 25% of the workforce; in the second two years, at least 50%; and in the third two years, at least 75%. With regard to unskilled position, the law requires that only Myanmar citizens may be employed (Archibald, J. S. and others, 2012).

4. The new law gives investors the opportunity to negotiate the foreign investment ratio, which has been set to a minimum of 35% and a maximum of 50% in 13 restricted areas since 1988, Now investors can negotiate these ratios with local partners, under the control of the MIC, making the foreign entry into restricted areas more likely than it was in the past.

5. Foreign investment activities will not be exposed to the danger of termination during the contract period any longer. The law of 1988 could only issue a guarantee against nationalization with "sufficient cause", which gave the state of Myanmar great power over foreign investors.

Overall, the new FIL gives hope to all foreign investors since it does not only impose duties but also grants rights to them.

6. Next steps for integration into global and regional economy

In addition to reforms that have been already started, there are many other regulatory, institutional and other reforms and changes that need to be undertaken to enable Myanmar's tighter integration in the regional and global economy. Obviously, issues of sequencing are also crucially important and the experiences of a number of countries undergoing reform to introduce market economies into former socialist planned economies could be considered here in order to prevent wasting of time and resources. Starting with already initiated reforms in macroeconomic management (to be joined by labour market, fiscal and some other policy reforms), attention is to be given to improving the competitiveness of products and services. Strengthening the business sector could be done by reforming regulations relevant to the operation of SMEs and other firms, but it needs to be carried out in consultation with the business sector and by building on the experience of other ASEAN countries.

Regarding the issues of sequencing, the immediate priority for economic restructuring should be a policy mix to manage strong capital inflows that will enter Myanmar's economy. Setting up a proper monetary-policy framework and building a financial-market infrastructure to support exchange rate unification should be among the priority measures. Exchange rate restrictions that give rise to foreign exchange market segmentation should be removed gradually and across the board. In parallel, Myanmar should prepare for the potential downside of foreign capital inflows. Although such inflows could bolster economic growth through investment channels (FDI and the increase in credit), the combination of capital surge and existing exchange rate restrictions will create pressure for currency appreciation, which would easily erode the external competitiveness of Myanmar's export sector. The concerns about external competitiveness are more relevant to the agriculture and labour-intensive sectors than natural resource-based exports that are still riding the high (and rising) commodity price wave in the world market.

Over the longer term, proper policy mixes towards economic diversification and specialization are essential to building a sustainable and inclusive development strategy for Myanmar. Currently, almost half of the foreign-exchange revenue of Myanmar comes from natural resource-based exports. This may be necessary in view of the current massive needs for development. However, heavy reliance on income from natural resource-based sectors could lead to growth in unemployment and long-term structural problems such as rising income inequality, de-industrialization (Dutch disease), and environmental degradation. Therefore, the Government should utilize its resource-based revenues to invest in infrastructure and human capital, in order to pave a way for economic diversification and specialization for sustainable and inclusive development of Myanmar (ESCAP, 2012b).

Meanwhile, the international community should help Myanmar to bridge its many capacity gaps. According to the Enabling Trade Index 2012 recently released by the World Economic Forum, the most problematic factors for exporting are "(a) identifying potential markets and buyers, (b) access to trade finance and (c) access to imported inputs at competitive prices" (see figure 1, page 5 of the Index). The first factor, referring to the ability of firms to identify a lucrative market, has indeed been identified by both Myanmar's private sector and the country's policymakers²⁹ as the most restrictive factor in their export revival, which is not surprising given the long period of absence of contacts with international markets by many of small local firms. In addition to a series of training courses, links to sources of trade finance and business contacts that could be provided by organizations such as ESCAP, together with its partners, the urgent establishment of a Trade Support Institution (by using the Aid for Trade mechanism) would ensure the continuous development of the local capacity of firms to engage in international trade (see box article, "The role of Trade Support Institutions").

The role of Trade Support Institutions

Trade Support Institutions (TSIs) have a role to play in providing strategic direction, and in implementing more focused and specialized programmes for enhancing intraregional trade and investment through identifying potential areas for export development. Managers of enterprises feel the effect of economic uncertainty in their traditional export markets and struggle to interpret the changing economic climate and identify opportunities. TSIs can provide a number of support services to assist firms to successfully identify and translate intraregional trade opportunities into transactions.

The initial step could be to identify products that are currently exported by one or more countries in the region to the rest of the world, and simultaneously imported by that same region from the rest of the world. The simple fact that such products are imported into the region provides an indication of existing demand and that those same products are exported by countries around the world, provides a further indication of existing supply under competitive conditions. It is critical that the results of this initial research are

²⁹ E-mail communication from the Ministry of Commerce of Myanmar.

disseminated to relevant trade-related organizations in a given region for a review and for a “short listing” of products that are important to their national economic development objectives.

Subsequently, a country may consider organizing product selection workshops to agree on the priority products and sectors that intraregional trade promotion activities need to focus. It may be useful to validate statistical data obtained from the trade flow analysis through supply and demand surveys. Supply surveys provide information on exporters and their products, including technical features, packaging, export availability, prices and commercial conditions. Demand surveys include information on importers, their requirements, and the dynamics of the markets. It may also be useful to organize trade forums and seminars in order to provide platforms for business negotiations and transactions among importers and exporters of a specific product group. During such meetings, existing opportunities and obstacles to trade expansion can be identified.

The use of the Internet and social networks has made it easier for small companies to tackle the challenge of visibility and establish reputation. This trend creates a whole series of opportunities for SMEs, particularly in the technology and outsourcing sectors. TSIs can provide technical expertise to assist SMEs to enter target markets, support in market intelligence, design, packaging, standards and quality, and pricing and promotion. Trade fairs are useful for networking, benchmarking and learning from competitors as well as for meeting distributors and buyers. TSIs also need to assist enterprises in improving their capacity to meet quality requirements, using the domestic market for research and development, ensuring that enterprises are sufficiently prepared to obtain financing as well as helping exporters find the right slot in global supply chains.

Source: ESCAP, 2012c.

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