About the WTO

The World Trade Organization deals with the global rules of trade between nations. Its main function is to ensure that trade flows as smoothly, predictably and freely as possible.

About Trade Policy Reviews

Monitoring of national trade policies is a fundamentally important activity running throughout the work of the WTO. At the centre of this work is the Trade Policy Review Mechanism (TPRM). All WTO members are reviewed, the frequency of each member's review varying according to its share of world trade.

For more information

More information on Trade Policy Reviews can be found on the WTO website: www.wto.org/tpr

Where to find more online

30.1.2015

Contents

Trade Policy Review – Myanmar 2014

The Trade Policy Review of Myanmar took place on 11 and 13 March 2014.

Introduction

The Trade Policy Review Mechanism (TPRM) was first established on a trial basis by the GATT contracting parties in April 1989. The Mechanism became a permanent feature of the World Trade Organization under the Marrakesh Agreement which established the WTO in January 1995.

The objectives of the TPRM are to contribute to improved adherence by all WTO members to rules, disciplines and commitments made under the Multilateral Trade Agreements and, where applicable, the Plurilateral Trade Agreements, and hence to the smoother functioning of the multilateral trading system, by achieving greater transparency in, and understanding of, the trade policies and practices of members. Accordingly, the review mechanism enables the regular collective appreciation and evaluation of the full range of individual members' trade policies and practices and their impact on the functioning of the multilateral trading system. It is not intended to serve as a basis for the enforcement of specific obligations under the Agreements or for dispute settlement procedures, or to impose new policy commitments on members.

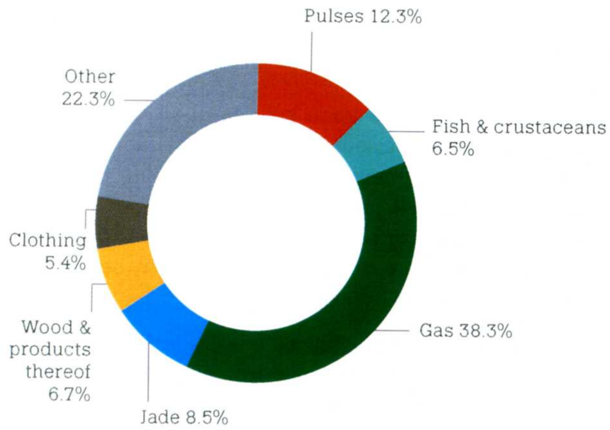
The assessment carried out under the TPRM takes place, to the extent relevant, against the background of the wider economic and developmental needs, policies and objectives of the member concerned, as well as its external environment. However, the function of the review mechanism is to examine the impact of a member's trade policies and practices on the multilateral trading system.

Under the TPRM, the trade policies of all members are subject to periodic review. The four largest trading entities in terms of world market share, counting the European Union as one, are reviewed every two years, the 16 next largest trading entities every four years, and other members every six years; a longer period may be fixed for least-developed countries.

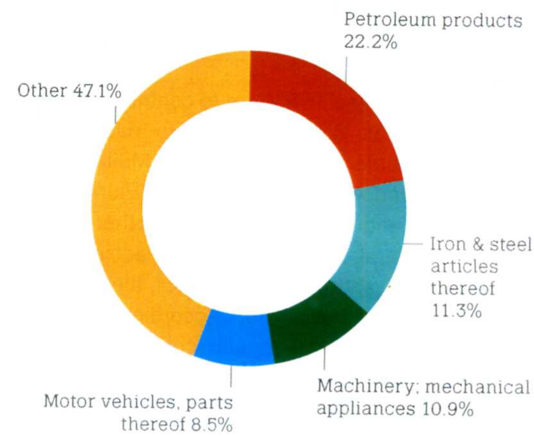
The reviews are conducted by the Trade Policy Review Body (TPRB) on the basis of two documents: a policy statement by the member under review and a comprehensive report drawn up by the WTO Secretariat on its own responsibility.

Key trade facts

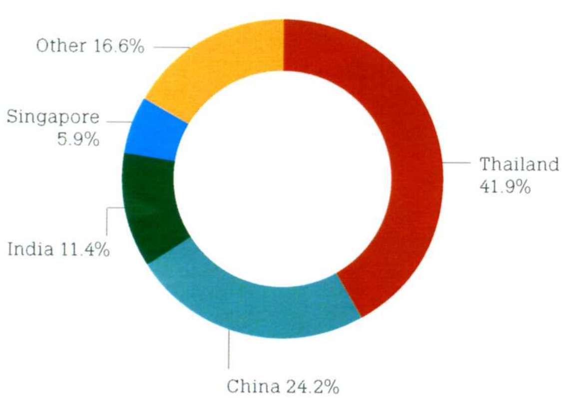
Merchandise exports by product, 2011-12



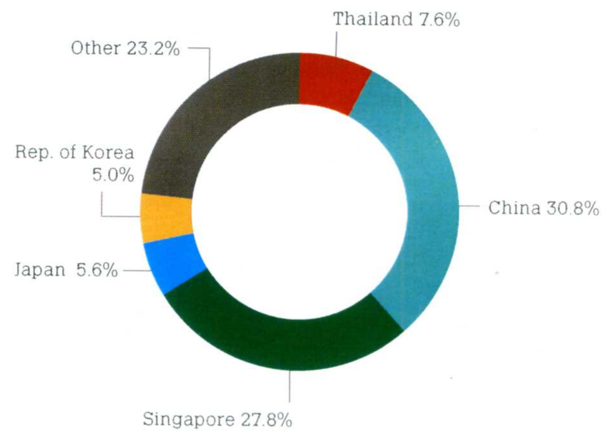
Merchandise imports by product, 2011-12



Destinations of merchandise exports, 2011-12



Origins of merchandise imports, 2011-12



9.1 Total exports of merchandise goods (billion US$), 2011/12

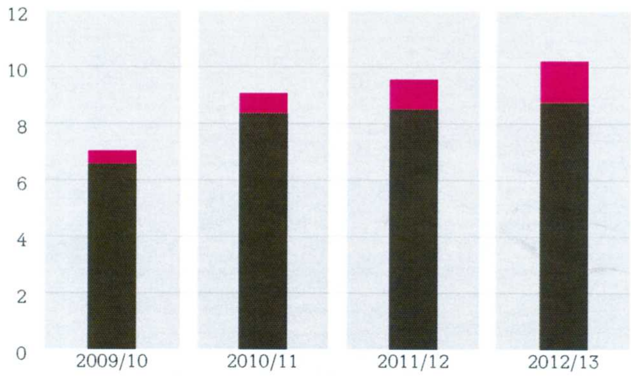
9.0 Total imports of merchandise goods (billion US$), 2011/12

Real GDP growth, 2009-12

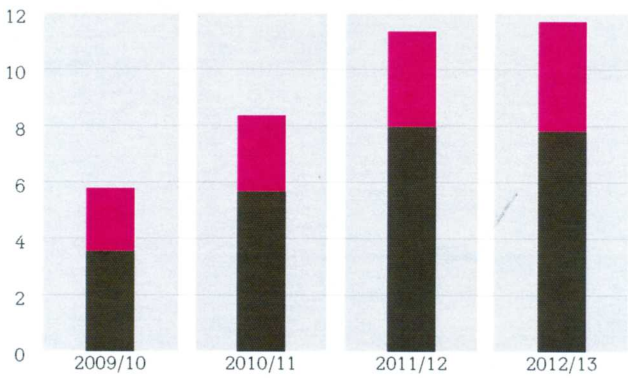
5.9% in 2011-12

Real GDP (IMF estimates)

Exports of goods and services (US$ billion), 2009-13



Imports of goods and services (US$ billion), 2009-13



60.4 Population (million) 2011/12

56.2 Current GDP (US$ billion) 2011/12

Part A

Concluding remarks by the chairperson of the Trade Policy Review body, H.E. Mr Joakim Reiter at the trade policy review of Myanmar, 11 and 13 March 2014

Concluding remarks by the Chairperson

This first trade policy review of Myanmar has provided an excellent opportunity to improve our understanding of Myanmar's trade and investment policies. I would like to sincerely thank Dr. Pwint San, Deputy Minister of Commerce, Ambassador Maung Wai, Permanent Representative of Myanmar to the WTO, and the whole of the Myanmar delegation, for their open, frank, and constructive engagement throughout this exercise. I would also like to thank Ambassador Hamish McCormick, Permanent Representative of Australia to the WTO, for his insightful interventions as discussant. Myanmar's written answers to around 200 advance written questions have been well appreciated by Members and we look forward to its replies to the additional questions, no later than three months after this meeting.

This first trade policy review of Myanmar has provided an excellent opportunity to improve our understanding of Myanmar's trade and investment policies. I would like to sincerely thank Dr. Pwint San, Deputy Minister of Commerce, Ambassador Maung Wai, Permanent Representative of Myanmar to the WTO, and the whole of the Myanmar delegation, for their open, frank, and constructive engagement throughout this exercise. I would also like to thank Ambassador Hamish McCormick, Permanent Representative of Australia to the WTO, for his insightful interventions as discussant. Myanmar's written answers to around 200 advance written questions have been well appreciated by Members and we look forward to its replies to the additional questions, no later than three months after this meeting.

Myanmar has undergone tremendous change in the last few years. Members strongly welcomed Myanmar's political and economic re-orientation, allowing the country – after decades of isolation – to seriously begin the path of re-integrating into the global economy, thereby putting itself on a much more promising development trajectory. With respect to some key reforms already undertaken in the past three years, aiming to transform its previously centrally planned economy to a market economy, Members praised Myanmar for: its macroeconomic reforms, not least its reforms of the exchange rate regime; the adoption and revision of a number of trade related legislation, such as the enactment of the new foreign investment law in 2012; and its steps towards trade liberalization such as the removal of non-automatic import licensing requirements on a number of commodities and elimination of export taxes on various commodities. Members noted that this reorientation has already born fruit, illustrated by *inter alia* higher growth rates and increased foreign investment, and strongly encouraged Myanmar to continue on this new reform path that it has laid out for itself.

Nonetheless, Members also recognised that Myanmar still had a long way to go. Many more reforms were needed, some of which Myanmar already is envisaging in the near future, such as: the planned enactment of new competition policy and consumer protection laws; work towards new legislation on patents, copyrights, trademarks, and industrial designs, as well as discussion on the creation of a single national intellectual property office and a specialized court; a revision of the foreign investment law including a reduction of the number of restricted sectors. Beyond welcoming these, Members called for further opening-up, streamlining and simplification of trade and related policies and procedures. Members also encouraged that Myanmar would give transparency a central role in its ongoing reform efforts. Such actions would help Myanmar establish a stronger foundation for a market economy by improving public accountability, enhancing the rule of law, reducing corruption, and providing traders with information they need to do business and connect to global supply chains.

Members commended Myanmar for all the efforts to participate in its first TPR, as a sign of its renewed commitment to the WTO and the principle of transparency. Members appreciated Myanmar's clearly expressed commitment to the multilateral trading system, as well as to the conclusion of the DDA, and encouraged Myanmar to increase both its participation in WTO meetings and its attention to WTO obligations, including notifications. With respect to regional agreements, Members noted that Myanmar had actively participated in regional integration and cooperation initiatives. As a member of the ASEAN, and through ASEAN's relationship with its neighbouring countries, Myanmar was increasingly becoming integrated with its regional trading partners. Some Members looked forward to further progress in achieving the targets of the ASEAN Economic Community under Myanmar's ASEAN Chairmanship this year.

Other areas for potential improvements raised by Members during the review included the following. We have taken due note of the comments provided today by Deputy Minister Pwint San in this regard.

- **Foreign investment and business environment:** Members were pleased to see Myanmar's efforts to improve its business environment for foreign investors, and called for further efforts for its improvement. Members encouraged Myanmar to further open up its investment regime by reducing the number of prohibited or restricted sectors, and to make further progress in areas such as investor protection, contract enforcement, and facilitate business start-ups. Members also stressed that proper dissemination of information regarding various new draft legislation and trade- and investment-related laws and regulations on-line, and appropriate consultation with stakeholders before introducing new policies and measures, are essential for predictability for investors, as well as traders. Among other things, some Members sought more information about Myanmar's plans to establish Special Economic Zones and the details of any investment incentives and privileges for investors.
- **Customs procedures, customs valuation and trade facilitation:** Members welcomed Myanmar's initiatives to improve trade facilitation, including efforts to adopt a national single window. Some Members encouraged Myanmar to implement the WTO Customs Valuation Agreement. Similarly, a large number of Members underlined the need of further reforms to the still rather burdensome import and export licensing regime, both horizontally and for certain sectors such as automobiles.
- **Tariffs and other taxes:** Although Members acknowledged Myanmar's relatively low average applied MFN tariff, many Members were concerned about the significant difference between the average applied MFN tariff and the average bound rate. The fact that less than one fifth of the tariff lines are bound also gives the authorities considerable scope to raise tariffs, thereby making the tariff quite unpredictable. Members encouraged Myanmar to address this as well as to consider simplification of tariffs including the large number of nuisance duties. Members also encouraged Myanmar to address existing differential tax rates between domestically produced goods and imports in domestic taxes, and called for further transparency of the tax regime.
- **State-owned economic enterprises (SEEs) and state involvement in the economy:** While noting past progress in privatization, Members encouraged Myanmar to further proceed with privatizing SEEs, which still were dominant in a number of sectors, as well as to ensure that they operate on the basis of market conditions. Members noted that Myanmar had not notified to the WTO its state trading activities, and urged Myanmar to submit notifications for transparency.
- **Agriculture and SPS:** Members were encouraged by the fact that Myanmar did not resort to domestic support measures or export subsidies. Nonetheless, given the importance of agriculture for effective poverty reduction, Members noted its low labour productivity and a lack of credit extended to agriculture. Some Members considered that increased openness to foreign investment in agriculture could help spur innovation. On SPS and standards, some Members expressed concerns about the period given for comments when new standards are being introduced in Myanmar while appreciating Myanmar's efforts to use international standards.
- **Services:** Members welcomed Myanmar's moves to open up a number of its services sectors, including the recent issuing of telecommunication licences to foreign companies, promoting public-private partnership in transport, allowing 100% foreign equity participation in hotel and related businesses, and the central bank's efforts to develop a master plan for the financial sector. Members encouraged Myanmar to continue these efforts to boost competitiveness of services through further opening up of the foreign investment regime and improvement of the regulatory environment and business climate.

Members not only acknowledged Myanmar's capacity constraints as a least developed country, but also identified numerous trade-related technical assistance needs. A number of Members expressed their readiness to provide capacity building, including in intellectual property, transparency and notifications, electricity (hydropower) etc. Many Members also considered that the needs could be responded to by the WTO technical assistance in conjunction with the Enhanced Integrated Framework Process, including through a follow-up workshop in Myanmar on this review. A number of Members supported Myanmar's expressed ambitions to ensure social justice and environmental protection as it develops. In this context, Members also welcomed Myanmar's initiative in promoting transparency in extractive industries. In mining, as well as in forestry, Members encouraged Myanmar's efforts to promote environmentally sustainable production.

The participation of a sizeable number of delegations in this meeting and the large number of questions posed during this trade policy review indicated the clear importance of Myanmar as a trading partner for WTO Members. I hope, therefore, that this review will be of use for Myanmar to promote active participation in the multilateral trading system so that it will continue to shape its trade policies accordingly, both for its own benefit as well as for the benefit of all those who are part of the system. As Members acknowledged, whereas the country's challenges are formidable, Myanmar's abundance of natural resources, favourable geographical location and young population all provide enormous potential for future growth and development. But it will be equally important for Myanmar to intensify further its internal reforms, advance its liberalization of trade and investment, and increase transparency, in order to best harness these tremendous opportunities. In closing, therefore, I would like to thank the delegation of Myanmar, all the other delegations, the discussant and the Secretariat for this very successful first review of trade policies of Myanmar.

Part B

Report by the WTO Secretariat

This report was drafted by Masahiro Hayafuji, Zheng Wang, Usman Ali Khilji, and Maïka Oshikawa.

Summary

Reforms since 2010 have paved the way for Myanmar's reintegration into the international community, after having been isolated from a large part of the global economy for many years. Consequently, real GDP growth has been rising; it was estimated at 5.9% in 2011/12 and 6.4% in 2012/13. Myanmar's per capita GDP was around US$900 at the end of March 2012.

Myanmar has embarked on a series of reforms in its macroeconomic policies. On 1 April 2012, the Central Bank of Myanmar replaced a pegged exchange rate (to the SDR) with a managed floating exchange rate for the national currency. Prior to the reform, Myanmar had a multiple exchange rate regime comprising both the official exchange rate and the informal parallel market exchange rates. Previously, monetary policy in Myanmar was determined by the financing needs of the fiscal deficit, which resulted in high inflation. With a view to providing greater operational autonomy to the Central Bank and improving the monetary transmission mechanism, the new Central Bank Law was enacted on 11 July 2013. The new law provides for Central Bank autonomy, enabling it to function independently of the Ministry of Finance.

Myanmar's merchandise exports accounted for about 16% of GDP in 2011/12; main exports included gas, jade, wood and wood products, and fish and crustaceans. Its merchandise imports also accounted for about 16% of GDP; main imports included petroleum products, and iron and steel and articles thereof. Myanmar's main export destinations in 2011/12 were Thailand, China, and India, and its main import suppliers were China, Singapore, and Thailand.

Myanmar has large potential for growth, with a young labour force, abundant natural resources, and proximity to a fast-growing dynamic economic region. However, significant impediments remain to modernizing Myanmar's economy and meeting the Government's goal of "fostering inclusive broad-based growth and poverty reduction". These include the lack of capacity and infrastructure.

Myanmar is an original Member of the WTO, and this is its first Trade Policy Review. Myanmar considers that the multilateral trading system can bring a wide range of opportunities for Myanmar's exports and overcome its supply-side constraints. At the same time, Myanmar's trade policy is strongly influenced by its participation in ASEAN, and ASEAN's free-trade agreements with third countries. Myanmar expects to benefit from GSP schemes reinstated by the EU and Norway. Myanmar has not been party to any dispute settlement proceeding at the WTO, as complainant, respondent, or third party.

In the context of economic reforms, the Government has adopted measures to open up the economy and has been revising trade-related legislation. Myanmar is preparing a competition law, a Consumer Protection Law, and comprehensive IPR legislation, among others. Recognizing that the economy needs foreign capital and technology for continuous and sustainable development, the Government promulgated the new Foreign Investment Law in 2012, which generally allows FDI except in activities that are restricted or prohibited. Under the Law, tax incentives are granted on profits accrued from exports, and foreign companies must employ a local workforce on the basis of increasing the share of local employees over time.

Myanmar has bound 18.5% of its tariff lines at the HS eight-digit level. All agricultural lines (WTO definition) are bound, compared with only 5.7% of non-agricultural lines. Final bound tariffs range from 0% (e.g. electrical machinery and transport equipment) to 550% (e.g. chemicals, beverages, and tobacco, and cereals and preparations). The average applied MFN tariff was 5.5% in 2013. Myanmar grants at least MFN treatment to all its trading partners. Myanmar has not yet applied the provisions of the WTO Customs Valuation Agreement. It has no anti-dumping, countervailing, safeguards or subsidies legislation in Myanmar.

In 2012, Myanmar began to reform its non-automatic import licensing regime. Previously, importers of all merchandise required a non-automatic import licence before import, and it took several weeks to obtain an import licence. In April 2013, import licensing requirements for 166 products (over 1,928 tariff lines at the HS eight-digit level) were abolished. Myanmar does not impose tariff-rate quotas. Myanmar has not made a notification regarding its state-trading activities to the WTO.

Myanmar is neither party to nor an observer of the WTO Agreement on Government Procurement.

Exporters of most products require an export licence. Recently, Myanmar began restructuring its export licensing regime, and from 2013, 152 types of goods no longer require export licences. Myanmar also reformed its export tax regime in 2011. Prior to the reform, exporters had to pay commercial tax at a rate of 8%, and income tax at a rate of 2% before exporting goods. Currently, commercial tax is levied on exports of only five commodities (gem, gas, crude oil, teak, and timber).

Tax accounts for about 90% of total government revenue, and the largest source is commercial tax. However, 70 items are exempt from commercial tax if produced domestically, while imports are subject to a 5% tax, indicating different treatment for domestically produced and imported goods.

According to the authorities, the private sector's share in GDP was about 91% in 2011/12. Currently, there are 41 State-owned economic enterprises.

Agriculture accounted for about 30% of GDP in 2012/13. Labour productivity in agriculture is less than one third of the level in the rest of the economy, probably due to the high labour/low capital structure of the sector with small farms and few machines. Main crops include rice, maize,

pulses and beans, sugarcane, and cotton. Myanmar is a net food exporter. Myanmar's simple applied MFN tariffs on agricultural products (HS01-24) and industrial products (HS25-97) were 9% and 4.8%, respectively, in 2013.

Most of the natural gas Myanmar produces is exported to China. Myanmar does not export oil or oil products. Coal exports have been less than 10% of production. The manufacturing sector, which accounts for about 20% of GDP, is growing but still relatively small compared with agriculture and services.

Services account for about 38% of Myanmar's GDP. The main services activities included trade and transport/communications. Myanmar is a net importer of services. In the context of the General Agreement on Trade in Services, Myanmar made specific commitments in tourism and travel-rela ted services, and transport services; it has not made horizontal commitments or listed any MFN exemptions. In general, services are characterized by state involvement through State-owned companies and restrictions on private-sector and foreign involvement. While FDI is not entirely prohibited, no foreign companies have been conducting banking or insurance businesses (except for representative offices of foreign banks). The Government is in the process of formally issuing two new nationwide basic telecommunications licences; the two licensees are to involve foreign companies. No exclusive rights are accorded to any company in civil aviation or maritime transport. Foreign direct investment, with foreign-equity participation up to 100%, is allowed in the hotels and related businesses.

Economic environment

INTRODUCTION

Myanmar is a least developed country. According to the IMF, annual per capita income was around US$900 in fiscal year 2011/12 (1 April 2011 to 31 March 2012)[1], and approximately 25% of its population live below the national poverty line (Table 1.1). Nonetheless, various economic data from different Government sources, as well as those from different international organizations vary significantly, making them difficult to reconcile; comparison of data over years may be difficult, partly due to the existence of multiple exchange rates (p. 17). Data provided by the authorities indicate that in 2012/13, services accounted for about 37% of GDP followed by agriculture (30%) (Table 1.2). In 2011/12 (the latest year for which data were available), Myanmar's main export was fuels (mainly gas), which accounted for nearly 40% of total exports.

Myanmar has run persistent fiscal deficits for a few years, which the Government has financed by monetizing the debt. Recently, public debt as a percentage of GDP declined to about 50% of GDP as the Government cleared its external debt arrears.

While various economic sanctions effectively isolated Myanmar from a large part of the rest of the world, the reform in the Government since 2010 has paved the way for Myanmar's reintegration into the global economy. According to IMF data and the Myanmar authorities' estimates, real GDP growth has been rising and was estimated at 5.9% in 2011/12; it is estimated to be 6.4% in 2012/13. According to the IMF, inflation was around 2.8% in 2011/12; it is estimated to remain the same in 2012/13.

Table 1.1 Selected economic indicators, 2009-12

	2009/10	2010/11	2011/12
A. Income and growth (%age change, unless otherwise indicated)			
Real GDP (IMF staff working estimates)	5.1	5.3	5.9
GDP per capita at current market price (US$)	587	742	900
Exports of goods	4.7	13.9	16.6
Imports of goods	1.9	15.8	27.5
B. Prices and interest rates			
Inflation (CPI, %age change, period average)	2.2	8.2	2.8
Lending rate (%)	17.0	17.0	13.0
Deposit rate (%)	12.0	12.0	8.0-10.0
C. Government finance (% of GDP)			
Revenue	10.7	11.4	12.0
Tax revenue	3.1	3.3	3.9
Expenditure	15.6	16.9	16.6
Overall balance	-4.9	-5.4	-4.6
Total public debt	55	50	50
Domestic public debt	19	21	22
D. Memorandum items			
Current GDP (K billion)	34,958	39,847	43,368
Current GDP (US$ billion)	38.1	49.6	56.2
K/US$ (fiscal year average)	1,004	861	822
Population (million)	59.1	59.8	60.4

Note: Myanmar's fiscal year is from 1 April to 30 March.

Source: IMF (2013), Myanmar - 2013 Article IV Consultation and First Review under the Staff-Monitored Programme, IMF Country Report No. 13/250. Viewed at: http://www.imf.org/external/pubs/ft/scr/2013/cr13250.pdf [25/11/2013].

Table 1.2 Basic economic indicators, 2009-13

	2009/10	2010/11	2011/12	2012/13
GDP by economic activity, at constant prices (%age change)				
Agriculture	5.6	4.7	-0.7	2.0
Mining and quarrying	14.7	10.7	12.5	-6.7
Manufacture	18.9	20.5	10.8	8.4
Electricity, gas and water	10.0	15.4	4.0	8.2
Construction	13.8	12.5	9.0	9.3

Services	12.1	9.5	8.6	12.6
Trade	9.9	10.3	4.6	5.0
Transport and communications	16.2	7.3	13.2	22.9
Finance	30.8	37.9	106.7	40.0
Public administration	7.3	15.9	8.0	14.3
Other	11.5	12.5	15.3	14.9
Share of GDP by economic activity, current prices (%)				
Agriculture	38.1	36.9	32.5	30.5
Mining and quarrying	1.0	0.9	5.8	6.1
Manufacture	18.1	19.9	19.7	19.9
Electricity, gas and water	1.0	1.1	1.0	1.2
Construction	4.5	4.6	4.7	4.9
Services	37.4	36.7	36.2	37.5
Trade	20.3	20.0	19.3	19.4
Transport and communications	13.5	12.4	12.8	13.3
Finance	0.1	0.1	0.1	0.2
Public administration	1.6	2.3	2.1	2.6
Other	1.8	1.9	1.9	2.1

Source: Asian Development Bank online information. Viewed at: http://www.adb.org/sites/default/files/ki/2013/pdf/MYA.pdf.

Myanmar has large potential for growth, with a young labour force, abundant natural resources, and proximity to a fast-growing dynamic economic region. However, significant impediments remain to modernizing Myanmar's economy and meeting the Government's goal of "fostering inclusive broad-based growth and poverty reduction"; these include the lack of capacity and infrastructure.

The authorities realize the need for reform and have embarked on a structural reform programme, prioritizing:

- sustained industrial and agricultural development to attain poverty alleviation and rural development;
- equitable sharing of resources among regions and states, while promoting local and foreign investment;
- implementation of development programmes through community-driven participatory approaches to improve education, health, and overall living standards.

The authorities believe that full economic integration with ASEAN, as part of the implementation of the ASEAN Economic Community, will go a long way in achieving the above goals. Furthermore, they believe that macroeconomic stability is imperative to achieve the goals. As such, the reform of the monetary and exchange rate policies has been among the Government's main priorities. The authorities consider the lack of implementing capacity to be the main risk to implementing the reform programme.

MACROECONOMIC POLICIES

Exchange rate policy

Since 1977, the kyat had been pegged to the SDR resulting in an extremely overvalued currency. The peg was used essentially to allocate foreign currency that was derived from public export earnings to fund public import payments. Furthermore the "export first" policy coupled with other exchange restrictions, such as a 100% margin requirement for letters of credit, resulted in private-sector import and export transactions being conducted in parallel markets at multiple exchange rates, which were considerably lower than the official rate.[2] The exchange restrictions and multiple exchange rates increased transaction costs, discouraged FDI, and were trade distortionary.

In April 2012, the peg was replaced by a managed float. Currently the reference exchange rate is determined by a daily auction mechanism and the determined rate is allowed to fluctuate within a daily band of 0.8%. In addition, certain exchange restrictions were lifted, such as the requirement to use export earnings to fund imports. Private commercial banks were issued licences to engage in international transactions and open foreign currency accounts. As a result of these measures, the reference and informal markets rates have converged and now move broadly together.

The Foreign Exchange Management Law, which entered into force on 10 August 2012, lifted all restrictions on current payments and transfers abroad. This included all services transactions being permitted through the Swift system as well as general restrictions on the holding and use of foreign exchange, based on implementing regulations to be issued.

It would appear that several foreign exchange markets continue to operate, where multiple exchange rates are used.[3] Unifying these would further increase external competitiveness and improve the business environment. On 5 August 2013, the Yangon Interbank Foreign Exchange Market was established to unify the multiple exchange rates.

Monetary policy

In the past, monetary policy in Myanmar was determined by the financing needs of the fiscal deficit, which resulted in high inflation. With a view to providing greater operational autonomy to the central bank and improving the monetary transmission mechanism, the new Central Bank Law was enacted on 11 July 2013. The new law provides for Central Bank autonomy, enabling it to function independently of the Ministry of Finance. Additionally, the Central Bank has the mandate to set and implement monetary policy. Furthermore, under the new law, the Central Bank serves as the short-term creditor to private banks and as the supervisory body responsible for the monetary market and foreign exchange market. The Central Bank is also allowed to grant, revoke or reject licences for monetary organizations, for the stability of the monetary market. Currently, the Central Bank is in the process of drafting the implementing rules and regulations pertaining to the new law.

Official foreign exchange reserves held at state banks have been identified and their transfer to the Central Bank has started. The Central Bank has also started acquiring foreign exchange through the daily foreign exchange auctions. As a result, foreign exchange reserves in March 2012 were over US$7 billion (nearly 10 months of import coverage), compared with approximately US$2 billion in 2007/08 (3 months of import coverage).

The main objective of monetary policy in Myanmar is price stability. In this regard the Central Bank has started targeting reserve money so as to control liquidity in the economy. To achieve its reserve money target, the Central Bank conducts credit and deposit auctions twice a month. Additionally, the Central Bank sets maximum lending, minimum deposit and the Central Bank rates. Since 2011/12, the rates have been reviewed on a quarterly basis. The current Central Bank rate is 10% while the minimum deposit and maximum lending rates are 8% and 13%, respectively.

In order to encourage private sector activity, more flexibility was permitted with respect to lending and deposit rates. These may now fluctuate. Restrictions on eligible collateral have also been eased; this now includes landed property, gold and gold ornaments, machinery, agricultural commodities, fixed deposits, government securities, and personal and organization guarantees. Private-sector credit expansion was about 38% in 2011/12 and approximately 55% in 2012/13.

Fiscal policy

The 2012/13 Budget was debated in, and approved by the Parliament for the first time. Salient features of the budget were:

- State-owned enterprises were required to self-finance 78% of their working capital. This has since changed and profit-making State-owned enterprises are now required to self-finance all their working capital, while the Government will cover 20% of the working capital of loss-making enterprises;
- withholding tax on imports has been abolished;
- tax on key agricultural products has been abolished (pp. 34, 50);
- commercial tax on domestic sales was simplified (p. 34);
- public-sector employees are now required to pay income tax;
- progressivity of the income tax has been increased.

Myanmar has a very low tax-to-GDP ratio, which has resulted in persistent fiscal deficits. The Government stated that its goal of broad-based growth and poverty alleviation would require increased spending on, *inter alia,* education, health, and infrastructure, which in turn would require fiscal space. The authorities are focused on increasing the tax-to-GDP ratio as well as modernizing the overall tax administration system and processes. In this respect, the authorities have committed to setting up a large-taxpayer office (LTO) by April 2014. The authorities envisage that the LTO would introduce taxpayer self-assessment and issue taxpayer identification numbers, and serve as a model for the creation of medium-taxpayer offices and ultimately for the reform of small-taxpayer compliance methods. Going forward the authorities plan to transform the current consumption tax to either a value-added tax or a general sales tax, whichever is more suited to the economy. Furthermore, the Government plans to introduce a special commodities tax on excisable goods. These taxes are planned to be implemented by 2018/19.

Other structural changes

The Government's growth strategy is based on private-sector development and raising agricultural productivity. In this respect the restructuring of special economic zones (p. 34) coupled with the new FDI law (p. 22) is expected to drive private-sector-led growth through increased investment in infrastructure and in labour-intensive export industries. Sectors and industries identified by the Government for investment are roads, electricity generation, ports, dams, and telecommunications.

The authorities believe that agriculture is key to growth and to poverty alleviation. In this regard recent land reforms (p. 50) granted land titles or long-term leases to farmers, which is expected to increase productivity as well as more participation in the sector (only 18% of the country's land area is currently under cultivation), and create higher employment and wages. Furthermore, land ownership would allow farmers to use the land as collateral for bank loans. It would appear that taxes on certain key agricultural products were recently abolished.[4]

BALANCE OF PAYMENTS

According to data provided by the Central Bank, Myanmar's current account changed from a surplus of nearly US$1.5 billion (approximately 4% of GDP) in 2009/10 to a deficit of over US$1.3 billion (2.4% of GDP) in 2011/12 (Table 1.3). The reversal in the surplus was due to the trade surplus shrinking on account of rising imports. Imports have grown along with the demand for raw materials and capital goods as Myanmar opens up and strives for industrial development. The services

Table 1.3 Balance of payments, 2009-13

(US$ million)

	2009/10	2010/11	2011/12[a]	2012/13[a]
Current account, excluding grants	1,470.4	876.5	-1,340.0	-982.3
Official grants	85.0	64.1	41.3	28.3
Trade balance	3,019.0	2,684.0	524.9	935.6
Exports	6,575.5	8,360.2	8,488.8	8748.9
Imports	3,556.5	5,676.2	7,963.9	7813.3
Services, net	-1,770.5	-1,974.2	-2,313.5	-2,420.5
Receipts	464.1	713.9	1,077.9	1,470.6
Non-factor services	330.5	589.8	783.0	1,232.2
Transportation and insurance	149.6	177.7	206.6	228.1
Travel	68.5	285.8	356.6	621.8
Government services	33.3	31.1	33.8	46.0
Other	79.1	95.2	186.0	336.3
Factor services (investment income)	133.6	124.1	294.9	238.4
Payments	2,234.6	2,688.1	3,391.4	3,891.1
Non-factor services	566.6	853.1	1,274.5	1,284.9
Transportation and insurance	357.3	532.8	739.8	741.0
Travel	45.7	72.9	146.3	220.6
Government services	35.8	27.1	24.4	24.5
Other	127.8	220.3	364.0	298.8
Factor services	1,668.0	1,835.0	2,116.9	2,606.2
Private transfers, net	221.9	166.7	448.6	502.6
Non-monetary capital movements	1,415.2	2,630.0	2,544.3	2,080.7
Long-term, net	419.5	360.4	484.0	925.8
Disbursements	563.9	499.5	604.6	1,084.8
Repayments	-144.4	-139.1	-120.6	-159.0
Foreign direct investment	963.3	2,248.5	2,057.3	1,152.3
Other capital, net	32.4	21.1	3.0	2.6
Errors and omissions	-1,787.2	-2,782.5	-140.5	-943.2
Overall balance	1,183.4	788.1	1,105.1	183.6
Current GDP (US$ billion)	38.1	49.6	56.2	..

.. Not available.

a Provisional.

Source: Data provided by the Central Bank of Myanmar, and IMF (2013); Myanmar - 2013 Article IV Consultation and First Review under the Staff-Monitored Programme, IMF Country Report No. 13/250.

deficit was over 4% of GDP in 2011/12. Despite services receipts more than doubling due to increased travel and tourism receipts, services payments showed a much greater increase. The increase was due mainly to higher payments to joint-venture firms in the oil and gas sector.

Non-monetary capital movements increased considerably on account of significantly higher levels of foreign direct investment (FDI) in the power and oil and gas sectors. The non-monetary surplus more than offset the current account deficit, consequently the overall balance of payments showed a surplus of over US$1 billion in 2011/12, although the explanation of relatively large errors and omission compared to the size of the balance was not available.

DEVELOPMENTS IN TRADE

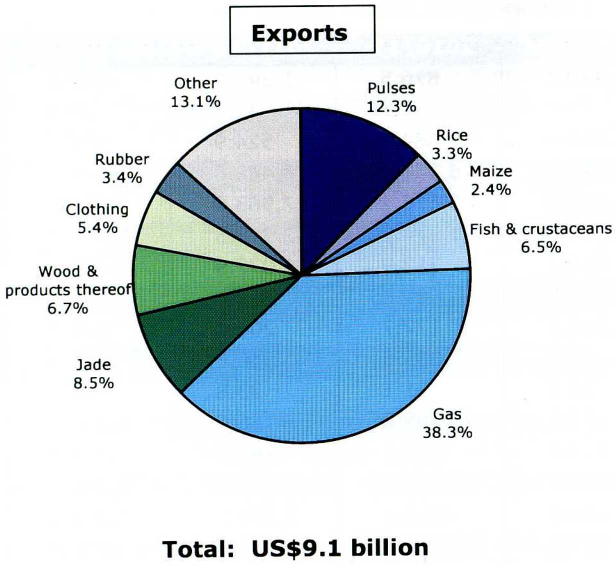
Trade data based on HS codes or a time series from the UN Comtrade database are not available.[5] Based on data provided by the Central Statistical Organization of Myanmar, in 2011/12, merchandise exports as a share of GDP were nearly 16%. Merchandise imports as a share of GDP rose from about 11% in 2009/10 to approximately 16% in 2011/12.[6]

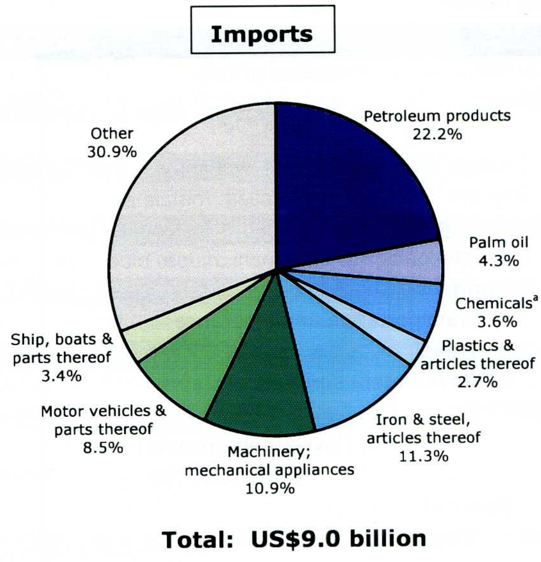
The deficit in services trade declined from about 4.7% of GDP in 2009/10 to around 4% of GDP in 2011/12.

Composition of trade

Data provided by the authorities indicate that although the share of natural gas in merchandise exports has declined slightly over the past few years, it remains Myanmar's most important export item. Other major exports in 2011/12 were jade, wood and wood products and fish and

Chart 1.1 Product composition of merchandise trade, 2011/12





a Including fertilizers and pharmaceutical products.

Source: WTO Secretariat calculations, based on data provided by the authorities.

crustaceans. Although in recent years, exports of these commodities have grown in absolute terms, their share of total exports has been falling (Chart 1.1). On the other hand the share of agricultural exports such as pulses, maize, rice, and rubber has been rising.

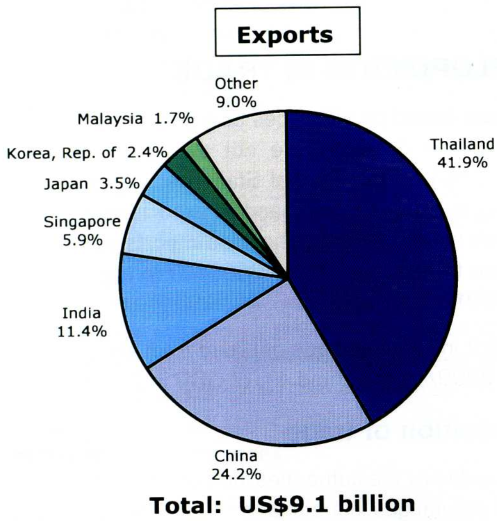
Myanmar's major merchandise imports in 2011/12 were petroleum products, and iron and steel and articles thereof (Chart 1.1). The largest import categories relate to fuel, capital goods, and industrial raw materials, and their increase may reflect the opening up and industrial growth of the Myanmar economy. Within imports, there is a large category of "other"; due to data limitations it is not clear what constitutes "other".

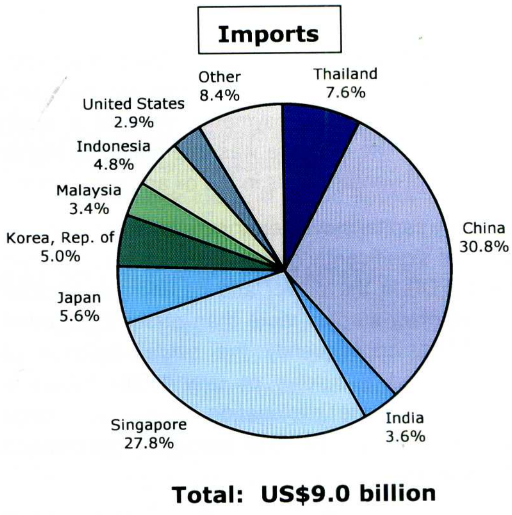
Direction of trade

Myanmar's main export destinations in 2011/12 were Thailand, China, and India. Over the past few years, Thailand's share has declined slightly, while that of China has risen. The share of India has remained unchanged. ASEAN countries accounted for over 50% of Myanmar's exports in 2011/12.

Data provided by the authorities indicate that Myanmar's main import suppliers in 2011/12 were China, Singapore, and Thailand (Chart 1.2); the share of imports from Singapore and China appear to have been rising, while the shares from Thailand and rest of Asia have shown a downward trend. Over 40% of Myanmar's imports were from ASEAN countries.

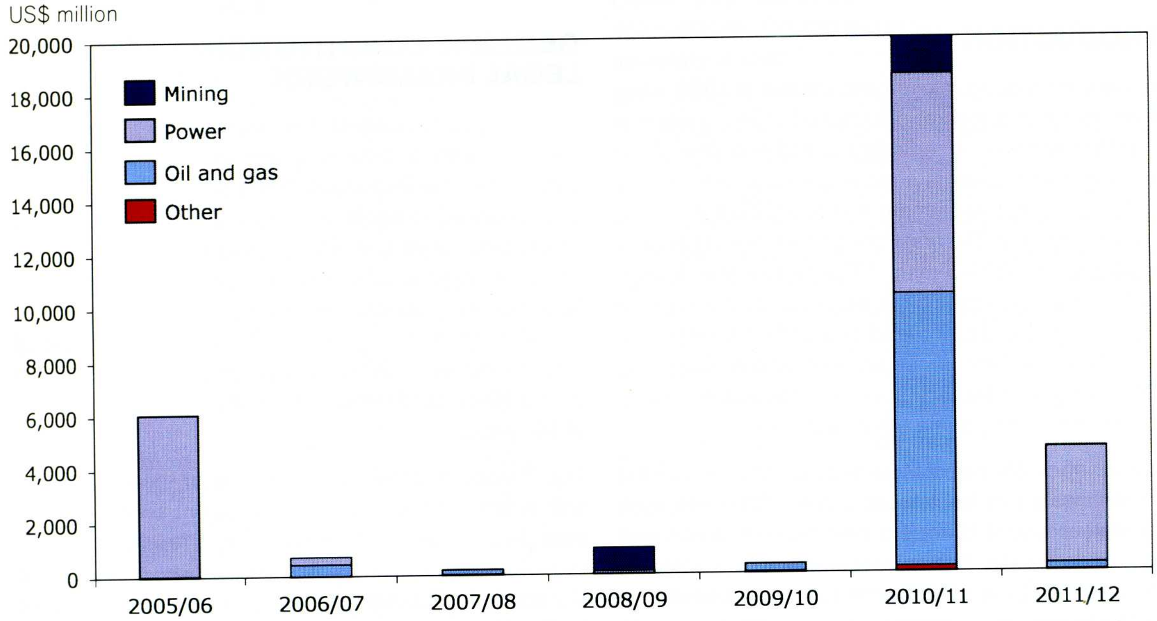
Chart 1.2 Direction of merchandise trade, 2011/12





Source: WTO Secretariat calculations, based on data provided by the authorities.

Chart 1.3 Approved foreign investment by main sector, 2005-12

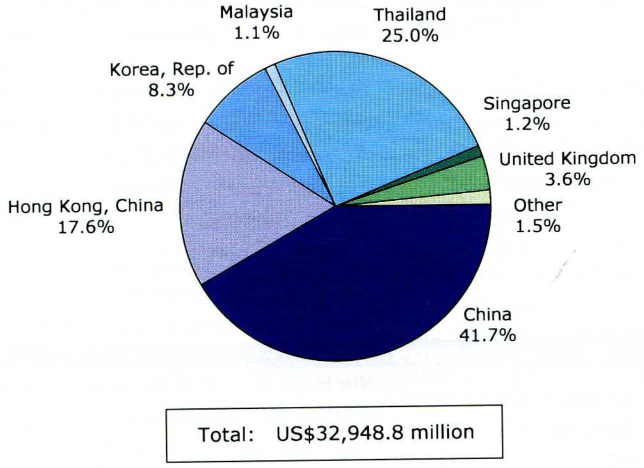


Source: Data provided by the authorities of Myanmar.

FOREIGN DIRECT INVESTMENT

Since 2005/06, FDI inflows have been volatile. In 2005/06, there was a large investment from Thailand in the power sector for a hydroelectric plant (Chart 1.3). Between 2006/07 and 2009/10, FDI inflows tapered off and did not exceed US$1 billion. However, there was a significant upsurge in FDI inflows in 2010/11 as the oil and gas, power, and mining sectors attracted considerable investment. FDI fell again to approximately US$5 billion in 2011/12. Since 2005/06, the oil and gas, power, and mining sectors have been the largest recipients of foreign investment, while the largest investors in Myanmar are China; Thailand; Hong Kong, China; Republic of Korea; and the United Kingdom (Chart 1.4).

Chart 1.4 Approved foreign investment by origin, 2005/06-2011/12



Source: Data provided by the authorities of Myanmar.

Endnotes

1 IMF (2013). The national poverty line is defined as those living on less than US$1.25/per day.

2 For example the official rate in 2009/10 was 5.7 K/US$, while the parallel rate was 1,004 K/US$.

3 IMF (2013).

4 Previously all exports were subject to income tax (2%) and commercial tax (8%), now only five products are subject to these taxes, while they have been abolished for all others including agricultural products.

5 Only 2010 data were available in the UN Comtrade database.

6 According to IMF (2013), merchandise imports as a share of GDP were 27.5% (Table 1.1).

Trade policy regime: framework and objectives

INTRODUCTION

Myanmar's main economic reforms started in 1988 when it began to adopt a market-oriented economic system in contrast to the previous centrally planned one. One of the initial steps taken towards a more open economy was to allow foreign direct investment and to encourage private sector development. The first Foreign Investment Law was promulgated on 30 November 1988; before that, foreign investment had been prohibited. However, it would appear that these reforms did not lead to substantial economic growth; there was lack of capital, international trade, and investment against the background of, *inter alia*, economic sanctions imposed by some other countries.

The current Constitution of Myanmar (its third since 1947) was promulgated in September 2008.[1] After elections in 2010, the current President (the head of State) was inaugurated and the Cabinet established on 30 March 2011. The new Government aims to conduct economic reform and open up the economy, and has issued, revised or amended a number of trade-related laws to liberalize its trade and investment regime. Through measures to simplify the trade procedure, unify the exchange rate, and promote transparency, the Government wishes to improve the business environment in Myanmar to encourage the development of the private sector and attract more foreign investment.

The Government is currently formulating the National Comprehensive Development Plan (NCDP) 2011/12-2030/31, setting out priorities and reform agendas for the next 20 years. The NCDP, which will be supplemented by Five-Year Annual and Sectoral Plans, is expected to be finalized and adopted by Parliament during 2013. While the 20-year NCDP is being finalized, the Framework for Economic and Social Reforms (FESR), adopted in late 2012, has set out ten priority reform areas for the interim period of 2012-15.[2] In accordance with the FESR, the Government recognizes that further reforms are essential, and intends to promote competition by liberalizing trade. Among the policy priorities, the Government pays special attention to two areas: import opening and investment liberalization. The Government has been taking steps to eliminate the linkage between export receipts and import licensing, considering that more flexible import arrangements will help to limit currency appreciation pressures and provide broader benefits to Myanmar producers and consumers. On investment liberalization, the Government is considering merging the 2012 Foreign Investment Law with the Myanmar Citizens Investment Law, to provide a single investment framework.

Aid for trade and trade-related technical assistance are important for Myanmar's integration into the multilateral trading system. Following a request from the Government, an assessment of the country's needs in aid for trade and trade-related technical assistance was conducted as part of this TPR and is attached in Annex 1.

GENERAL CONSTITUTIONAL AND LEGAL FRAMEWORK

According to the Constitution, Myanmar is a Presidential Republic with a bicameral legislature. The legislative power is in the Parliament (*Pyidaungsu Hluttaw*), which is empowered to adopt laws set out in Schedule I of the Union Legislative List. Pyidaungsu Hluttaw is made up of two houses: a 224-seat *Amyotha Hluttaw* (House of Nationalities: 168 directly elected and 56 appointed by the Military), and a 440-seat *Pyithu Hluttaw* (House of Representatives: 330 directly elected and 110 appointed by the Military). Members of the Parliament have a term of five years.

The President is the executive head of the Government; with a term of five years, the President serves no more than two consecutive terms.[3] The President appoints the Cabinet, which is the executive body of the Government. Cabinet members, i.e. ministers appointed by the President, are responsible for administering their respective segments of the executive branch, and advising the President on their areas.

In descending order of importance, the Constitution is followed by laws, rules, regulations, by-laws, notifications, orders, directives, and procedures. There are two procedures to formulate laws: members of either the Pyithu Hluttaw or the Amyotha Hluttaw have the right to submit bills on their own initiative, and relevant ministries may prepare draft laws. After discussions in the Parliament, the President signs the Bill approved by the Parliament within 14 days of its receipt, and then promulgates it as law. The President may send the Bill back to the Parliament for further discussion, together with his comments. If the President does not send the Bill back to the Parliament within 14 days, the Bill becomes law on the day following the 14-day period. According to the authorities, once promulgated, laws are published in national newspapers and the President Office website.

Myanmar has seven regions and seven states.[4] The administrative divisions are further subdivided into districts, townships, wards, and villages. The judiciary system is composed of the Supreme Court of the Union, the High Courts of the seven regions and seven states, courts of self-administered divisions/zones, district courts, township courts, other courts established by law, Courts-Martial, and the Constitutional Tribunal of the Union.

Based on the Corruption Perceptions Index, Myanmar ranked 172nd out of 176 countries worldwide in 2012.[5] The Government has signed the UN Convention against Corruption. In order to implement this Convention, an anti-corruption law was enacted on 17 September 2013.

DEVELOPMENT AND ADMINISTRATION OF TRADE POLICY

Main trade laws

The authorities state that trade-related domestic legislation must be formulated in line with the WTO Agreements. As these cannot be applied directly in Myanmar, domestic legislation must be adopted to apply WTO Agreements domestically. According to the authorities, when formulating trade-related legislation, relevant ministries, in particular the Ministry of Commerce and the Attorney General's Office, will assure the consistency and coherence between domestic legislation and WTO Agreements.

Many pieces of legislation are old and some date from the pre-1948 period. As the Government is undergoing economic reforms, a number of trade and investment related laws have been revised, amended or replaced. In particular, the Export and Import Law, promulgated on 7 September 2012, replaced the Control of Import/Export Temporary Law (1947). Implementing rules and regulations of the Export and Import Law are being drafted by the Ministry of Commerce. The new Foreign Investment Law, and Foreign Exchange and Management Law were also promulgated in 2012 (Table A2.1).

Myanmar is preparing other trade related laws such as a competition law, a comprehensive IP law, a standardization law, a metrology law, a consumer protection law, and a SMEs law. A new Telecommunications Law has been prepared to enable the liberalization of the telecommunications sector; the draft bill has been submitted to the Parliament for review and approval.

Agencies involved in trade policy implementation

The Central Government has ten offices including the President's Office, the Hluttaw (Parliament) Office, and the Office of the Union Supreme Court.[6] There are 36 ministries, many of which have trade-related functions (Table A2.2).

In addition, the Government organized various commissions, to facilitate its economic reform, improve the business environment, and promote competition (Table 2.1). Ministries may be members of these commissions, and ministers may serve as chairperson or secretary of specific commissions.

Policies related to international trade are formulated by the Ministry of National Planning and Economic Development (MNPED), in close cooperation with the President's Office, the Ministries of Commerce, and of Finance, and other trade-related ministries. The Ministry of Commerce (MOC) is in charge of policy coordination and implementation for all trade-related matters, and issues export/import licences. Currently, the Export Import Coordinating Committee (EICC) under the Ministry of Commerce monitors all export and import matters.[7] Various departments under the Ministry of Commerce meet regularly to coordinate trade policies and practices, and representatives from the Union of Myanmar Federation of Chambers of Commerce and Industry (UMFCCI) may be invited to participate in these meetings. Nonetheless, a number of ministries and agencies are responsible for the management of trade negotiations and implementation of different trade agreements. For example, trade negotiating and implementing authorities are located in two different ministries, i.e. MOC on the WTO, and MNPED on ASEAN. There does not appear to be a national inter-ministerial committee on trade policy formulation and implementation.

Tariffs are determined by the Ministry of Finance in consultation with the Ministry of Commerce and other concerned ministries. According to the authorities, the UMFCCI, representing the private sector, is invited for tariff and other trade policy discussions. Tariffs must be approved by the Cabinet and then adopted by the Parliament.

The authorities state that enhancing transparency in the public sector has been one of their priorities. Ministries have been using websites to publish information online. In particular, the Ministry of Commerce set up two websites through which businesses can access trade information.[8] According to the authorities, the Ministry of Commerce has been cooperating and coordinating closely with the UMFCCI and other associations, and conveys trade information and notification to those organizations in a

Table 2.1 Commissions

Commission	Chair	Main responsibility
Planning Commission	President	Participating in the reform for the "equitable and inclusive" growth of the country, where "equitable growth" means "balanced and proportional development among states and regions", while "inclusive growth" means "broad-based, shared, and pro-poor growth for the entire population". Monitoring the implementation of the Framework for Economic and Social Reforms (FESR).
Finance Commission	President	Reforming public financial management, allocating financial resources, and improving financial situation of the country.
Privatization Commission	Vice President	Privatization of state entities, to improve the economy of the State through developing the private sector, and helping to transform the economy to market oriented.
Myanmar Investment Commission (MIC)	Minister from the President Office	Foreign and domestic investment.

Source: Information provided by the authorities.

timely manner. The Ministry of Commerce publishes a weekly *Commerce Journal*, and a monthly *Trade News* booklet, providing trade-related information.

TRADE POLICY OBJECTIVES

The authorities state that Myanmar's trade policy objectives include: "systematically" implementing trade policies in accordance with the market-oriented economic policy; producing value-added products from primary goods to increase value-added in exports; promoting international trade; and facilitating exports and imports.

The Government has been promoting exports by exploring new export markets, and promoting exports of traditional and value-added products; its import policy, *inter alia*, is to boost imports of capital goods, which are considered by the authorities as the major requirement of the economy, as well as construction materials, hygienic materials for people's health, and goods that support export-promotion activities.

Trade promotion organizations include the Ministry of Commerce, and the UMFCCI. A Trade Promotion Department was set up under the Ministry of Commerce in April 2013, to promote exports and to facilitate imports through: facilitating the trading activities of the private sector and SMEs, setting up trade financing schemes, collaborating with international organizations for market expansion, encouraging the development of SEZs, and promoting value-added product exports.

TRADE AGREEMENTS AND ARRANGEMENTS

Multilateral agreements

Myanmar is an original Member of the WTO; this is its first Trade Policy Review.[9] The authorities state that Myanmar believes in trade liberalization and desires free and fair international trade. The authorities consider that Myanmar's foreign trade policies are governed by the rules-based multilateral trading system.[10] It grants at least most-favoured-nation (MFN) treatment to all its trading partners. Myanmar has bound 18.5% of its tariff lines (all tariff lines under WTO agriculture), with the simple average final bound rate at 87.2% (p. 34). Myanmar undertook specific commitments under the GATS in tourism and travel-related services (p. 56), and did not list any exemption to the principle of MFN treatment in its GATS commitment.

The authorities consider that the multilateral trading system can bring a wide range of opportunities for Myanmar's exports and overcome its supply-side constraints. Myanmar has been participating in the Doha Round, aiming to make sure that 100% duty-free, quota-free market access will be granted to LDCs by the end of the Round. The Government wishes to take advantage of the special and differential treatment provisions and technical assistance offered to LDCs, to meet the Government's economic objectives.

The authorities state that since the current Government took office in April 2011, trade policy reform measures have been formulated in line with WTO commitments. Trade opening and facilitation measures have been adopted, in particular the import/export licensing requirements on a number of products was lifted.

Myanmar has not been party to any dispute settlement proceeding at the WTO, as complainant, respondent, or third party. At end-September 2013, Myanmar had 49 notifications outstanding in the WTO Central Registry of Notifications.[11] Many of its notifications are old, and the relatively recent notifications were sent together with other ASEAN members (Table 2.2).

Table 2.2 WTO notifications, 31 October 2013

WTO Agreement	Requirement/content	WTO document and date
Agreement on Agriculture		
Article 18.2	Domestic support	G/AG/N/MYN/5, 7/10/2005 G/AG/N/MYN/1, 20/12/2001
Article 10 and 18.2	Export subsidies	G/AG/N/MYN/6, 7/10/2005 G/AG/N/MYN/4, 15/11/2004 G/AG/N/MYN/3, 26/06/2003 G/AG/N/MYN/2, 20/12/2001
Agreement on Textiles and Clothing		
Article 2:7	Textile Monitoring Body	G/TMB/N/177/Add.1, 10/03/1999 G/TMB/N/177, 12/06/1996
Article 6:1	Textile Monitoring Body	G/TMB/N/118, 17/08/1995
Enabling Clause, GATS		
Paragraph 4(a) of the Enabling Clause Article V:7(a) of GATS	Regional trade agreement	S/C/N/560, WT/COMTD/N/33, 08/07/2010
Enabling Clause - RTA		
Paragraph 4(a)	Regional trade agreement: ASEAN - India Free Trade Area	WT/COMTD/N/35/Add.1, 31/05/2012 WT/COMTD/N/35, 23/08/2010
GATS Article III:4 and/or IV:2		
Articles III:4 and IV:2	Enquiry point notified to the Council for Trade in Services	S/ENQ/78/Rev.8, 3/11/2005

GATS Article V:7 (a)		
Art V:7 (a)	Agreement Establishing the ASEAN-Australia-New Zealand Free Trade Area	WT/REG284/N/1, S/C/N/545, 9/04/2010 WT/REG284/N/2, S/C/N/545/Add.1, 9/05/2012
Art V:7 (a)	Korea-ASEAN FTA	S/C/N/559/Add.1, 3/05/2011 S/C/N/560/Add.1, 3/05/2011
GATT 1994 Article VI (Contingency measures)		
Articles 18.5 and 32.6	Anti-dumping, subsidies, and countervailing measures	G/ADP/N/1/MYN/1, G/SCM/N/1/MYN/1, 8/01/2002
Article 16.4	Semi-annual reports on anti-dumping actions taken during the period	G/ADP/N/132/Add.1, 25/10/2005 G/ADP/N/126/Add.1/Rev.1, 25/10/2005 G/ADP/N/119/Add.1/Rev.2, 25/10/2005 G/ADP/N/105/Add.1, 13/10/2003 G/ADP/N/98/Add.1/Rev.1, 15/10/2003 G/ADP/N/92/Add.1/Rev.2, 15/10/2003 G/ADP/N/85/Add.1/Rev.2, 16/10/2003 G/ADP/N/78/Add.1/Rev.3, 15/10/2003 G/ADP/N/2/Add.1/Rev.5, 25/07/1996
GATT 1994 Article VII		
Article 20.1, 20.2, 22.1 Annex III, LIC Article 2.2 (footnote 5)	Entry into force and Notification of Acceptance of the Marrakesh Agreement Establishing the WTO	WT/Let/1/Rev.2, 22/05/1995
GATT 1994 Article VII		
Annex III, Paragraph 1	Request for five-year extension on the application of the Customs Valuation Agreement	G/VAL/W/40/ Add.1, 14/01/2000 G/VAL/W/40, 21/09/1999
Annex III, Paragraph 1	Work Programme Progress Report	G/VAL/N/4/MYN/1, 12/10/2001
GATT 1994 Article XXIV: 7(a) (Free-Trade Areas)		
Article XXIV: 7(a) (Free-Trade Areas)	Agreement Establishing the ASEAN-Australia-New Zealand Free Trade Area	WT/REG284/N/1, S/C/N/545, 9/04/ 2010
Article XXIV: 7(a) (Free-Trade Areas)	Agreement on Comprehensive Economic Partnership Among Japan and Member States of ASEAN Countries	WT/REG277/N/1, 14/12/2009
Agreement on Preshipment Inspection		
Article 5	No laws on PSI in Myanmar	G/PSI/N/1/Add.10, 19/07/2004
Quantitative restrictions (G/L/59 and G/L/59/Rev.1)		
Notifications of quantitative restrictions	Myanmar notified that it does not maintain quantitative restrictions.	G/MA/NTM/QR/1/Add.8, 1/03/2002
Agreement on Rules of Origin		
Paragraph 4 of Annex II	Certificate of origin for the GSP; and certificate of origin for ASEAN Common Effective Preferential Tariff Scheme	G/RO/N/36, 12/03/2002
Agreement on Subsidies and Countervailing Measures		
Article 25.1	Notification of subsidies	G/SCM/N/71/MMR, G/SCM/N/95/MMR, 25/06/2003
Article 25.11	Semi-annual reports on countervailing duty actions taken	G/SCM/N/4/Add.1/Rev.3, 25/07/1996 G/SCM/N/75/Add.1/Rev.4, 24/10/2003 G/SCM/N/81/Add.1/Rev.3, 24/10/2003 G/SCM/N/87/Add.1/Rev.2, 24/10/2003 G/SCM/N/93/Add.1/Rev.1, 24/10/2003 G/SCM/N/98/Add.1, 20/10/2003 G/SCM/N/106/Add.1/Rev.1, 25/10/2004 G/SCM/N/113/Add.1, 25/10/2004 G/SCM/N/122/Add.1, 7/04/2005 G/SCM/N/130/Add.1, 19/10/2005

Article 32.6	Myanmar has no laws and/or regulations relevant to the Agreements on Anti-Dumping and Subsidies and Countervailing Measures.	G/ADP/N/1/MYN/1, G/SCM/N/1/MYN/1, 8/01/2002
Agreement on Safeguards		
Article 12.6	Laws, regulations, and administrative procedures relating to safeguard measures	G/SG/N/1/MYM/1, 10/01/1996
Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS)		
Article 69	Contact points	IP/N/3/Rev.10/Add.2, 30/06/2008

Source: WTO Secretariat.

Regional agreements

ASEAN

Myanmar became an ASEAN member in 1997; it will chair the ASEAN in 2014. Trade with other ASEAN members accounts for around 40% of Myanmar's total imports and around 50% of its total exports (p. 20). ASEAN Economic Ministers agreed to realize an ASEAN Economic Community (AEC) by 2015; i.e. to establish a single market and production base in the ASEAN region, with freer flow of goods, services, skilled labour, and capital. ASEAN currently has component agreements on goods (ATIGA), services (AFAS), and investment (ACIA).[12]

Under the ATIGA, ASEAN members must apply a tariff rate of 0-5% for goods originating within ASEAN, with flexibility granted to LDCs, including Myanmar (p. 37). Myanmar's average tariff under the ATIGA was 0.6% in 2012. The basic principle for granting origin status to a product is 40% regional/local-content. An ASEAN Single Window to process trade documents electronically at national and regional levels will integrate national single windows of ASEAN member countries. Myanmar has been adopting trade facilitation measures, and is preparing to start its single window system in 2015.

Under the AFAS, restrictions on services trade are to be removed in 2015-18 for Myanmar. However, the agreement on services has not been notified to the WTO. The ASEAN Comprehensive Investment Agreement (ACIA), signed in 2009, is intended to streamline the existing ASEAN investment agreements, with a view to attracting more foreign investment into ASEAN and increasing intra-ASEAN investment.

ASEAN RTAs

As an ASEAN member, Myanmar participates in ASEAN's preferential agreements with Australia and New Zealand, China, India, Japan, and the Republic of Korea (Table 2.3).

Table 2.3 RTAs

ASEAN - Australia and New Zealand	
Title	Agreement Establishing the ASEAN-Australia-New Zealand Free Trade Area
Type	Free Trade Agreement & Economic Integration Agreement
Date of entry into force	1 January 2010 for Australia, Brunei Darussalam, Malaysia, Myanmar, New Zealand, the Philippines, Singapore, and Viet Nam
Transition for full implementation for Myanmar	2021/2024/2025
Coverage	Goods and services
WTO consideration status	Factual presentation not distributed
Myanmar's merchandise trade with Australia and New Zealand (2011/12)	Australia: 0.8% of total imports; 0.1% of total exports New Zealand: 0.2% of total imports; 0.003% of total exports
WTO document series	WT/REG284/N/1 and S/C/N/545, 9 April 2010
ASEAN - China	
Title	Agreement on Trade in Goods (under the 2002 Framework Agreement on Comprehensive Economic Cooperation between ASEAN and the People's Republic of China)
Type	Partial Scope Agreement & Economic Integration Agreement
Date of signature/entry into force	Goods: November 2004/January 2005 Services: Jan 2007/July 2007
Transition for full implementation for Myanmar	2015
Coverage	Goods and services
WTO consideration status	Factual Abstract distributed (goods) Factual presentation not distributed (services)

Myanmar's merchandise trade with China (2011/12)	30.8% of total imports; 24.2% of total exports
WTO document series	WT/COMTD/N/20, 21 December 2004; S/C/N/463, 2 July 2008; WT/COMTD/51, 21 December 2004
ASEAN – India	
Title	Agreement on Trade in Goods (under the Framework Agreement on Comprehensive Economic Cooperation between ASEAN and the Republic of India, 2003, as amended in 2009)
Type	Free Trade Agreement
Date of entry into force	1 January 2010 for Brunei Darussalam, Myanmar, and Viet Nam
Transition for full implementation for Myanmar	2018/2021
Coverage	Goods
WTO consideration status	Factual presentation not distributed
Myanmar's merchandise trade with India (2011/12)	3.6% of total imports; 11.4% of total exports
WTO document series	WT/COMTD/N/35, 23 August 2010
ASEAN – Japan	
Title	Agreement on Comprehensive Economic Partnership among Japan and Member States of ASEAN
Type	Free Trade Agreement
Date of entry into force	1 December 2008 (Singapore, Japan, Viet Nam, the Lao PDR, and Myanmar)
Transition for full implementation for Myanmar	2026
Coverage	Goods
WTO consideration status	Factual presentation not distributed
Myanmar's merchandise trade with Japan (2011/12)	5.6% of total imports; 3.5% of total exports
WTO document series	WT/REG277/N1, 14 December 2009 and WT/REG277/N2, 27 July 2011
ASEAN - Republic of Korea	
Title	Agreement on Trade in Goods (under the 2005 Framework Agreement on Comprehensive Economic Cooperation among the Governments of the Republic of Korea and ASEAN)
Type	Free Trade Agreement & Economic Integration Agreement
Date of signature/entry into force	Goods: August 2006/January 2010 Services: November 2008/May 2009
Transition for full implementation for Myanmar	2018
Coverage	Goods and services
WTO consideration status	Factual presentation not distributed
Myanmar's merchandise trade with Korea (2011/12)	5% of total imports; 2.4% of total exports
WTO document series	WT/REG287/N/1; WT/COMTD/N/33; S/C/N/559; S/C/N/560, 8 July 2010. S/C/N/559/Add.1; S/C/N/560, Add.1, 3 May 2011

Source: WTO Secretariat, based on information from the authorities and the RTA website: http://rtais.wto.org/ [15/04/13].

As a member of ASEAN, Myanmar, together with the other ASEAN members, is negotiating with ASEAN FTA partners (Australia, China, India, Japan, Republic of Korea, and New Zealand) a Framework for Regional Comprehensive Economic Partnership (RCEP), which is to be concluded by the end of 2015. The Framework is to cover trade in goods, trade in services, investment, and economic and technical cooperation, competition, intellectual property, dispute settlement, and other issues.[13]

GSTP

Myanmar signed the Global System of Trade Preferences among Developing Countries (GSTP) in 1988, which entered into force on 19 April 1989, to increase trade between developing countries.[14]

BIMSTEC

The Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Co-operation (BIMSTEC), which Myanmar joined on 22 December 1997, is not yet functioning. BIMSTEC is a forum to facilitate and promote trade, investment, and technical cooperation among participating countries: Bangladesh, Bhutan, India, Nepal, Sri Lanka, Myanmar, and Thailand. It identifies 13 broad sectors for cooperation, including: trade and investment, technology, tourism, transport and communication, energy, agriculture, fisheries, poverty alleviation, and counter-terrorism and transnational crimes. In 2004, BIMSTEC parties agreed to establish a BIMSTEC Free Trade Area Framework Agreement in goods, services, and investment. Article 3 of the Agreement provides that goods, except those included in the Negative List, will be subject to tariff reduction or elimination according to different time frames. Myanmar had tariff reductions and eliminations for its fast track products before June 2011, and the tariffs on its normal track products are to be reduced or eliminated before June 2017. Rules of origin have not yet been agreed among BIMSTEC countries.

Other trading relations

Myanmar is a beneficiary of a number of GSP schemes, including those accorded by: Australia, Belarus, Japan, New Zealand, the Russian Federation, Switzerland, and Turkey. The EU reinstated GSP treatment for Myanmar in July 2013, granting retrospective benefits to Myanmar's exports from June 2012. Norway reinstated GSP treatment in January 2012. China, India, and the Republic of Korea provide preferential tariff treatment for Myanmar's exports.

The Greater Mekong Sub-region (GMS) programme appears to have aided integration within the region. In 1992, Myanmar, together with Cambodia, Lao PDR, Thailand, Viet Nam, and Yunnan Province of China[15], launched a programme of sub-regional economic cooperation, to enhance economic linkages across their borders.[16] The GMS programme covers nine priority sectors: transport, energy, telecommunications, environment, human resource development, tourism, trade, private sector investment, and agriculture. The GMS countries have ratified an agreement to facilitate the cross-border movement of goods and people, which is being implemented on a pilot basis at key border crossings, and is being prepared for full implementation in the GMS corridors.[17] There are no preferential tariff arrangements under the GMS.

To enhance bilateral trade with neighbouring countries, Myanmar has signed four MOUs on establishing bilateral joint trade commissions, with Bangladesh, India, Thailand, and Viet Nam. Joint trade commission meetings have been held alternately in Myanmar and the partner countries to discuss and negotiate bilateral trade issues.

Myanmar calls trade with neighbouring countries through border points mainly by road transport "border trade". It would appear that no preferential treatment is accorded to border trade compared with other means of trade. Myanmar has 14 main border trade points with four neighbouring countries. Myanmar has signed five border trade agreements, with China, India, Bangladesh, Thailand, and Lao PDR. According to the authorities, these border trade agreements aim at the promoting and facilitating trade between two neighbouring countries. The Government consults and negotiates with border trade partners in respective Joint Trade Commission/Committee meetings (JTC), Joint Border Trade Commission meetings, and Working Group meetings. The authorities stated that there are no major trade issues between Myanmar and its neighbours.

TRADE DISPUTES AND CONSULTATIONS

Arbitration provisions are prescribed in the Myanmar Arbitration Act 1944, which allows for international arbitration. For commercial disputes between domestic companies, the UMFCCI is the arbitrator, taking the role of mediator. According to the authorities, mediation is usually successful in the event of commercial disputes between local companies. For disputes relating to foreign companies, the Arbitration Rules of the Chamber of Commerce apply.

Myanmar is not a member of the International Convention for the Settlement of Investment Disputes. It became a party of the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards in 2013.

FOREIGN INVESTMENT REGIME

Overview

The authorities consider that FDI and foreign-affiliated businesses will play an important role in Myanmar's economic development, and that the economy needs foreign capital and technology for continuous and sustainable development. Thus the Government has been adopting measures to improve its business environment by, *inter alia*, reforming its foreign exchange regime (p. 16) and adopting a new Foreign Investment Law. The authorities state that the Government is making every effort to increase inward FDI, and has no restriction on outward FDI.

FDI in Myanmar is governed by, *inter alia*: the new Foreign Investment Law (FIL) and its Implementing Rules (which set out requirements for foreign-invested companies and foreign projects in Myanmar); the Myanmar Companies Act 1914 and the Myanmar Partnership Act 1932 (which set out details for corporate investment structures and governance requirements) (p. 34); the State-owned Economic Enterprise Law 1989 (which reserves certain sectors for the State); the Special Company Act 1950 (which applies to joint ventures formed between private and State-owned companies); and the Special Economic Zone Law 2011 and the Dawei Special Economic Zone Law 2011 (which regulate investment in special economic zones).

The new Foreign Investment Law (FIL), promulgated in November 2012, is a revision of the Myanmar Foreign Investment Law of 1988. Implementing rules of the new FIL were promulgated on 31 January 2013 and supplemented by Notification No. 1/2013 of the MIC. The new FIL supports investment projects that expand exports or produce import substitution products. Tax incentives are granted on profits accrued from exports, and foreign companies must employ a local workforce, on the basis of increasing the share of local employees over time.

The authorities state that if any provisions of this law are in conflict with any international treaty or agreement approved and accepted by the Myanmar Government, the provisions of the international treaty or agreement will prevail.

The new FIL and its implementing rules differ from the previous law mainly in: the sectors restricted or prohibited to foreign investors; objectives; equity restrictions and minimum capital requirements; tax incentives; and land-lease terms.

Sectors restricted or prohibited to foreign investors

The previous law of 1989 adopted a "positive list" approach where foreign investors were allowed to invest only in listed sectors. The new law lists certain activities that are restricted or prohibited to foreign investment (Article 4), including:

a. businesses that can affect the traditional culture and customs of the ethnic nationalities of the country, and public health;

b. businesses that can cause damage to the natural environment and ecosystem;

c. importation of hazardous or toxic waste materials;

d. production or use of hazardous chemicals specified in international agreements;

e. importation of technology, medicines, instruments pending lab test or not obtaining approval for use; and

f. investment activities within 10 miles of the border within the territory, except economic zones as specified by the Government.

The implementing rules list specific sectors reserved for Myanmar citizens (Table 2.4). Foreigners are not allowed to engage only in trading activities (pp. 34, 41).

Further, the MIC Notification No. 1/2013 lists sectors prohibited or restricted for foreign investment (Table 2.5). Restricted businesses include: those carried out by joint ventures with local investors (for the purpose of knowledge sharing), and those requiring certain conditions. These conditions may be attached to implement and meet certain manufacturing practices and standards, to properly use natural resources, or to apply environmental impact assessment.

Table 2.4 Sectors reserved for Myanmar citizens

Groups	Sectors
Schedule 1	**Manufacturing and services sectors reserved for Myanmar citizens only** **Manufacturing** Administration and maintenance of natural forest Manufacturing of traditional medicines Extraction of crude oil up to 1,000 feet depth Small and medium scale mineral production Production and plantation of traditional herbal plants Wholesale of semi-finished products and iron ores Production of traditional food Manufacturing of religious materials and equipment Manufacturing of traditional and cultural materials and equipment Handicraft **Services** Private traditional hospitals Trading of traditional herbal raw materials Research and laboratory for traditional medicines Ambulance transportation service Establishment of health care centre for the aged Restaurant contract, cargo transportation contract, cleaning and maintenance contract on trains Electric power generating below 10 megawatt Publishing and distribution of periodicals in languages of ethnic people including Myanmar language
Schedule 2	**Agricultural Business and short-term and long-term plantation business reserved for Myanmar citizens only**
Schedule 3	**Livestock breeding business reserved for Myanmar citizens only**
Schedule 4	**Fishing business in Myanmar's territorial waters reserved for Myanmar citizens only**

Source: FIL Implementing Rules, 2013.

Table 2.5 FDI prohibitions/restrictions

Prohibited sectors	21 types of activities including: Defence; electricity trading; natural forest management; small to medium-scale mining and extraction; exploration and production of jade/gem stones; exploitation of minerals including gold in the water way; air control management service; navigation service; printing and broadcasting; and certain environmentally hazardous activities

Business to be carried out by joint venture	42 types of activities including: Manufacturing and distribution of some food products except milk and milk products; malt and malt liquors, spirits, ice, purified drinking water; cordage, rope and twine of textile fibres; rubber and plastic Packaging Processing of hides, skins, and leathers, and manufacturing of footwear and handbags Manufacturing of paper, paper board; chemicals based on natural resources available domestically; fuels and aerosol; oxidants, compressed; chemicals; industrial chemical gases; raw materials for drugs, and high-tech vaccine Exploration and manufacturing of mining in large scale Establishment of factories to manufacture structural metal framework for buildings and bridges, and precast concrete; real estate; golf courts and resorts; office/commercial buildings apartments, low-cost housing; new satellite towns Construction related to developing road links Air transport services; maritime transport and freight forwarding services Building and repairing of new ships at dockyard Inland port services through container terminal and warehouse services Manufacturing of new wagon and locomotive engine Private special hospital/private special indigenous hospital Tourism services
Businesses requiring opinions of the relevant ministries	115 activities under 13 ministries
Businesses requiring other approval	27 activities
Businesses requiring Environmental Impact Assessment	34 activities requiring an Environmental Impact Assessment from the Ministry of Environmental Conservation and Forestry

Source: MIC Notice No. 1/2013.

In addition, under Articles 3 and 4, Chapter II, of the State-owned Economic Enterprise Law (1989), certain sectors were reserved to the State (and conducted by State-owned Economic Enterprises (SEEs)) (p. 43). For investment in any of the above restricted or prohibited activities, permission from the MIC may be granted with the approval of the Government while foreign equity must not be more than 80% in the reserved activities, if the investment is considered to be beneficial to the citizens and particularly the ethnic nationalities. For those large foreign investment projects which are considered to bring substantial benefit to public security, improve surrounding areas and the living conditions of citizens, the MIC will submit the application to the Union Parliament through the Government for approval.

Objectives

The 1988 FIL stated export promotion as its first objective; according to the authorities, this was "to obtain foreign earning and to support economic development". The new law lists the following objectives: produce minerals to meet national demand and to export the surplus; create jobs; develop human resources, improve infrastructure (in the areas of banking and finance, roads, national electricity and energy production); develop technology; develop transportation networks; and encourage competition between citizens and foreigners.

Under the new FIL, foreign investment is to be approved if it: supports the objectives of the national development plan, activities lacking money and technology, and those still not exercisable by the citizens; develops job opportunities; promotes and expands exports; produces import substitution goods; facilitates technology development; supports projects requiring large investment; encourages energy saving, and the exploration and extraction of new energy, as well as sustainable energy development (such as new bio-based energy); develops modern industry; conserves the environment; supports exchange of information and technology; develops banks and banking business that matches international standards; facilitates local development; develops citizens' intellect and intelligence; and meets the short- and long-term domestic utilization of state energy resources.

Equity restrictions and minimum capital requirement

The new FIL allows 100% foreign ownership in all except certain prohibited or restricted activities, whereas the previous FIL listed a limited number of sectors and activities where FDI was allowed. Foreign investment may be made through: a 100% foreign-owned entity; a joint venture (JV) with a Myanmar citizen or entity, at an ownership ratio decided between the parties; or any system contained in a contract and approved by both

Table 2.6 Tax

(%)

Tax	Resident citizens	Resident foreigners[a]	Non-resident foreigners
Corporate tax	25	25	35
Commercial tax	0-100	0-100	0-100
Withholding tax on:			
Interest	n.a.	n.a.	15
Royalties	15	15	20
Payments made by state organizations, development committees, cooperatives societies, partnership firms, companies, organizations formed and registered under any existing law, for purchasing of goods locally and receiving services under a contract or an agreement or any consent	2	2	3.5
Payments made by a foreign entrepreneur or foreign company, for receiving services and purchasing of goods locally under a contract or an agreement or any consent	2	2	3.5
Personal income tax	2-30	2-30	35
Capital gains tax	10	10	40

n.a. Not applicable.

a A foreigner staying in Myanmar for 183 days or more during a calendar year is a "resident foreigner".

Source: DICA online information. Viewed at: http://www.dica.gov.mm/includes/Investment%20Guide%20Book/MIG%20chapter%205.pdf [16/10/2013]; and information provided by the authorities.

parties.[18] Foreign investment in restricted businesses must be no more than 80%.

The current minimum capital requirements are specified in accordance with the Company Act: US$150,000 for industrial, hotel and construction companies, and US$50,000 for companies in services, travel and tours, bank representative offices, and insurance representative offices.[19]

Tax and incentives

Foreign invested companies pay, *inter alia*, corporate tax, commercial tax, withholding tax, and personal income tax; different tax rates may apply to non-resident foreigners (Table 2.6).

The authorities offer various tax incentives to attract foreign investment. The new FIL allows tax incentives for up to five years (three years under the previous Law), with the possibility of extension. These incentive programmes include:

- income tax exemption for five consecutive years including the year of commencing operations on commercial scale, or more years of tax exemptions/reductions if the investment is considered to be "beneficial to the State";
- income tax reduction or exemption on profits maintained in a reserve fund for re-investment within one year;
- right to deduct depreciation from profit, using a depreciation rate designated by the Government for the purpose of income tax assessment;
- up to 50% reduction of income tax on profits accrued from exports;
- applying the same income tax rate for foreigners and citizens;
- expenditures on R&D are deducted from income tax;
- right to carry forward and set off losses for up to three consecutive years, from the year the loss is made;
- exemption from import tariffs or commercial tax, or both on imported machinery, equipment, instruments, machinery components, spare parts, and materials used for the construction of business;
- exemption from import tariffs or commercial tax, or both on imported raw materials for production for the first three years after completion of construction of business;
- if investment is increased with the approval of the MIC, and the original invested business is expanded, exemption from import tariffs or commercial tax, or both on imported machinery, equipment, instruments, machinery components, spare parts, and materials required for use in the business expansion; and
- exemption and reduction from commercial tax on products manufactured for export.

Land lease terms

Land in Myanmar is owned by the State; thus, foreign investors are not allowed to own land. Under the new FIL, foreign investors may lease land for 50 years (30 years previously), and the land lease may be extended for two consecutive terms of 10 years (15 years previously). Land lease contracts must be approved by the MIC. The MIC may designate another 10-year extension with the consent of the Government, for investment projects in the less developed and poor communication regions. For investment in the agriculture and livestock sectors, foreign investment may form joint ventures with Myanmar citizens under contract.

Foreign investors who have established joint ventures with Myanmar counterparts may also apply to obtain the right to cultivate or utilize vacant, fallow, and virgin land (section 5(e), Chapter III of the Vacant, Fallow and Virgin Lands Management Law (2012)). Priority is given to applications for investment in industries in which local investors are not able to invest (Section 12, Chapter IV of the Vacant, Fallow and Virgin Lands Management Law (2012)).

Procedures

Businesses in Myanmar may take the form of partnerships, limited companies, or branches/representative offices of a foreign company. Foreign investors most frequent set up limited companies. If one share is owned by a foreign partner, the company is considered as a foreign-invested company, and must be registered with the DICA (Directorate of Investment and Company Administration).

To obtain an investment permit, the investor must submit a proposal in the prescribed form to the MIC, together with the required documents.[20] The MIC accepts or rejects an application within 15 days, and decides whether to approve the proposal within 90 days. The MIC evaluates foreign investment proposals, stipulates the terms and conditions of investment permits, and assesses foreign investment situations.[21] Permits are issued to investments that do not affect the interests of the State and the people, national dignity, sovereignty, and the environment. An investor with a permit from the MIC under the 1988 FIL may continue to work and enjoy benefits until expiry of the contract.

An investor must also register with the DICA under the Ministry of National Planning and Economic Development, except for joint ventures with State equity formed under the Special Company Act 1950.[22] Registration of a foreign company or branch takes one day upon submission of completed documents. After depositing a registration fee[23] in Myanmar Economic Bank, a foreign investor obtains a temporary registration certificate, valid for six months, then a Company Incorporation Certificate.

Foreign companies may not engage solely in trade. However, if they are registered under the FIL as a manufacturer of finished goods for export, they may import machinery and equipment for the establishment of the factory, and raw materials for production. These foreign companies must register as exporters/importers with the Ministry of Commerce to obtain the exporter/importer licence.

Foreign investors must recruit at least 25% of their employees from the local labour force in the first two years. The local employment ratio increases to at least 50% for the third and fourth years, and at least 75% for the fifth and sixth years. It may take more years for activities in academic areas to increase the local employment ratio.

The law stipulates that the Government must not nationalize economic activities formed with approval during the contract period or the extended period. For any disputes, the solution method stipulated in the contract must be followed. If the contract does not stipulate a solution method, the laws of Myanmar (the Myanmar Arbitration Act 1944, or the UNCTRAL Rules) regarding dispute settlement must be followed. Section 18 (d) of the new FIL appears to allow an investor to challenge a decision of the MIC in the event of denial of the application or the issuance of an approval adverse to the interests of a foreign investor under Myanmar law. However, section 49 of the FIL provides that decisions of the MIC under the new law are "final". It was not clear to the Secretariat how investors can challenge a decision of the MIC.

Neither the old nor the new FIL contains provisions on mergers and acquisitions by foreign investors, and it is not possible for foreign investors to acquire shares from local companies. The Implementing Rules of the new FIL allows a foreign investor to acquire shares from a Myanmar shareholder in foreign-invested companies (and vice versa). Any such transfer is subject to the approval of the MIC as are the foreign equity limits (if any).

BIAs and DTAs

Myanmar has concluded eight bilateral investment agreements, and eight double-taxation avoidance agreements (Table 2.7).

Table 2.7 BIAS and DTAS

Bilateral investment agreements		
Country/Region	**Date of signature**	**Date of entry into force**
Philippines	17.02.1998	11.09.1998
Viet Nam	15.02.2000	-
China	12.12.2001	21.05.2002
Lao PDR	05.05.2003	-
Thailand	14.03.2008	-
India	24.06.2008	08.02.2009
Kuwait	06.08.2008	-

Double-taxation avoidance agreements	
Country/Region	**Date of entry into force**
United Kingdom	01/10/1948
Viet Nam	01/04/2004
Republic of Korea	01/04/2004
Malaysia	01/04/2009
India	01/04/2009
Singapore	01/04/2010
Lao PDR	01/04/2011
Thailand	01/04/2012

\- Not yet in force.

Source: UNCTAD IIA online database. Viewed at: http://unctad.org/Sections/dite_pcbb/docs/bits_myanmar.pdf [16 January 2013]; and information provided by the authorities.

Endnotes

1 The first Constitution was adopted in 1947, just before Myanmar became an independent sovereign State in 1948. The second Constitution, approved in 1974, was suspended in 1988.

2 The ten priority areas identified in the FESR 2012-15 are: fiscal and tax reforms; monetary and financial reforms; liberalization of trade and investment; private sector investment; health and education; security and agriculture; governance and transparency; mobile phone and internet; infrastructure; and effective and efficient Government.

3 The President's election procedure is stipulated in Section 60 of the Constitution.

4 Regions are mainly inhabited by the dominant ethnic group Bamar, while states are mainly inhabited by ethnic minorities.

5 The lower the rank, the higher is the perceived level of corruption (Transparency International, 2012).

6 President Office online information. Viewed at: http://www.president-office.gov.mm/cabinet/central-offices (in Myanmar language only) [01/07/2013].

7 The EICC has sole authority to decide on all matters related to export and import procedure; the authorities stated that this may increase the effectiveness of the decision making process.

8 They are: www.commerce.gov.mm and www.myanmartradenet.com.mm. Businesses may apply for import/export licences from www.myanmartradenet.com.mm.

9 Myanmar (then called Burma) was also a founding Member of the GATT.

10 Ministry of Commerce online information. Viewed at: http://www.commerce.gov.mm [11/04/2013].

11 WTO online information. Viewed at: http://stat.wto.org/CountryProfile/WSDBCountryPFView.aspx?Language=E&Country=MM [05.11.2013].

12 There are also ASEAN framework agreements on the facilitation of goods in transit (AFAGIT), and the Facilitation of Inter-State Transport (AFAFIST), among others.

13 ASEAN online information. Viewed at: http://www.asean.org/asean/asean-summit/item/asean-framework-for-regional-comprehensive-economic-partnership [29/10/2013].

14 WTO online information. Viewed at: http://rtais.wto.org/UI/PublicShowMemberRTAIDCard.aspx?rtaid=146 [21.03.2013].

15 Guangxi Zhuang Autonomous Region of China joined the GMS programme in 2004.

16 ADB (2012b).

17 ADB (2012a).

18 In accordance with the FIL (1988), foreign investment could take one of the following three forms: (1) partnerships, limited companies, or wholly foreign-owned subsidiaries (a partnership firm or a limited company incorporated outside Myanmar could conduct business as a foreign branch by bringing in the total capital required by such a branch); (2) production-sharing contracts with one of the State-owned Economic Enterprises (SEEs) for exploration, extraction, and sale of petroleum and natural gas and mining operations; and (3) joint ventures, either as partnerships or limited companies with any individual, firm, cooperative, or SEEs of Myanmar.

19 Previously, the minimum foreign capital required was US$500,000 for a manufacturing company, and US$300,000 for a services organization.

20 These documents include: intended activities; financial credibility of the company/individual; a copy of the Permit/Decision of the MIC for manufacturing, and hotel & construction business; undertaking not to do trading activities. In the case of a branch or representative office of a foreign company, the required documents include: annual reports for the last two financial years, or copies of the Head Office's balance sheet and profit and loss account for the last two financial years, notarized and consularized by the Myanmar Embassy in the country where the company is incorporated.

21 DICA online information. Viewed at: http://www.dica.gov.mm/app.htm [25/02/2013].

22 Documents required for the registration of a company include: declaration of registration; declaration of legal and official version of the documents; list of Directors; a copy of the MIC permit & decision for manufacturing, hotel & construction businesses; undertaking not to undertake trading activities.

23 The registration fee for the incorporation of a company/branch is K 1,000,000, and the renewal fee is K 500,000 (DICA online information. Viewed at: http://www.dica.gov.mm/ [22.03.13]). The fee is the same for foreign and local companies.

Trade policies and practices by measure

MEASURES DIRECTLY AFFECTING IMPORTS

Import procedures and customs valuation

Merchandise imports into (and exports from) Myanmar are governed under the Sea Customs Act (1878), Land Customs Act (1924), the Export Import Law 2012, and the Tariff Law (1992). The acts and laws are administered by the Ministry of Finance and the Ministry of Commerce.

Under the present laws and regulations, to be able to import, an importer must register a company that is to engage in trade with the Directorate of Investment and Company Administration, Ministry of National Planning and Economic Development, and register as a "trader" with the Directorate of Trade of the Ministry of Commerce. The importer is also required to join the Union of Myanmar Federation of Chambers of Commerce and Industry (UMFCCI). Currently, only Myanmar nationals are allowed to engage in trade, except for imports of inputs and exports of processed goods by manufacturing firms that have been registered under the Foreign Investment Law and consequently also registered as an importer and exporter with the Directorate of Trade.

All imports must be declared on an import declaration form (CUSDEC-1) and, where applicable, be accompanied by an import licence.[1] Import licences are issued by the Department of Commerce and Consumer Affairs, which is part of the Ministry of Commerce. In certain cases, import licences are issued based on recommendations provided by relevant ministries and associations under the UMFCCI. Also required are an invoice, bill of lading or air consignment note, packing list, and any other certificates or permits issued by relevant government departments (for example SPS certificates from the Ministry of Agriculture and Irrigation, for the import of live plants and animals, and a certificate from the Food and Drug Administration for the import of medicines and foodstuff).

The required documents must be submitted to Customs before the arrival of the goods. Customs assessment takes two hours, on average, and classification is based on the Customs Tariff of Myanmar (2012), which uses both the ASEAN harmonized nomenclature and WCO harmonized system. Myanmar does not apply the provisions of the WTO Customs Valuation Agreement. Customs valuation is based on the "real value", which is taken to be the normal price or import value of goods at the time and place of importation.[2] Import duties are charged on the c.i.f. price (real value). After Customs has assessed the duty payable, the importer may pay in cash or a payment order or through a direct debit from a current account. However, cash payments are only permitted if the assessed duty is less than K 5,000. Customs duty in excess of K 5,000 needs to be made by a payment order. Additionally, importers and joint-venture enterprises may open current deposit accounts with the Customs Department. The customs duties and other taxes levied on imports (p. 39) may be deducted from these accounts. The authorities stated that prior to the exchange rate unification, a constant rate of K 450/US$ was used as the exchange rate for miscellaneous imported goods. In 2011, the Central Bank of Myanmar (CBM) issued a daily rate, which was applied to the import of cars, vehicles, and spare parts. Since the exchange rate unification on 1 April 2012, the daily exchange rate issued by the CBM has been used for duty assessment. The authorities state that about 10% of imports are physically examined at the port. Currently, customs clearance requires about three days; the authorities intend to implement the ASEAN single window by 2015.

Under the current legislation, importers have the right of appeal against decisions or orders by customs officers. In the first instance, the importer may lodge an appeal with the Revenue Appellate Tribunal within one month after the decision; under certain circumstances (such as being hospitalized or arrested) the deadline may be extended to three months. The tribunal may alter, annul or uphold the original decision; however, it cannot impose a greater penalty or confiscation amount than assigned in the original order. Additionally, a customs officer, the Minister of Finance and Revenue, and the President of Myanmar may, of their own accord or in response to a petition by any party, modify, reverse or uphold any of their own decisions or those taken by any of their predecessors. Furthermore, the Director-General of Customs and the President of the Union of Myanmar may summon the record of any case disposed of by an officer subordinate to them (in the case of the latter this includes the Minister of Finance). Fines vary according to the case. Between 2006 and 2011, there were 150 appeals, all of were ruled against the defendant.

Myanmar does not impose pre-shipment inspection requirements on imports.

Tariffs

Structure

The applied MFN tariff in Myanmar consists of 15 bands ranging from 0% to 40%; this is unchanged since 1996. The large number of bands renders the tariff relatively complex. All tariffs are applied *ad valorem*. The 2013 tariff comprised 9,558 lines at the HS 8-digit level and 418 "statistical lines" at the HS 9-digit and 10-digit levels.[3] The tariff is based on the HS2012 nomenclature.

Tariff bindings

Myanmar has bound 18.5% of its tariff lines at the HS 8-digit level. All agricultural lines (WTO definition) are bound, compared with only 5.7% of non-agricultural lines. Final bound tariffs range from 0% for electrical machinery and transport equipment to 550% for chemicals, beverages and tobacco, and cereals and preparations.

According to Myanmar's tariff reduction schedule, the final bound tariff rates have been in effect since 1995. The average bound tariff rate was 87.2% in 2013.

As per WTO Secretariat calculations, there are 32 tariff lines where the MFN applied tariff exceeds the bound rate. These lines pertain to, *inter alia,* hard zinc spelter and zinc products, agricultural machinery and parts, and motor vehicle part and accessories (Table A3.1). However, according to the authorities, the applied MFN rate exceeds the bound rate on only two tariff lines (2620.1900.00 and 8708.9910.00).

Applied MFN tariff

The average applied MFN tariff was 5.5% in 2013, about the same as in 1996 and slightly lower than in 2008. The changes are due almost entirely to changes in nomenclature. The significant difference (82 percentage points) between the average applied MFN tariff and the average bound rate, and the fact that less than 19% of the tariff lines are bound, gives the authorities considerable scope to raise tariffs, thereby making the tariff quite unpredictable (Table 3.1). Almost 95% of the applied MFN tariff ranges from duty free to 15%, while the modal or most common tariff rate is 1% (Chart 3.1). Nearly half of all tariff lines have nuisance rates (greater than zero, but below or equal to 2%); the authorities' purpose for these was not clear to the Secretariat.

According to WTO sectoral definitions, average tariffs on agricultural products are higher than those for non-agricultural products. The respective rates in 2013 were 8.9% and 5%. The average tariff on agricultural products has remained unchanged, while that on non-agricultural products is slightly lower than in 2008. As mentioned the decline was mainly due to the change in nomenclature.[4]

Duty-free rates apply to, *inter alia*: animals and animal products; fruit, vegetables and plants; cereals and preparations; and fish and fishery products. The highest bands (i.e. 30% and 40%) apply mainly to alcoholic beverages, tobacco products, natural or cultured pearls and other precious stones, and motor vehicles and other transport equipment (Table 3.2 and Chart 3.2). The authorities state that the highest rates were assigned to what are considered luxury goods. They also state that the tariff could be converted to an excise duty for some of these goods when/if a system of excise tax becomes operational in Myanmar. Furthermore, the authorities expect a decline in customs revenue with the realization of the AEC in 2015.

Table 3.1 Tariff structure of Myanmar, 1996, 2008, and 2013

	MFN applied		
	1996	2008	2013
Bound tariff lines (% of all tariff lines)	..	..	18.5
Simple average applied rate	5.7	6.1	5.5
WTO agricultural products	8.5	8.9	8.9
WTO non-agricultural products	5.2	5.7	5.0
Domestic tariff peaks (% of all tariff lines)[a]	5.5	7.4	5.3
International tariff peaks (% of all tariff lines)[b]	5.5	7.4	5.3
Overall standard deviation of tariff rates	6.5	7.7	6.7
Coefficient of variation of tariff rates	1.1	1.3	1.2
Tariff quotas (% of all tariff lines)	0.0	0.0	0.0
Duty-free tariff lines (% of all tariff lines)	3.6	3.4	4.0
Non-*ad valorem* tariffs (% of all tariff lines)	0.0	0.0	0.0
Nuisance applied rates (% of all tariff lines)[c]	46.9	46.4	46.9
Number of lines	5,798	10,689	9,558
Ad valorem	5,587	10,323	9,178
Duty free	211	366	380
Non-*ad valorem*	0	0	0

.. Not available.

a Domestic tariff peaks are defined as those exceeding three times the overall simple average applied rate.

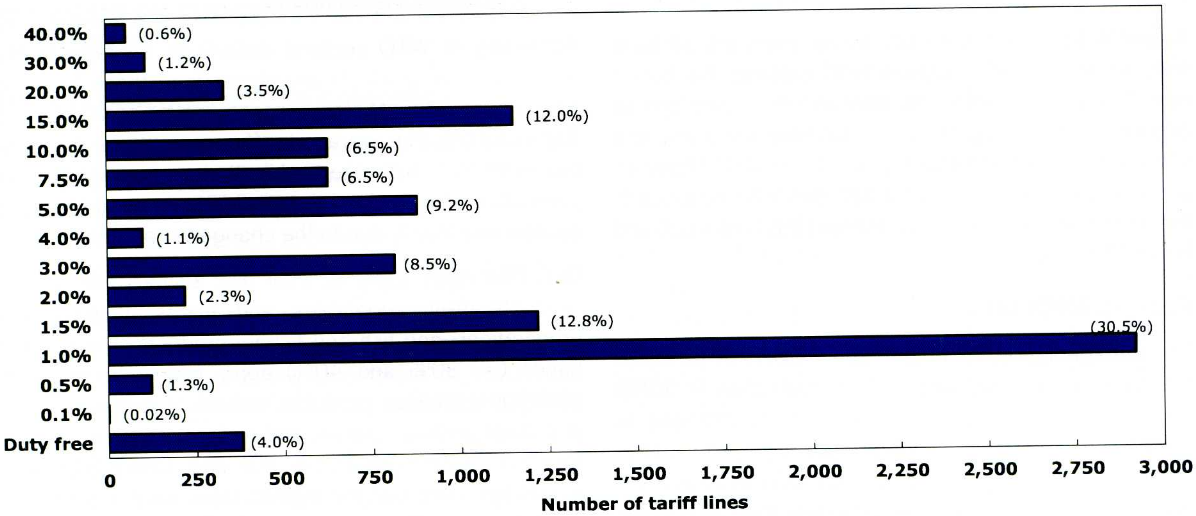
b International tariff peaks are defined as those exceeding 15%.

c Nuisance rates are those greater than zero, but less than or equal to 2%.

Note: Calculations on averages are based on national tariff line level (10-digit in 1996, and 8-digit in 2008 and 2013). The 1996, 2008, and 2013 tariffs are, respectively, based on HS1996, HS2002 and HS2012 nomenclatures.

Source: WTO Secretariat calculations, based on data provided by the authorities of Myanmar.

Chart 3.1 Distribution of MFN tariff rates, 2013



Note: Figures in parentheses denote the share of total lines. The 2013 tariff schedule consists of 9,558 tariff lines.

Source: WTO Secretariat calculations, based on data provided by the authorities of Myanmar.

Table 3.2 Tariff summary, 2013

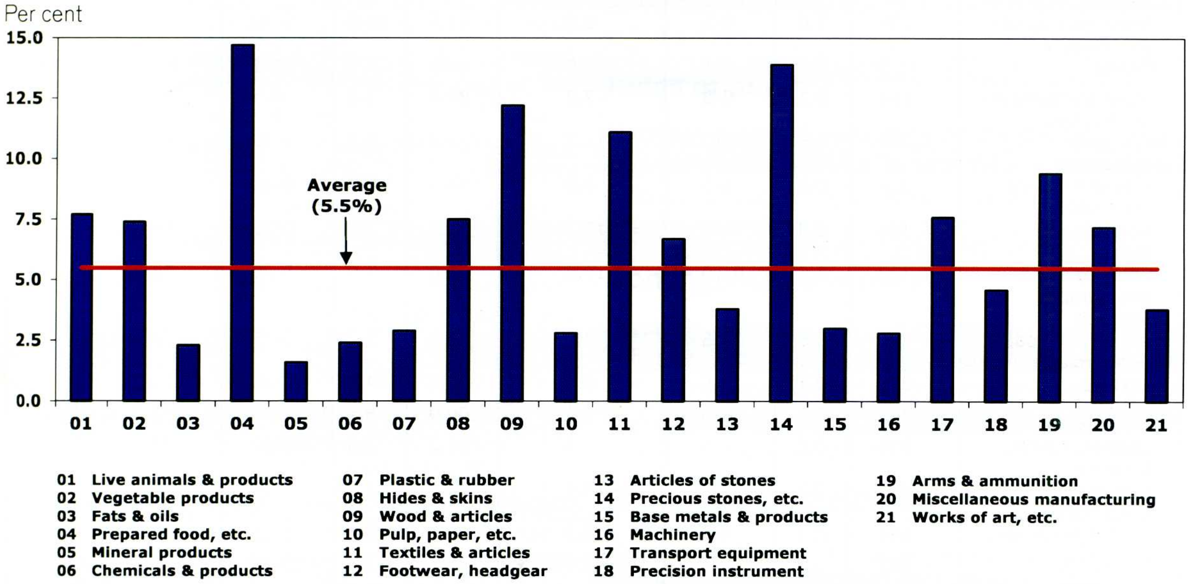
	Number of lines	Average (%)	Range (%)	Standard deviation	Nuisance[a]	Duty free
Total	9,558	5.5	0-40	6.7	46.9	4.0
Agricultural products (HS 01-24)	1,594	9.0	0-40	7.6	17.8	10.4
Industrial products (HS 25-97)	7,964	4.8	0-40	6.3	52.7	2.7
WTO agriculture	1,298	8.9	0-40	8.3	23.4	9.2
Animals and products thereof	150	9.4	0-15	6.9	1.3	33.3
Dairy products	38	3.3	3-5	0.7	0.0	0.0
Fruit, vegetables and plants	348	10.9	0-15	6.6	12.6	10.9
Coffee and tea	42	14.3	5-20	4.3	0.0	0.0
Cereals and preparations	185	9.9	0-15	6.3	5.9	14.6
Oil seeds, fats and oils and their products	198	2.1	0-15	2.2	73.2	1.0
Sugars and confectionary	32	6.8	0.5-20	7.5	50.0	0.0
Beverages, spirits and tobacco	106	24.3	15-40	10.6	0.0	0.0
Cotton	5	0.8	0-1	0.4	80.0	20.0
Other agricultural products n.e.s.	194	3.2	0-15	2.5	42.3	0.5
WTO non-agriculture	8,260	5.0	0-40	6.2	50.6	3.2
Fish and fishery products	377	8.0	0-15	3.9	7.2	12.7
Minerals and metals	1,386	3.4	0-30	4.3	56.3	4.8
Chemicals and photographic supplies	1,327	2.4	0-20	3.6	78.7	2.4
Wood, pulp, paper and furniture	455	6.8	0-15	5.6	2.0	4.4
Textiles	802	8.9	0-20	6.3	26.9	0.1
Clothing	300	16.8	2-20	5.0	3.7	0.0
Leather, rubber, footwear and travel goods	319	4.6	0.5-20	3.8	32.6	0.0
Non-electric machinery	1,291	1.9	0-15	2.4	76.3	6.6
Electric machinery	694	4.2	1-20	5.1	66.4	0.0
Transport equipment	551	7.8	0-40	11.9	34.1	1.3
Non-agricultural articles n.e.s.	722	5.5	0-30	5.4	44.0	0.1
Petroleum	36	1.6	0.5-3	0.5	91.7	0.0

a Nuisance rates are those greater than zero, but less than or equal to 2%.

Note: Calculations on averages are based on national tariff line level (8-digit).

Source: WTO Secretariat calculations, based on data provided by the authorities of Myanmar.

Chart 3.2 Average applied MFN tariff rates, by HS section, 2013



Source: WTO Secretariat calculations, based on data provided by the authorities of Myanmar.

Apart from the overall level of the tariff, as reflected in the average applied MFN tariff rate, there are potential efficiency losses depending on the dispersion of these tariff rates across product lines. The greater the differentials in tariff rates, especially within groups of similar and thus substitutable products, the higher the chance that consumer and producer decisions are distorted by the tariff structure. Since 2008, the dispersion of tariff rates has decreased; the proportion of tariff lines involving domestic and international peaks has also declined and the overall standard deviation of the tariff rates decreased from 7.7% in 2008 to 6.7% in 2013 (Table 3.1), thereby making the tariff less complex.

Other charges affecting imports

In addition to import duties, importers must pay an import licence fee and commercial tax on certain imports. A commercial tax works essentially as an excise duty, which is calculated on the landed cost of the product and is collected at the border. Commercial tax is charged on the sum of the c.i.f. value of the imports and the tariff (p. 44).

Preferential tariffs

Imports from ASEAN member states enter Myanmar at preferential rates under the ASEAN Trade in Goods Agreement (ATIGA). Under ATIGA, 7,612 lines are duty free, 380 of these lines are also duty free under MFN; 590 tariff lines have been reduced but have rates greater than zero; while 1,356 lines have not been reduced (Table 3.3). Of these, 1,278 lines are to be reduced with full implementation of the AEC in 2015. In addition, there are 78 lines where Myanmar has taken an exemption to reduce or eliminate tariffs; these include poppy seed, opium, explosives, tanks, arms and ammunition, and works of art.

Table 3.3 Preferential tariffs, 2013

	No. of lines	ATIGA[b]				AKFTA[c]			
		Avg. (%)	Range (%)	Nuisance[a]	Duty free	Avg. (%)	Range (%)	Nuisance[a]	Duty free
Total	9,558	0.6	0-10	10.3	79.6	3.7	0-40	46.9	4.0
Agricultural products (HS 01-24)	1,594	0.7	0-5	2.1	82.7	5.2	0-40	17.8	10.4
Industrial products (HS 25-97)	7,964	0.5	0-10	11.9	79.0	3.4	0-40	52.7	2.7
WTO agriculture	1,298	0.9	0-5	4.0	78.5	4.9	0-40	23.4	9.2
Animals and products thereof	150	0.2	0-5	0.0	96.0	3.3	0-5	1.3	33.3
Dairy products	38	1.8	0-5	0.0	42.1	3.3	3-5	0.0	0.0
Fruit, vegetables and plants	348	0.4	0-5	1.7	90.2	4.2	0-15	12.6	10.9
Coffee and tea	42	2.5	0-5	0.0	50.0	6.9	5-15	0.0	0.0
Cereals and preparations	185	2.0	0-5	1.6	58.9	5.0	0-15	5.9	14.6
Oil seeds, fats and oils	198	0.2	0-5	7.6	88.9	1.9	0-5	73.2	1.0

Sugars and confectionary	32	2.3	0-5	40.6	18.8	3.7	0.5-10	50.0	0.0
Beverages, spirits and tobacco	106	1.6	0-5	0.0	67.0	18.6	5-40	0.0	0.0
Cotton	5	0.2	0-1	20.0	80.0	0.8	0-1	80.0	20.0
Other agricultural products n.e.s.	194	0.6	0-5	7.2	81.4	3.0	0-5	42.3	0.5
WTO non-agriculture	8,260	0.5	0-10	11.2	79.8	3.5	0-40	50.6	3.2
Fish and fishery products	377	0.3	0-5	0.0	94.4	5.8	0-10	7.2	12.7
Minerals and metals	1,386	0.8	0-5	15.3	71.1	2.7	0-30	56.4	4.8
Chemicals and photographic supplies	1,327	0.6	0-10	19.8	71.0	2.0	0-20	78.7	2.4
Wood, pulp, paper and furniture	455	0.8	0-5	3.5	73.2	3.7	0-15	2.0	4.4
Textiles	802	0.1	0-5	0.9	97.1	4.5	0-20	26.9	0.1
Clothing	300	0.0	0-0	0.0	100.0	8.3	2-20	3.7	0.0
Leather, rubber, footwear	319	0.6	0-5	7.5	81.2	3.9	0.5-20	32.6	0.0
Non-electric machinery	1,291	0.3	0-5	19.4	77.7	1.7	0-15	76.3	6.6
Electric machinery	694	0.2	0-5	8.1	90.1	3.4	1-15	66.4	0.0
Transport equipment	551	0.8	0-5	6.4	77.5	7.8	0-40	34.1	1.3
Non-agricultural articles n.e.s.	722	0.9	0-10	5.8	78.9	3.7	0-30	44.0	0.1
Petroleum	36	0.9	0-1.5	61.1	38.9	1.6	0.5-3	91.7	0.0

a Nuisance rates, including rates greater than zero, but less than or equal to 2%.

b ASEAN Trade in Goods Agreement.

c ASEAN-Korea Free Trade Agreement.

Note: Calculations of averages are based on national tariff line level (8-digit); nuisance and duty-free rates as a percentage of total numbers.

Source: WTO Secretariat calculations, based on data provided by the authorities of Myanmar.

In the context of being a member of ASEAN, Myanmar also has preferential import tariffs for China (ACFTA), Japan (AJFTA), Republic of Korea (AKFTA), Australia and New Zealand (AANZFTA), and India (AIFTA). According to the authorities, the tariff reduction schedules for these FTAs (except AKFTA) are being transposed from HS2007 nomenclature to HS2012 nomenclature and are therefore not available. With respect to AKFTA, the number of duty-free tariff lines is exactly the same as that under MFN. However, some of the higher duty rates under MFN have been reduced under AKFTA.

Import licensing, prohibitions and restrictions

Import licensing

Prior to June 2012, all imports into Myanmar required a non-automatic import licence. This has changed since June 2012, when the Government eased import licensing requirements for 166 commodities (these correspond to more than 1,900 tariff lines) by allowing their importation with an automatic licence. Subsequently, in April 2013, all licensing requirements for these commodities were abolished. Nonetheless, under the provisions of the Control of Imports and Exports (Temporary) Act 1947, most goods imported into Myanmar still require an import licence. Import licences are issued by the Department of Commerce and Consumer Affairs of the Ministry of Commerce.[5] To obtain a licence, importers must submit an application on the company's letterhead, the requisite fee[6], the pro-forma invoice, sales contract, and, if required, recommendations from relevant government departments and/or organizations. The authorities state that most licences are granted within 24 working hours.

In October 2011, the Government began accepting applications for import licences at the Yangon branch of the Ministry of Commerce. Previously, only the Ministry of Commerce in Nay Pyi Taw accepted such applications.

Import prohibitions

The Ministry of Commerce maintains a list of prohibited imports; any changes to the list are reviewed by the Directorate of Trade of the Ministry of Commerce. Under Section 18 of the Sea Customs Act, import prohibitions apply to, *inter alia:* counterfeit currency and coins; pornographic material; all kinds of narcotic drugs and psychotropic substances[7]; playing cards; goods bearing the imprint or reproduction of the flag of Myanmar; goods bearing the emblem of Buddha and pagodas of Myanmar; arms and ammunition; antiques and archeologically valuable items; and wildlife and endangered species.

Under Section 19 of the Sea Customs Act, the President of Myanmar (or another official acting on behalf of the President) may from time to time prohibit or restrict imports; these are notified through the *Official Gazette*. Currently this list includes alcoholic beverages and cigarettes.[8]

Import restrictions

Myanmar restricts certain imports. To import these products, a recommendation is required from the relevant government department and agencies. Imports of live animals and birds require the approval of the livestock, breeding and veterinary department; live plants, seed, and soil imports require approval from the Department of Agriculture; and telecommunications equipment needs to be approved by the telecommunications department.[9]

Furthermore, foodstuff that could be harmful for human consumption, such as palm oil (two tariff lines) and dairy products, must be imported according to the specifications in the sales contract and be certified by a recognized health laboratory. All drugs and medicines to be imported must be registered with the Department of Food and Drug Administration, part of the Ministry of Health. Additionally, for the issuance of the import licence for drugs and medicines, the importer must provide a drug importation approval certificate, a drug wholesalers licence, and drug registration certificate.

Imports of certain fruits are permitted only at certain times of the year, when they are not produced in Myanmar.[10]

Tariff quotas and quantitative restrictions

Myanmar does not impose any tariff-rate quotas or quantitative restrictions.

Duty drawback

Imports of machinery and equipment that are re-exported are eligible for duty drawback. The goods must be re-exported within two years of importation. Under the current duty drawback scheme, seven eighths of the customs duty paid on goods that can be easily identified will be refunded upon re-export. The claim for the duty drawback must be made at the time of re-export. The authorities state that claims for refund are processed within a week.

Rules of origin

Myanmar does not have any non-preferential rules of origin. Preferential rules of origin for imports under ATIGA and other FTAs are detailed in the appendices to the agreements.[11]

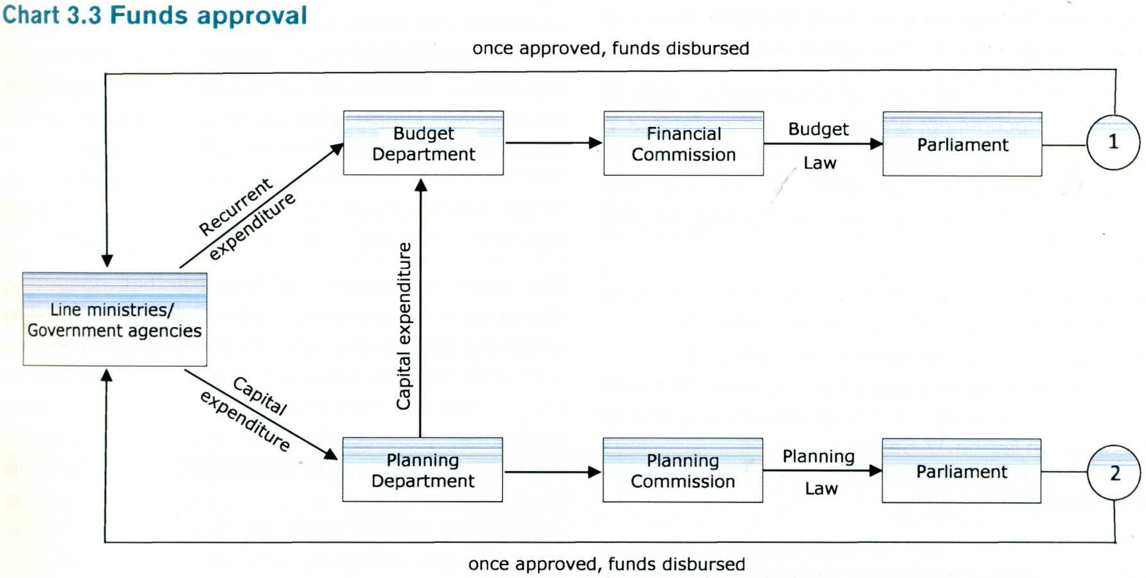
Contingency measures

Presently there is no anti-dumping, countervailing, safeguards or subsidies legislation in Myanmar. The authorities state that they are in consultation with various donor agencies, with a view to introducing legislation in this area in the near future.

Government procurement

Myanmar is neither party to nor an observer of the WTO Agreement on Government Procurement. Myanmar has no specific legislation governing public procurement. However, all government agencies must adhere to notifications issued by the President's Office (on 2 June 2012 and 5 April 2013), which stipulate that every government agency must use the open tender system for all investment and commercial procurement, including that for construction works and procurement, of machinery, equipment, and vehicles. All government agencies/ departments as well as sub-central entities must submit recurring expenditure requirements to the Budget department of the Ministry of Finance, and their capital expenditure requirements to the planning department of the Ministry of National Planning and Economic Development. Funds are approved as part of the budget and planning laws. (Chart 3.3). The approved amounts are disbursed by the Ministry of Finance and Revenue.

Chart 3.3 Funds approval



Source: Information provided by the authorities of Myanmar.

Table 3.4 Procurement by the Ministry of Construction, Myanmar, 2006-12

(Kyats million)

	Total Expenditure	Total Purchasing Expenditure	Tendering		Non Tendering Expenditure	
			Foreign	Domestic	Local	%
2006-07	127,162	86,197	17,102	341,938	85,838	99.6
2008-09	117,151	83,289	105,207	1,193,805	81,990	98.4
2010-11	366,376	238,621	701,531	6,289,370	231,631	97.1
2011-12	273,453	177,974	20,155,855	12,670,795	145,147	81.6

Source: Information provided by the authorities of Myanmar.

The procurement system currently in place in the Ministry of Finance requires every procuring entity to form a tender selection committee.[12] The invitation for bids should be published in two local papers and the government website. The committee reviews each company's proposal and invites the qualified ones to the tender opening. Sealed bids are opened in the presence of all qualified bidders and the lowest bid is selected and sent to the Minister for approval. After approval by the Minister, the respective agency may proceed with the procurement.

Bidders for construction projects must provide a company profile, bank account details, certificate of registration, certificate of manufacturer, certificate of supplier, record of past performance, and in the case of a foreign company a recommendation by the Embassy of Myanmar. The original and three copies of the bids signed by authorized persons accompanied by a US$500,000 bid bond must be submitted. Unsuccessful bidders are refunded the bid-bond amount, while the successful bidder is required to furnish a guarantee of 10% of the tender amount; failure to do so results in the forfeiture of the bid-bond and black-listing of the company. With respect to construction, it would appear that domestic producers of, *inter alia*, tyres, cement, and MS rods are given preference; the margin of preference and how it is administered is not clear.

With regard to the Ministry of Construction, data on government procurement are detailed below (Table 3.4). According to budget estimates, government procurement was approximately 7% of GDP in 2011/12, with construction-related procurement accounting for 6% of GDP.[13]

The authorities state that procurement accounts are audited semi-annually so as to make the public procurement process transparent and efficient; there is no complaints or appeals procedure. However, to ensure fairness and transparency, the authorities enacted an anti-corruption law on 17 September 2013.

State trading

Myanmar has not notified its state-trading activities to the WTO; its state-trading arrangements remain opaque. It would appear that Myanmar Petrochemical Enterprise (MPE) has the sole right to import crude oil, while the Myanmar Petroleum Products Enterprise (MPPE) is the sole importer of refined petroleum products; Myanmar Oil and Gas Enterprise (MOGE), Myanmar Timber Enterprise (MTE), and Myanmar Salt and Marine Chemical Enterprise also seem to engage in state-trading activities. No further information on state trading in Myanmar was available to the Secretariat.

Standards and other technical requirements

Under the provisions of the Science and Technology Development Law, the Ministry of Science and Technology is responsible for standards and conformity assessment. The Ministry of Health's Food and Drug Authority and the Food and Drug Administration are responsible for promulgating and enforcing regulations and standards in the food and pharmaceutical industries (including imports). As such, the Ministry of Health is responsible for the National Drug Law, Traditional Drug Law, and the National Food Law. The Ministry of Agriculture and Irrigation is responsible for the Plant Pest Quarantine Law and the Animal Health and Development Law.

According to the authorities, standards and technical regulations adopted in Myanmar are based on international standards and technical regulations. Food standards are adopted from CODEX; fishery standards are based on EU regulations; pharmaceutical standards and regulations are based on British International Standards; and animal health risks are those that have been recognized by the OIE. Electrical standards are based on the IEC standards, motor vehicles follow UNECE standards, and building standards are based on ISO and ASEAN standards.

The authorities stated that Myanmar has 65 existing standards. It is developing a standards law and creating a National Standards Council (NSC) to revise the existing standards. The law has been drafted and submitted to the Cabinet and Parliament for approval. A standards committee, to be set up under the NSC, will establish 19 technical committees covering various sectors. The technical committees, which are expected to comprise government officials, academia, chambers of commerce, private sector industries, and professionals, will draft national standards and regulations in their respective areas. There will be a one-month period for comments, before the standard will be accepted.

None of Myanmar's preferential trade agreements contains a chapter on standards and technical regulations.

Under the National Food Law and the National Drug Law, food and pharmaceuticals must be labelled. For food, labels must clearly state name of the product, contents including name and net weight, manufacturer's name and address, batch number, manufacturing date, expiry date, and required storage conditions. For pharmaceuticals, labels must clearly state the brand name, generic name, active pharmaceutical ingredients (API), and contents including name and amount, batch number, date of manufacture, expiry date, and manufacturer's name and address, in English.

The Director General, Myanmar Scientific and Technological Research Department, Ministry of Science and Technology has been notified to the WTO as the national enquiry point for all questions relating to technical barriers to trade (TBT).[14] However, the WTO has not received any notification concerning the technical regulations in force.[15]

Sanitary and phytosanitary measures

The Ministry of Agriculture and Irrigation and the Ministry of Livestock, Fisheries and Rural Development are responsible for sanitary and phytosanitary (SPS) measures in Myanmar. SPS standards adopted by Myanmar follow those of CODEX, ASEAN, and the OIE. The Directorate of Investment and Company Administration (DICA), Ministry of National Planning and Economic Development, is the national enquiry point to the WTO.[16] Myanmar has not made any notification concerning its SPS measures to the WTO.

To support domestic agricultural production, Myanmar enacted a Pesticide Law and a Plant Pest Quarantine Law in 1990 and 1993, respectively. The two laws provide for management and control of maximum residue limits in food, as well as import and export certification of plant and plant products. In this respect a Pesticide Analytical Laboratory has been setup to carry out residue surveys and monitoring in agricultural food commodities. Furthermore, the laboratory has the capacity to carry out mycotoxin analysis.

The Plant Protection Division of the Ministry of Agriculture and Irrigation is the competent authority to issue SPS certificates, as provided for under the Plant Pest Quarantine Law of 1993. Certificates for imports and exports are issued in the Yangon head office and at the inspection stations at seven border entry points.

Import inspection permits are also needed for imports of live animals, animal products, animal feed, and veterinary drugs. These are issued by the Ministry of Livestock, Fisheries and Rural Development and the Ministry of Health. The authorities stated that permits are issued within two days. The quarantine requirement for live animals is three weeks. Imports of GMOs are not permitted.

SPS-related certificates are mandatory for: prepared food (Food and Drug Administration); fisheries (Department of Fishery); pharmaceuticals (Food and Drug Administration)[17]; pesticides (Department of Agriculture); and crops (Post Harvest Technology Centre of the Department of Agriculture). There is only one ISO 17025 accredited laboratory, which is run by the Ministry of Livestock, Fisheries and Rural Development.

MEASURES DIRECTLY AFFECTING EXPORTS

Export procedures

Only Myanmar nationals may engage in international trade; however, foreign investors registered under the Foreign Investment Law as manufacturers may export their finished goods.

Exporters of most products require an export licence prior to exporting (p. 42). Exporters must be registered as companies and exporters before they apply for export licences from the Department of Commerce and Consumer Affairs under the Ministry of Commerce (Table 3.5). For certain products, recommendations are required from relevant ministries or associations under the UMFCCI. According to the authorities, these associations are authorized by the UMFCCI or relevant ministries to issue recommendations for export licences to monitor the export performance of these products.

Exporters must submit an export declaration form to Customs before exporting the goods, together with required documentation, such as: the export licence, invoice, packing list, sales contract, letter of credit or general remittance exemption certification, forest pass for the shipment of forestry produce, health certificate for the export of live animals, permit for the export of wild live animals, and other certificates and permits as required by the relevant government agencies.[18]

Export inspections are conducted by Customs. According to the authorities these are intended to avoid disputes between exporters and importers concerning the specifications.

Table 3.5 Export procedure

Process	Department
Company registration	Directorate of Investment and Company Administration
Registration of importer and exporter	Directorate of Trade
Recommendation for export licence	Relevant ministries or associations under the UMFCCI
Export licence	Department of Commerce and Consumer Affairs
Insurance and customs clearance	Relevant departments under the Ministry of Finance
Banking	Central Bank of Myanmar
Port clearance	Myanmar Port Authority

Source: Information provided by the authorities.

Currently, private inspection companies stationed in Yangon (e.g. SGS (Myanmar) Ltd. and OMIC (Myanmar) Ltd.) provide pre-shipment inspection for certain exported products. Inspection companies set up under the Myanmar Company Act (local and foreign companies) also provide inspection at the request of customers.

The Export Import Coordinating Committee (EICC) monitors all export and import matters (p. 23); it is authorized to decide on all matters related to export and import procedures to streamline the effectiveness of the decision-making process.

Export taxes

Myanmar reformed its export tax regime in 2011. Prior to the reform, exporters had to pay commercial tax at a rate of 8% and income tax at a rate of 2% before exporting goods. Currently, commercial tax is levied only on exports of five commodities (Table 3.6); according to the authorities, this is to preserve natural resources. In addition, a cess is collected by Customs on behalf of the Ministry of Finance on four products.

Export prohibitions and licensing

Exports of the following items are prohibited: arms and ammunition; pornographic articles; antiques; all kinds of narcotic drugs and psychotropic substances[19]; crude oil (from 2013); and raw logs (to be prohibited from 1 April 2014).[20]

According to the authorities, Myanmar does not use export quotas.

It would appear that the Government is restructuring its export licensing regime. The authorities state that, from 2013 152 types of goods no longer require export licences; no further information was available. Exporters of other goods still require export licences for export. To apply for an export licence, exporters must submit an application form and a sales contract, invoice; the Ministry of Commerce issues export licences within 24 hours. Licences are valid for three months, renewable but not transferable. Unlike for import licences, there is no export licensing fee.

A recommendation is required from the relevant department/ministry in order to obtain an export licence for certain commodities (Table 3.7).

The time required to obtain a permit depends on the type of commodity. For example, it takes from 6 months to 18 months to obtain recommendations from the FDA on materials related to food and drugs, while it takes from one week to 10 days to obtain SPS certificates.

Export promotion

Duty and tax concessions, and subsidies

Myanmar notified that it did not use any export subsidies on agricultural products during 1995-2004.[21]

Tax exemptions on exports are granted to domestic and foreign investors. Manufacturing businesses receive 50% income tax exemption on profits accrued from exports, and commercial tax exemption if the goods are exported with a few exceptions (p. 42). According to the authorities, no duty and tax concessions are linked to local-content requirements.

Special economic zones

In accordance with the Special Economic Zone (SEZ) Law (January 2011), which is being revised, investors who carry out business in a SEZ are eligible for:

- income tax exemption for the first five years on profits accrued from exports;
- 50% reduction of income tax for the second five years on profits accrued from exports;

Table 3.6 Export tax and cess

Commercial tax	Rate (%)	Cess	Rate
Gems	30	Rubber	K 11.3732 /MT
Gas	8	Cotton	K 291.2 /MT
Crude oil	5	Lac	K 105.2 /MT
Teak and conversions	50	Cutch	K 49.728 /MT
Timber and conversions	50		

Source: Information provided by the authorities.

Table 3.7 Export permit

Commodity	Ministry/Department
Agricultural seeds	Ministry of Agriculture and Irrigation
Teak scantlings and forest products	Ministry of Environmental Conservation and Forestry
Shrimp bran (prawn shell dust), fish bran	Livestock Breeding and Veterinary Department
Metal	Ministry of Mines
Religious commodities	Religious Affairs Department
Movies, video tapes	Motion Picture Enterprise
Animals, animal products and animals feed	Livestock Breeding and Veterinary Department
Materials related to food and drugs	Food and Drug Administration
Seeds and vegetable roots	Ministry of Agriculture and Irrigation
Pearl products made of pearl and mother of pearl	Myanmar Pearl Enterprise

Source: Information provided by the authorities.

- 50% reduction of income tax on profits accrued from exports for re-investment;
- exemption from tariffs on the importation of raw materials, machinery, and equipment for export-oriented enterprises established in an SEZ; and
- exemption from tariffs and commercial tax for five years on the importation of machinery and motor vehicles for investment enterprises, followed by a 50% reduction on import tariffs and commercial tax for the next five years.

The Government plans to establish three SEZs: Dawei, Kyauk Phyu, and Thilawa. Infrastructure is being developed in the Dawei SEZ. A plan for infrastructure development in Thilawa is being prepared, and an environmental impact assessment is being conducted in the Kyauk Phyu.

Export finance, insurance, and guarantees

The authorities state that there is no government scheme to provide export credit, insurance or guarantees.

Export promotion and marketing assistance

The Government aims to promote exports, diversify markets abroad, and improve the quality of exported products. The Ministry of Commerce intends to lower trade barriers by simplifying export (and import) procedures, and by issuing export licences as quickly as possible. According to the authorities, the number of documents required to obtain an export licence has been reduced, and a branch office of the MOC was set up in Yangon to reduce administration costs.

The Ministry of Commerce conducts training, seminars, workshops, and trade fairs, to enable private sector participation in foreign trade. Information is available through official websites[22]; the weekly *Commerce Journal*; and monthly *Trade News Bulletin*. In addition, the Ministry of Commerce, in cooperation with the Ministry of Communications and Information Technology, has set up an Automated Price Information System[23], which provides information on domestic market prices of agricultural products to farmers, brokers, merchants, and businessmen.

Export operations of state enterprises, or state trading

The State has a monopoly on exports of teak, petroleum and petroleum products, natural gas, salt and marine chemicals, pearls and pearl products, and mineral and metal products. It would appear that state-trading arrangements include:

a. Myanmar Timber Enterprise (MTE): state trading in raw log timber;

b. Myanmar Petroleum Products Enterprise (MPPE): state trading in petroleum products;

c. Myanmar Petrochemical Enterprise (MPE): state trading in crude oil and petroleum products;

d. Myanmar Oil and Gas Enterprise (MOGE): state trading in natural gas;

e. Myanmar Salt and Marine Chemical Enterprise: state trading in salt and marine chemicals;

f. Myanmar Pearl Enterprise: state trading in pearls and pearl products; and

g. The No. (2) Mining Enterprise: the sole exporter of electrolytic refined tin, wolfram ore, and tin tungsten ore.[24]

State-owned economic enterprises, or private enterprises, may be authorized to export these items if permission is obtained from the relevant state-trading enterprise(s); activities subject to state-trading arrangements remain opaque (p. 40).

MEASURES AFFECTING PRODUCTION AND TRADE

Taxation and incentives

Taxation

Overview

Myanmar has 14 different taxes and duties under the major headings: taxes levied on domestic production and consumption (excise duty, commercial tax, stamp duty, state lottery, import licence fees, transportation tax); taxes levied on income and ownership (income tax); customs duties; taxes levied on public utilities such as land, water and embankment; and taxes on extraction of forest products, minerals, rubber, and fisheries.

Tax accounts for about 90% of total government revenue, and tax revenue has been increasing in recent years. The biggest source of tax revenue is commercial tax, followed by income tax (Table 3.8). Profit tax was discontinued in 2011; those subject to profit tax before 2011 are now subject to individual income tax.

Table 3.8 Selected taxes and their revenues, 2005-12

(K billion)

Tax	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12
Commercial tax	226.1	319.2	384.6	429.2	466.5	601.8	768.7
Income tax	145	260.1	334.1	422.6	415.6	436	711.1
Profit tax	63.2	78.5	94.2	103.8	114.6	135.4	a
Stamp duty tax	5.1	6.1	11.5	15.1	20.8	29.5	37.4
State lottery tax	8.8	12.8	13.9	17.3	19.8	20.3	21.5
Tariff	**17.9**	**29.5**	**35.6**	**82.4**	**45.3**	**59.6**	**135.6**

a Profit tax was discontinued in 2011.

Source: Information provided by the authorities.

Table 3.9 Commercial tax and excise tax in Myanmar

Schedules	Items	Domestically produced	Imported
Schedule 1	70 items	Exempted	5%
Schedule 2	65 items	5%	5%
Schedule 3	132 items	5%	5%
Schedule 4	90 items	5%	5%
Schedule 5	52 items	5%	5%
Schedule 6 (Excise tax)	Cigarettes	100%	100%
	Tobacco	50%	50%
	Virginia tobacco, cured	50%	50%
	Cheroots	50%	50%
	Cigars, pipes, all sorts	50%	50%
	Pipe tobacco	50%	50%
	Betel chewing preparations	50%	50%
	Liquor	50%	50%
	Beer	50%	50%
	Wine	50%	50%
	Teak and teak conversions	50%	50%
	Hardwood logs and hardwood conversions	50%	50%
	Jade and other precious stones	30%	30%
	Light vans, saloons, sedan cars, estate wagons, and coupes	25%	25%
	Gasoline	10%	10%
	Diesel oil	10%	10%
	Jet fuel	10%	10%
	Natural gas	8%	8%
Schedule 7	**Services**		**Tax rate**
	Railways, waterways, airways, and road transport business		5%
	Entertainment business		5%
	Trading business consisting of purchase and sale of goods		5%
	Hotels, rest houses		5%
	Sale of foods and drinks		5%
	Tourism business (including tour guide services)		5%
	Vehicles cleaning and oiling, repair and decoration		5%
	Insurance except life insurance		5%
	Beautifying and body fitness business including hair dressing		5%
	Printing, computer typing, and computer graphic design (except photocopying)		5%
	Brokerage services		5%
	Drawing designs, decoration, and repairing of land, building, and construction		5%
	Advertising business, taking and developing photos, editing and distribution business of motion pictures and video tapes		5%
	Agents, lawyers, certified accountants, auditors		5%

Source: Commercial Tax Law.

Commercial tax and excise tax

In accordance with the Commercial Tax Law, amended in September 2011, commercial taxes apply to goods produced domestically, services carried out domestically, and imported goods, according to seven schedules (Table 3.9).

Under Schedule 1 of the Commercial Tax Law, 70 items are exempt from commercial tax (Table A3.2) if they are produced domestically, while a 5% tax is levied on the imported goods, indicating different treatment for domestically produced and imported goods. According to the authorities, these goods are for the basic needs of the Myanmar people, and the different tax treatment is to protect domestic producers.

In addition, the commercial tax rate is reduced to 3% for the production of import-substitution goods by domestic enterprises located in industrial zones. According to the authorities, this is to promote and protect domestic SMEs. Tax credits are allowed for producers of goods and persons carrying out goods trading; they may set-off tax paid on imported raw materials, or semi-finished goods.

It would appear that excise taxes listed in Schedule 6 of the Commercial Tax Law are effectively licensing fees collected by the Ministry of Home Affairs; they are applied equally to domestically produced goods and imported goods.

Income tax

The Income Tax Law, amended in September 2011, covers individual income tax and corporate income tax, and the tax is levied on worldwide income. Individuals are taxed under progressive rate schedules[25]; residents and non-residents are subject to different tax rates (p. 22).[26] Corporate bodies are taxed at flat rates: 25% for resident companies, 35% for non-resident companies.

Dividends are exempted from tax. Capital gains tax is 10% for citizens and resident foreigners, and 40% for non-resident foreigners. However, capital gains from the oil and gas sector is taxed at 40% to 50%, depending on the value of gains (Table 3.10).

Incentives and support

The MIC is responsible for granting tax exemptions and tax relief, such as:

a. commercial tax reduction from 5% to 3% for the production of import-substitution goods by domestic enterprises located in SEZs;

b. 50% income tax exemption on profits accrued from exports for manufacturing businesses;

c. commercial tax exemption if the goods are exported;

d. tariff exemption for capital assets imported for newly established industries with permission from the MIC, and for imports by NGOs for religious, health, or development purposes;

e. incentives offered to foreign investors by the MIC (p. 22); and

f. other incentives granted to investment in the SEZs (once they begin functioning).

The authorities state that data are not available regarding tax revenue forgone.

The Government notified that it did not use any domestic support in the agriculture sector during calendar years 1995-2000, 2002, and 2004.[27]

Legal framework for businesses

Main business-related legislation is old (Table 3.11).

There is no bankruptcy law in Myanmar.

With the reform and opening of the economy, the Government has been adopting measures to improve its business environment. It simplified the registration procedure for companies in February 2013, and extended the validity period from three to five years. Registered companies used to be grouped into eight categories: trade (not allowed for foreign companies), services, industry manufacturing, hotels, tourism, jewellery, construction, and banking. Companies no longer need to fit themselves into a category, and may be registered upon declaring their lines of business to the Directorate of Investment and Company Administration (DICA).

State-owned economic enterprises (other than state-trading companies) and privatization

State-owned economic enterprises (SEEs)

State-owned economic enterprises are regulated under the State-Owned Economic Enterprise Law No. 9/89, according to which, certain activities are reserved for the State:

- extraction and sale of teak;
- cultivation and conservation of forest plantation (except village-owned fire-wood plantation cultivated by villagers for their personal use);
- exploration, extraction, and sale/export of petroleum and natural gas;
- exploration, extraction, and export of pearl, jade, and precious stones;
- breeding and production of fish and prawns in fisheries, which have been reserved for research by the Government;
- postal and telecommunications services;
- air transport services, railway transport services;
- banking services and insurance services;
- broadcasting services and television services;
- exploration, extraction, and export of metals;
- electricity generating services (other than those permitted by law to private and cooperative electricity generating services); and

Table 3.10 Capital gains tax for the oil and gas sector

Companies in the oil and gas sector	Capital gains tax rate
Up to US$100 million	40%
US$100 million - US$150 million	45%
Over US$150 million	50%

Source: Information provided by the authorities.

Table 3.11 Legislation on business

Legislation	Main responsibilities
Myanmar Companies Act 1914	Administers private and public companies
Myanmar Companies Rules 1940	Provides the rules and regulations for the liquidation of private and public companies
Special Company Act 1950	Specially promulgated for the incorporation of private and public companies in which the State has equity
Myanmar Partnership Act 1932	Administers the partnership enterprises and registration of partnerships
State-Owned Economic Enterprise Law 1989	Identifies areas of economic activities to be undertaken solely by the state sector
Private Industrial Enterprise Law 1990	Consolidates and promotes large, medium, and small scale private industries
Myanmar Citizens Investment Law 1994	Promotes domestic investment so as to promote production and exportation by the private sector

Source: Information provided by the authorities, and ASEAN online information. Viewed at: http://www.aseankorea.org/files/upload/eng/ENG_Resources/Myanmar-GuideBook.pdf [16/04/13].

- manufacture of products relating to security and defence, which the Government has, from time to time, prescribed by notifications.

In the interest of Myanmar, the Government may permit joint ventures between the Government and other persons or economic organizations to conduct business in these reserved activities. In this case, foreign equity must not be more than 80% in the reserved activities. The Government may also prohibit or restrict the purchase, sale or transfer of products derived from or produced by or used by any enterprises conducting the reserved activities.

The Ministry of National Planning and Economic Development has been analysing the performance of SEEs. According to the authorities, since Myanmar transformed from a central-planned economy to a market-oriented one, most SEEs have been privatized. Currently, 41 SEEs remain, and all are subordinate to the relevant ministries (Table 3.12).

The authorities state that almost all SEEs are making losses: SEEs spend 75% of the total government budget, and their annual losses are estimated at about 5% of GDP. The authorities consider that barriers for further development of SEEs include lack of a healthy financial system, low technology, and lack of market access and skilled labour.

Current policy objectives for government reform of SEEs are: encouraging the development of businesses, limiting SEEs to public services, maintaining the public interest SEEs under the guidance of the Government without transfer to the private sector, and including the public-private-partnership method in the privatization process. According to the authorities, SEEs operating under monopoly or other exclusive rights are under the Ministries of Health, Rail Transport, and Education; these SEEs are operating for the public interest, and will continue to be supervised by the Government.

Table 3.12 State-owned economic enterprises in Myanmar, October 2013

Ministry	SEEs
Ministry of Information	Printing and Publishing Enterprise
	News and Periodicals Enterprise
	Myanmar Motion Picture Enterprise
Ministry of Agriculture and Irrigation	Myanmar Agricultural Development Bank
Ministry of Environmental Conservation and Forestry	Myanmar Timber Enterprise
Ministry of Finance	Myanmar Economic Bank
	Myanmar Investment and Commercial Bank
	Myanmar Foreign Trade Bank
	Myanmar Insurance Enterprise
	Myanmar Small Loan Enterprise
Ministry of Construction	Department of Human Settlement and Housing Development
Ministry of Livestock, Fisheries and Rural Development	Livestock, Feedstuff, and Dairy Products Enterprise
Ministry of Communications and Information Technology	Myanmar Posts and Telecommunications Department
Ministry of Labour, Employment and Social Security	Social Security Board
Ministry of Mines	No. (1) Mining Enterprise
	No. (2) Mining Enterprise
	No. (3) Mining Enterprise
	Myanmar Gems Enterprise
	Myanmar Salt and Marine Chemical Enterprise
	Myanmar Pearl Enterprise
Ministry of Cooperatives	Cooperative Export Import Enterprise
Ministry of Transport	Inland Water Transport Enterprise
	Myanmar Port Authority
	Myanmar Shipyards
	Myanmar Airways
Ministry of Hotels and Tourism	Myanmar Hotels and Tourism Services
Ministry of Industry	No. (1) Heavy Industrial Enterprise
	No. (2) Heavy Industrial Enterprise
	No. (3) Heavy Industrial Enterprise
	Textile Industries Enterprise
	Pharmaceutical and Foodstuff Enterprise
	Paper and Home Utility Enterprise
Ministry of Rail Transportation	Myanmar Railways
	Road Transport Enterprise
Ministry of Energy	Myanmar Oil and Gas Enterprise
	Myanmar Petrochemical Enterprise
	Myanmar Petroleum Products Enterprise
Ministry of Electric Power	Hydro Power Generation Enterprise
	Myanmar Electric Power Enterprise
	Electricity Supply Enterprise
	Yangon City Electricity Supply Board

Source: Information provided by the authorities.

According to the authorities, the Myanmar Economic Holdings, and the Myanmar Economic Corporation used to be owned by the military; they are now private companies whose shares are owned by ex-military personnel.

Privatization

According to the authorities, the private sector's share in GDP is over 90%, and the State's presence is large only in telecommunication services, social and public administration, energy, forestry, construction, and electricity (Table 3.13).

The first Privatization Commission was established in 1995. The authorities indicate that the Commission privatized 772 entities between 1995 and 2011, and the State gained K 660.2 billion from the privatization process.

The authorities state that through privatization the Government wishes to improve the efficiency of the underperforming SEEs, reduce their losses, and thus reduce the budget deficit.

Privatization methods adopted include the public-private-partnership, share system, franchise, joint venture, and sale of the enterprise. Before 2011, foreign participation was not allowed in the privatization process. Under the current regime, a new Privatization Commission was established, headed by a Vice President. The Commission plans to adopt a new privatization procedure using the "open tender" method; use the private-public-partnership method more; and focus more on underperforming SEEs.

Small and medium-sized enterprises (SMEs) and assistance

The authorities state that, as SMEs contribute to employment creation, resources utilization, income generation, and investment promotion, the Government pays special attention to facilitating their development, so that SMEs become larger and more competitive and innovative in the international market.

Around 99% of Myanmar's 43,275 registered enterprises are SMEs. Most registered SMEs, (63%) are in the food and beverage industry (Table 3.14). In addition, there is a large share of unregistered informal SMEs; for example, SMEs in trade and services are usually not registered. The authorities estimate that over 80% of all businesses in Myanmar are informal, most are family-owned or self-employed.

The Government is preparing an SME Law, with the objectives of: improving human resources development, boosting technology innovation, facilitating access to

Table 3.13 The share of public/private sectors in GDP (end-March 2012)

Public sector's share in GDP		Private sector's share in GDP	
Sector	Percentage in sectoral GDP (%)	Year	%
Agriculture	0.1	2006-07	89.6
Livestock and fishery	0.1	2007-08	90.6
Forestry	72.8	2008-09	91.4
Energy	75.3	2009-10	91.1
Metallic and non-metallic minerals	1.1	2010-11	90.9
Processing and manufacturing	3.9	2011-12	91.0
Power	39.7		
Construction	43.0		
Transportation	0.8		
Communications	100.0		
Financial	44.5		
Social and public administrations	91.2		
Rental and other services	3.5		
Trade	3.1		

Source: Information provided by the authorities.

Table 3.14 Sectoral distribution of SMEs in Myanmar, July 2012

Industry	Large	Medium	Small	Total	(%)
Food and beverages	2,369	4,110	20,976	**27,455**	63.5
Clothing and wearing apparel	341	380	1,001	**1,722**	3.9
Construction materials	510	650	2,117	**3,277**	7.6
Personal goods	375	410	330	**1,115**	2.6
Consumer produce	144	79	97	**320**	0.7
Literature and art	60	117	183	**360**	0.8
Raw goods production	169	240	282	**691**	1.6
Metal and mineral production	315	381	1,204	**1,900**	4.4
Agricultural machinery	9	25	37	**71**	0.2
Industrial tools and equipment production	15	49	66	**130**	0.3
Automobile production	194	40	33	**267**	0.6
Electrical equipment	43	15	12	**70**	0.2
General	264	791	4,799	**5,854**	13.5

Source: Information provided by the authorities.

investment, improving infrastructure, and reviewing tax and other business-related regulations.

Different agencies under different ministries are responsible for the registration of and assistance to different SMEs. The Ministry of Cooperatives is responsible for registration of industrial cooperative societies and micro and handicraft enterprises, provision of technical assistance, and coordination and promotion of export and import businesses; the Ministry of Industry is responsible for registration of SMEs and the promotion of SME development. Assistance is provided in the form of, for example, opening training programmes, providing market information, promoting linkages between local enterprises and foreign investors, and facilitating cooperation with the UMFCCI and various associations.

Competition policy and regulatory issues

Competition policy

Myanmar is drafting a competition law, which is expected to be promulgated before 2015. According to the draft, there will be a Competition Commission, which will act as the enforcement authority to control and monitor competition. Apparently, the Competition Law is to cover all sectors in the economy.

Myanmar is also drafting a Consumer Protection Law to be completed before 2015.

Myanmar is not party to any bilateral or regional agreement on anti-trust cooperation. The authorities state that they try to ensure fair competition in accordance with ASEAN Regional Guidelines on Competition Policy.[28] Some articles of the Constitution regulate competition; Article 36 (B) stipulates that "the Union shall protect and prevent acts that injure public interests through monopolization or manipulation of prices by an individual or group with intent to endanger fair competition in economic activities."

Price controls

It would appear that price controls are in place on coal, oil and oil products, natural gas, and electric utilities (p. 50). According to the authorities, SEEs do not produce and sell products or goods at fixed prices.

Intellectual property rights

Myanmar has submitted its intellectual property rights law to the Parliament for approval. According to the authorities, the draft Law is to be consistent with the TRIPS Agreement.[29] Myanmar has been a member of the World Intellectual Property Organization (WIPO) since 2001.[30]

Copyright and related rights

The Copyright Act, dating back to 1914, does not appear to provide effective copyright protection. Currently, the Television and Video Law 1996, and the Motion Picture Law 1996 govern copyright protection. It is not clear whether copyright must be registered to be protected, or for how long copyright is protected under the current legislation.[31] There is no specific policy on copyright protection on the internet.

Patents

The Myanmar Patents and Designs (Emergency Provisions) Act 1946, and the Myanmar Patents and Designs Act 1945 are outdated. There is currently no legislation on patents in Myanmar, no patent application, registration, or protection, and no compulsory licences.

Trade marks

The authorities state that there is no specific law on trade marks, or specific provision on the registration of trade marks in Myanmar. The Myanmar Merchandise Marks Act has provisions to prevent false trade description of goods.

Trade marks related to all products may be registered and protected under S18 (f) of the Registration Act, by the Settlement and Land Records Department (SLRD) under the Ministry of Agriculture and Irrigation. Registration takes one day to one month. Registration is usually followed by an announcement in a daily newspaper, stating that any fraudulent limitation or unauthorized use of the trade mark is to be dealt with accordingly. It is not clear how the unauthorized use of trademarks are dealt with.

Enforcement

Some IP disputes are handled in courts. The authorities state that most copyright problems are solved through coordination by the parties concerned rather than through legal procedures. Cross-border entry in violation of IPR is dealt with under the Sea Customs Act, the Land Customs Act, and other relevant legislation.

Customs is responsible for detecting illegal imports of IPR-related goods and other goods, collaborating with national enforcement bodies such as the police force, the local, and the legal authorities. At the international level, Customs has cooperation with the WCO, WIPO, the Regional Intelligence Liaison Office, and the International Criminal Police Organization.

In accordance with the Sea Customs Act, any import or export of goods having applied counterfeit trademarks (within the meaning of the Penal Code), or false trade descriptions (within the meaning of the Merchandise Marks Act), are liable to detention and confiscation. Persons involved in any such offence are liable to pay a fine. According to the section 170 and 171 of the Sea Customs Act and the section 9 of the Land Customs Act, customs officers and police officers are authorized to stop and search any personal vessels and vehicles for goods, on reasonable suspicion. According to the authorities, data are not available on Myanmar's enforcement of IPR protection.

Endnotes

1 In April 2013, import licensing requirements were abolished for 166 import commodities, corresponding to more than 1,900 tariff lines.

2 The authorities state that the real value is defined as "the wholesale cash price less trade discount, for which goods of the like kind and quality are sold, or are capable of being sold, at the time and place of importation or exportation, as the case may be, without any abatement or deduction whatever, except (in the case of goods imported) of the amount of (the sale tax and of) the duties payable on the importation thereof: or where such price is not ascertainable, the cost at which goods of the like kind and quality could be delivered at such place, without any abatement or deduction except as aforesaid."

3 These 418 lines are used only for internal statistical purposes.

4 Tariffs on vehicles under HS heading 87.03 were also reduced from 30-40% in 2007 to 1% in 2012.

5 Prior to March 2011, the Trade Policy Council (TPC) had the exclusive authority to approve import and export licences. The TPC has since been abolished.

6 The fee is based on the c.i.f. value of the goods up to a maximum of K 50,000.

7 Imports of certain narcotic drugs, psychotropic substances, and chemical precursors are permitted when the quantity is defined by the Ministry of Health and the importer has a certificate from the Central Committee of Drug Abuse Control.

8 Information provided by the authorities.

9 ASEAN online information. Viewed at: http://www.asean.org/communities/asean-economic-community/item/myanmar-3.

10 Imports of honey orange are allowed between March and September; durian from September to April; rambutan and pomegranate from January to 15 June; dragon fruit and sunskit fruit between February and September; mangosteen from January to March and October to December; and jack fruit in January and February.

11 Rules of origin for each FTA in which Myanmar participates are set out in the appendices to the agreement: AANZFTA: http://www.commerce.gov.mm/images/stories/EIPR/eip/aanzfta%20roo%20%20ocp.pdf;
ACFTA: http://www.commerce.gov.mm/images/stories/EIPR/eip/acfta%20roo%20%20ocp.pdf;
AJFTA: http://www.commerce.gov.mm/images/stories/EIPR/eip/ajcep%20roo%20%20ocp.pdf;
AKFTA: http://www.commerce.gov.mm/images/stories/EIPR/eip/akfta%20roo%20%20ocp.pdf;
AIFTA: http://www.commerce.gov.mm/images/stories/EIPR/eip/ai%20rooocp.doc; and
ATIGA: http://www.commerce.gov.mm/images/stories/EIPR/eip/asean%20cept%20roo%20%20ocp.pdf.

12 The tender selection committee is headed by the deputy minister and all heads of departments are members.

13 Information provided by the authorities.

14 WTO document G/TBT/ENQ/38/Rev.1, 8 July 2011.

15 WTO document G/TBT/33, 27 February 2013.

16 WTO document G/SPS/ENQ/26, 11 March 2011.

17 For pharmaceutical imports, a drug registration certificate and a drug importation approval certificate, both issued by the Ministry of Health are also required.

18 Customs online information. Viewed at: http://www.myanmarcustoms.gov.mm/exportprocedure.aspx [21/05/13].

19 Customs online information. Viewed at: http://www.myanmarcustoms.gov.mm/exportprohibitionsrestrictions.aspx [21.05.13].

20 Notification No. 26/2013 from the Ministry of Environmental Conservation and Forestry. Conversely, exportation of value-added timber products is encouraged.

21 WTO documents G/AG/N/MYN/2, 20 December 2001; G/AG/N/MYN/3, 26 June 2003; G/AG/N/MYN/4, 15 November 2004; and G/AG/N/MYN/6, 7 October 2005.

22 Viewed at: www.commerce.gov.mm and www.myanmartradenet.com.mm.

23 The system was sponsored by the European Commission for Food and Agriculture Organization (EC FAO).

24 Ministry of Mines online information. Viewed at: http://www.mining.gov.mm/ME-2/1.ME-2/details.asp?submenuID=13&sid=123 [28/06/2013].

25 Individual income tax is levied from 1% to 20% on salary income, and from 2% to 30% on business and professional income.

26 DCIA online information: http://www.dica.gov.mm/includes/Investment%20Guide%20Book/MIG%20chapter%205.pdf [18/10/13].

27 WTO documents G/AG/N/MYN/1, 20 December 2001; and G/AG/N/MYN/5, 7 October 2005.

28 ASEAN Secretariat online information. Viewed at: http://www.aseansec.org/wp-content/uploads/2013/07/ASEANRegionalGudelinesonCompetitionPolicy.pdf [09.09.2013].

29 An LDC Member is given an extended time-limit, until July 2021, for the full implementation of the provisions of the TRIPS Agreement other than those relating to national treatment and most-favoured nation treatment. WTO online information. Viewed at: http://www.wto.org/english/news_e/news13_e/trip_11jun13_e.htm [28/08/2013]. Under a TRIPS Council decision, LDCs do not have to protect or enforce patents and undisclosed information relating to pharmaceuticals until 2016 (WTO document WT/L/478, 12 July 2002).

30 The contents of the draft intellectual property rights law are also being reviewed by the WIPO.

31 Only few copyright works are registered in Myanmar.

Trade policies by sector

AGRICULTURE

Features

Agriculture is one of the main sectors of Myanmar's economy; data provided by the authorities indicate that agriculture's contribution to GDP was approximately 30.5% in 2012/13; and that agriculture accounted for around 61.2% of employment in 2010/11 (the most recent year for which data were available). Thus, it would appear that labour productivity in agriculture is less than one third of the level in the rest of the economy; this is probably due to the high labour/low capital structure of the sector with small farms and few machines.[1] Main crops include rice, maize, pulses and beans, sugarcane, and cotton. The livestock sector has been growing, particularly poultry. The average farm holding is about 2.4 hectares, and about 58% of the total net sown area (13.8 million hectares) is small-scale farms (defined as those below 4 hectares).

Myanmar is a net food exporter. Main exports include pulses, rice and rice products, and maize (Chart 4.1). Agriculture accounted for 16.4% of Myanmar's total export earnings in 2011/12.

Policy objectives and regulatory framework

The main objective of Myanmar's agricultural policy is to increase crop production. To achieve this, the Government aims, *inter alia*, to: maintain a positive annual growth rate of value-added for agriculture; and achieve average yield per acre of 83.2 baskets (one basket = 46 pounds) up from the current 74.4 baskets, and total production of 1,602 million baskets for rice up from the current 1,390 million baskets.[2]

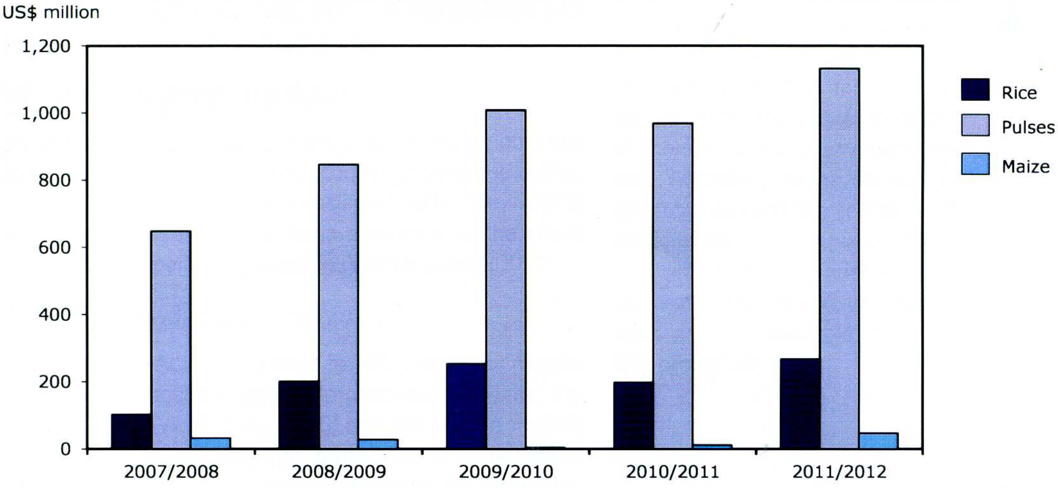
The Ministries of Agriculture and Irrigation, of Livestock, Fisheries, and Rural Development, and of Environmental Conservation and Forestry are the main institutions in charge of policy formulation and implementation in Myanmar's agriculture sector.

Agriculture is regulated by a number of laws and regulations, including the Farmland Law 2012; the Vacant, Fallow and Virgin Lands Management Law 2012; the Fertilizer Law 2002; the Seed Law 2011; the Pesticide Law 1990; the Plant Pest Quarantine Law 1993; Myanmar Agricultural and Rural Development Bank Law 1990; the Water Tax and Embankment Tax Law 1982 and 1987; the Agricultural Produce Markets Act 1941; and the Regulation for Purchase of Crops and Agricultural Products 1962. A Biosafety Law is currently being drafted.

Land tenure is lease-based since the State owns all land in Myanmar. The Farmland Law, which entered into force on 31 August 2012, sets out procedures for obtaining the lease of land for farming.[3] The Law is intended to legally confirm rights of individual farmers in regard to the use of land; under the lease, the farming household has the right to use the land, "reap the yields", and transfer the rights granted by the lease. There does not appear to be any provision in the law limiting the period of the lease, although a breach in the conditions of use could result in the lease being rescinded.[4] Permission is required to transfer the rights to foreigners or organizations involving foreign investment.

Under the Vacant, Fallow and Virgin Lands Management Law 2012, domestic companies and associations in the private sector may be granted rights to develop virgin land and fallow land for the cultivation of, *inter alia*, paddy, pulses, oil crops, industrial crops, oil palm, and other crops for commercial farming.[5] As of June 2013, 267 private companies and 123 government organizations have been granted 1.38 million hectares for commercial farming, compared with 0.98 million hectares of farmland prior to the entry into force of the Law.

Chart 4.1 Myanmar's main agricultural exports, 2007-12



Source: WTO Secretariat calculations, based on data provided by the authorities.

Under the Foreign Investment Law 2012, prior approval is required from the Myanmar Investment Commission for FDI in the production and distribution of agricultural crops or seeds. FDI is not allowed in: the production and plantation of traditional herbal plants; designated livestock breeding far-distance fishing of sea fish, prawn and other water creatures in Myanmar's territorial waters; and fishing in ponds, lakes, and other-close-distance fishing. Foreign participation is allowed up to 100%: land utilization; agri-based industries; assembly and manufacture of light agricultural machinery and small farm implements; manufacturing of agricultural inputs and related support products; and for trading of agricultural commodities, input supplies, and machinery.[6] The Law provides incentives to FDI in various sectors including agriculture (p. 31).

The general structure of import tariffs on agriculture has remained largely unchanged since 2005/06. Myanmar's simple applied MFN tariff on agricultural products (HS01-24) was 9% in 2013. There is a large gap between the average applied MFN tariff and the average bound rates (110 percentage points). Tariff dispersion stayed within a range of 0% to 40% during 2008-13. Traditionally, agricultural goods, including alcoholic beverages (40% and 30%), tobacco (30%), sugar confectionary (20%), and chocolate and other food preparations containing cocoa (20%), *inter alia*, benefit from higher than average protection. Imports of agricultural goods are also subject to commercial tax (VAT); the rates for agricultural products vary between 0% and 200% (tobacco). Myanmar does not apply any tariff-rate quotas.

Agricultural products are subject to import and export licensing requirements, except, *inter alia*, oranges, grapes, apples, and wheat, in accordance with the Export/ Import Rules and Regulations (2008) and restrictions in accordance with the Plant Pest Quarantine Law and Pesticide Law and various liberalization measures introduced in 2012 (pp. 38, 42).

Myanmar has not notified the WTO of its state-trading requirements regarding agriculture.

According to the notification submitted by Myanmar to the WTO, it has not used domestic support measures or export subsidies on agricultural products (p. 42). According to the authorities, Myanmar does not provide any financial support, preferential taxation, or price controls such as minimum purchase price policy, input subsidies (including those for fertilizer, irrigation and power), or food subsidies.

The main taxes levied on agriculture have been the land utilization tax, water utilization tax, forestry resources tax, rubber tax, fisheries tax, and commercial tax (VAT). For those leasing farmland, exemption of the land utilization tax is granted for two to eight years depending upon the type of crops and livestock breeding. Income-tax exemptions may be granted for three years or longer from the year of commencement of commercial operations on land developed and invested.[7]

The authorities state that there is no restriction in domestic distribution or marketing of agricultural products in Myanmar. On 7 January 2012, the National Rice Reserves Supervisory Committee was established to purchase rice from Myanmar's states and regions (based on tender-based systems), donate rice to areas affected by natural disasters, and sell rice to domestic consumers or export the surplus when the Committee considers it necessary.

The Myanmar Rice Federation was formed by stakeholders involved in the rice industry; its purpose is to maintain sustainable development of rice production, offer guidance to local rice associations and farmers. Under the Federation, Myanmar Agribusiness Public Corporation has been established to promote investment in agriculture and agri-based industries.

Government policy is focused on improving technical support to agriculture through better research and extension services. Under the Ministry of Agriculture and Irrigation, the Department of Agricultural Research operates seven research centres and 17 farms covering all the main food crops while the Department of Industrial Crops Development does research in industrial crops such as cotton, rubber, and jute. In addition, the Yezin Agricultural University, also under the Ministry provides courses on crop sciences while the University of Veterinary Science under the Ministry of Livestock, Fisheries and Rural Development covers veterinary science and fisheries.[8]

The Ministry, through the Department of Agriculture also provides extension services which are mostly focused on paddy production.

The authorities consider that farmers in Myanmar lack financing, mainly due to the lack of national savings that could be channelled to them. Myanmar Agricultural Development Bank (MADB), a State-owned bank, is the main institution providing loans to farmers and entrepreneurs engaging in agriculture.[9] Under the MADB Law, which entered into force in July 1990, it provides banking services, including short-term and long-term loans to farmers.[10] The authorities state that no other financial institutions lend to farmers under the same conditions as those applied by the MADB. Loans provided by the MADB include: annual loans (up to 12 months), which are mainly for crop cultivation; short-term loans (2 to 4 years); and long-term loans (5 years and above), which are mainly for the purchase of farm equipment, cattle, and integrated farming projects related, *inter alia*, to coffee, rubber, and palm oil plantation. Annual loans are disbursed for seven varieties of crops (i.e. paddy, groundnuts, sesame, beans, long staple cotton, corn, and mustard). Total disbursement of annual loans in 2012-13 was K 557.8 billion, covering 1.59 million farmers.[11]

Under the programme for the development of border areas and eradication of narcotic drugs, the MADB issued loans with special funds allotted by the Government at concessional interest rates for some farming activities in border areas, such as orchards in Chin State and rubber and sugarcane plantations in Shan State to replace opium cultivation. Rural savers are allowed to take out farm development loans up to 4-5 times their deposits, at an interest rate of 15%.

Forestry

Myanmar is one of the world's main suppliers of natural teak. It has a total land area of 676,577 km^2, about half of which is forests. Wood and products thereof accounted for 6.7% of Myanmar's exports in 2011/12.

The applied MFN tariff on timber is 15% in 2013. The State-owned Myanmar Timber Enterprise (MTE) (part of the Ministry of Environmental Conservation and Forestry (MOECAF)), has exclusive rights to export raw log timber from Myanmar. It also has the monopoly on logging (harvesting), milling, and marketing of timber and its products alone or through private contractors.[12]

The main legislation governing forestry in Myanmar includes the Forest Law (1992), the Environmental Conservation Law 2012, the Protection of Wildlife and Wild Plants and Conservation of Natural Areas Law, and the Foreign Investment Law 2012.

Under the Forest Law, the private sector requires permission to cultivate and maintain forest plantation. Export prohibition and licensing requirements on forestry products are in place (p. 42). In 2013, the Ministry of Environmental Conservation and Forestry (MOECAF) announced that the export of round logs would be banned with a view to encouraging domestic small and medium-sized manufactures of wood-based products.

The Government intends to ensure the sustainable development of forest resources by, *inter alia*: securing people's basic needs for fuel, shelter, food, and recreation; and achieving efficiency to harness the economic potential of the forest resources. The Government aims to manage 25% of total land area under Permanent Forest Estates (PFEs) and 10% under the Protected Area System (PAS).[13]

FDI is not allowed in the administration and maintenance of natural forest. According to amended Notification No. 1/2013 of the Myanmar Investment Commission, FDI is allowed in the following areas, as authorized by the Ministry of Environmental Conservation and Forestry: national parks; wood-based industries and related businesses; ecotourism; production businesses aimed at reducing carbon emissions; extraction (logging) on the basis of a long lease (reserved, protected public forest); breeding of genetically modified organisms and living modified organisms by importing and distributing these organisms; high technology research for the forestry sector, such as production and conservation of good quality teak; establishment of forest plantation (e.g. teak, hardwood, rubber, bamboo, rattan); development of high technology, research and human resources in forestry; extraction of natural resources in forest land and forest-covered land at the disposal of the Government; and importing, exporting, breeding, and production of plant and animal species.

MINING, ENERGY, AND UTILITIES

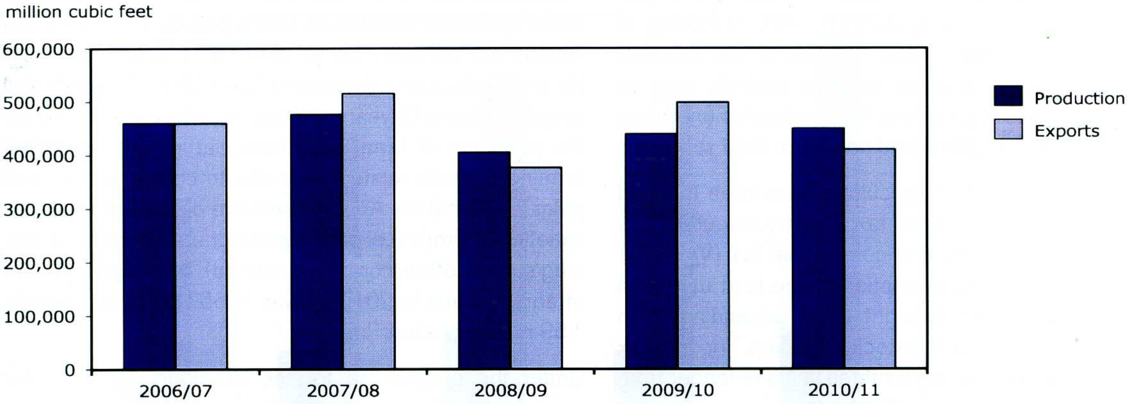
Features

Myanmar has produced around 400 billion MMSCF of natural gas in recent years. It has not imported natural gas; it would appear that most of the gas produced has been exported to China through pipelines (Chart 4.2). On the other hand, Myanmar does not export oil or oil products. While it has not imported crude oil in recent years, due partly to domestic constraints in refining, Myanmar imports various petroleum products (e.g. diesel, gasoline, and jet engine fuel) (Chart 4.3).

Myanmar's production of coal has been increasing. It has been used mainly for power generation and the production of cement; data provided by the authorities indicate that coal exports have been less than 10% of production and that there has been little coal importation.

In line with Myanmar's economic growth, generation and consumption of electricity have been increasing, with the growth of consumption being faster than that of generation in recent years (Chart 4.4).

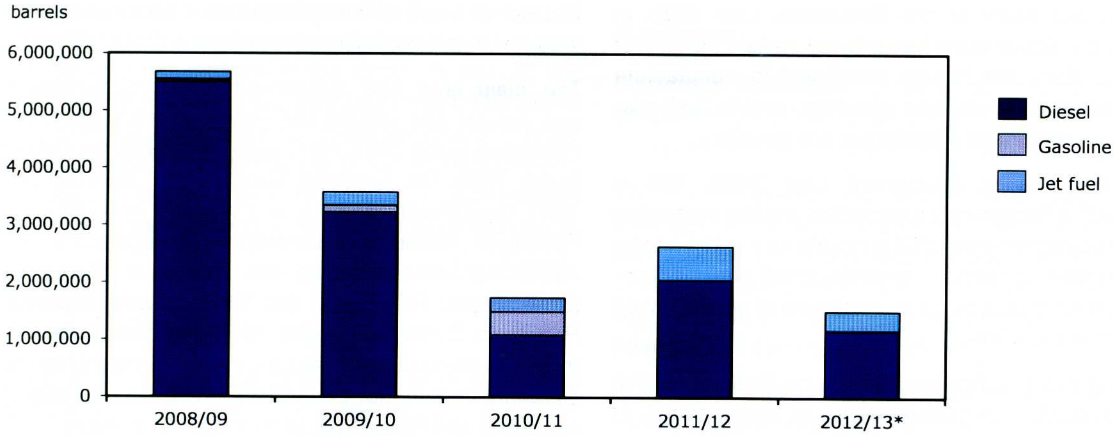
Chart 4.2 Production and exports of natural gas, 2006-11



Note: Over 98% of natural gas production is supplied by pipeline.

Source: Central Statistical Organization (2012), Statistical Yearbook 2011, Nay Pyi Taw.

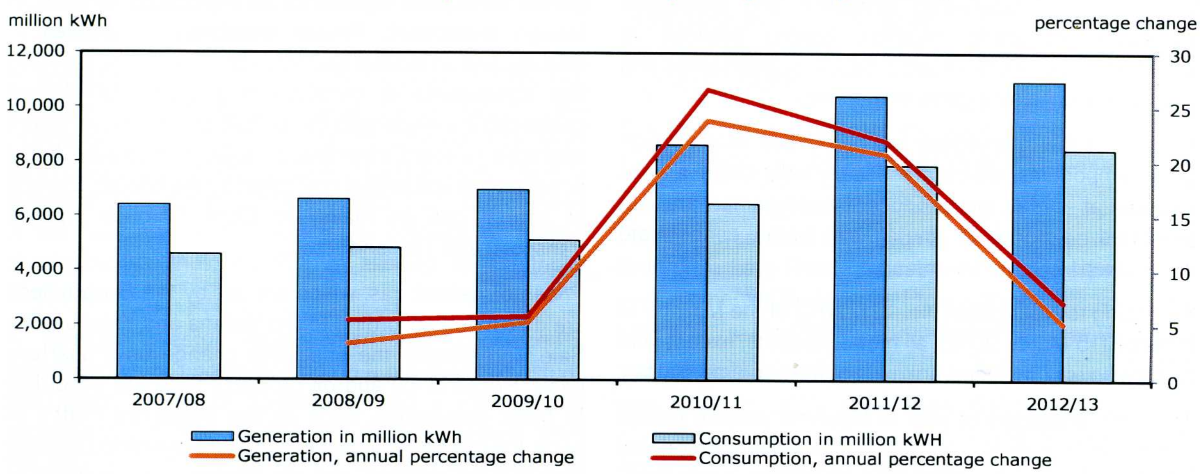
Chart 4.3 Imports of petroleum products, 2008-13



* Estimates.

Source: Data provided by the authorities of Myanmar.

Chart 4.4 Generation and consumption of electricity in Myanmar, 2007-13



Source: Data provided by the authorities of Myanmar.

Key subsectors

Metal, precious stones, and coal

The policy objectives for the metal, precious stones and coal subsectors, as stated in the Mines Law and the Mineral Resources Policy[14], include: fulfilling domestic demand and increasing exports; and promoting domestic and foreign investment in respect of mineral resources. The Gemstones Law's objectives include permitting companies and cooperative societies to operate freely in the production and marketing of gemstones, and eradicating illegal production of gemstones within the country, and preventing and suppressing "unlawful taking out and sale of gemstones abroad".[15] The Ministry of Mines determines the tenure of a permit for a gemstone block[16]; determines the floor price for each gemstone block for which tenure of a permit has been determined; and invites competitive bids in accordance with bidding terms for the gemstone blocks for which the floor price has been determined.[17] Promotion of coal production is an objective of the current Coal Policy.

The Ministry of Mines is responsible for policies regarding the metal, precious stones, and coal subsectors. The Department of Mines, under the Ministry, is responsible for, *inter alia*: scrutinizing the application for mineral exploration and issuing permits in accordance with the Mines Law; implementing measures to protect the environment from pollution related to mining and related operations (e.g. environmental impact assessments, social impact assessments, and health impact assessments).

The main laws governing mining include the Mines Law 1994, the Mines Rules 1996, the Gemstones Law 1995, and the Gemstones Rules 1995.

In accordance with the State-owned Enterprise Law, the Government has the sole right over the exploration and extraction of pearl, jade, and precious stones and, exports thereof.[18] Nonetheless, in the mining sector, domestic companies formed under the Myanmar Companies Act or the Special Company Act 1950 and various cooperative societies registered under the Cooperative Society Law have also been allowed to carry out exploration, extraction, and exports of pearl, jade, and precious stones after the enactment of the Gemstones Law 1995. In addition, the Government has allowed certain individuals or organizations with foreign investment to manufacture processed gemstones and jewellery, and/or sell raw gemstones, processed gemstones, and jewellery.

Under the Foreign Investment Law 2012, FDI is "restricted" in "large-scale exploitation and the production of non-metallic minerals". FDI is not allowed in the mining of gemstones or metallic minerals; small and medium-scale mineral production; and wholesale of semi-finished products and iron ores.

According to the authorities, there is no State ownership in the production of gemstone ore, its concentrates, or refined metal, or manufacture of processed products using gemstones. The Myanmar Gems Enterprise, a State-owned company, has certain regulatory responsibilities such as issuing permits to domestic private companies and societies to enable the extraction and production of gemstones; supervising extraction and production operations; collecting royalties; issuing licences to enable the sale of processed products of gemstones and jewellery; and holding gems emporiums.

Exports of raw gemstones are authorized only through gems emporiums, which are usually held twice a year. Exports of metal ore produced in Myanmar are not permitted; exports of metal as metal concentrate are allowed.

According to Notification No. 121/2012 of the Ministry of Finance (15 March 2012), all metal products, except jade and precious gemstones, are exempt from commercial tax.

The main producers of coal in Myanmar include private companies supervised by the No. 3 Mining Enterprise (ME-3), which was established based on production-sharing contracts. Producers must pay 3% of sales as royalty to the Department of Mines and 30% to ME-3.

Prices of coal are set by the Joint Management committee (JMC) composed, *inter alia*, of representatives of ME-3, the Ministry of Mines, and contractors; the prices must be approved by the Ministry of Mines. Prices may be changed by the JMC at its annual meeting.

Petroleum and natural gas

The main objectives of the oil and gas sector include: fulfilling domestic energy demand; promoting energy efficiency and conservation; implementing effective utilization of domestically produced crude oil and natural gas; and promoting more private participation in the energy sector.

The Ministry of Energy is the regulator for petroleum and gas. Activities in the sector are regulated by the relevant laws and regulations, and by production sharing contracts conducted between the Myanmar Oil and Gas Enterprise (p. 54) and domestic private and foreign investors. The authorities consider that, in order to foster further development of the sector and encourage private investment and competition, a legal framework would need to cover all areas of the hydrocarbon industry and define the roles, rights, and obligations of the different players.

The main laws and regulations governing petroleum and natural gas include the Petroleum Act 1934, the Petroleum Rules 1937, the Oilfields Act 1918, the Oilfield Rules 1936, the Essential Supplies and Services Act 1947, the Oilfields (Labour and Welfare) Act 1951, the Petroleum Resources (Development Regulation) Act 1957, the Law Amending the Petroleum Resources (Development Regulation) Act 1969, and the Myanmar Petroleum Concession Rules 1962. In accordance with the State-owned Enterprise Law, the Government has the sole right to carry out exploration, extraction, and sale of petroleum and natural gas, and production thereof.

All petroleum and natural gas resources found in Myanmar are owned by the State. Exploration of natural gas in inland areas as well as downstream operations are reserved for the Myanmar Oil and Gas Enterprise (MOGE), a State-owned enterprise, and offshore exploration is open to foreign investment. Private investment is allowed in refining, and wholesale and retail of oil products, provided that agreements or contracts (e.g. production-sharing contracts) are made with the MOGE and the Government approves relevant investment projects. However, these activities are still largely controlled by the MOGE. Exports of natural gas go mainly to China (through pipeline transport) and Thailand.

Prices of natural gas, which are set by the Government, are calculated according to the Yadana and Yetagun Gas Sale Agreements; the price may change on a quarterly basis. Prices of oil and oil products fluctuate according to basic parameters, such as the Singapore Platt's oil price, the c.i.f. value, actual expenditure (weighted average cost of each refinery), and miscellaneous costs (such as freight, insurance, bank charges, port dues). In line with the increasing and volatile world oil prices, the Government increased the price of gasoline by 20% in January 2012. As of 1 March 2013, the state energy enterprise Myanmar Petroleum Products Enterprise (MPE) distributed gasoline to private fuel stations at a wholesale price of K 3,300 per gallon. Private fuel stations may then sell gasoline to end users at retail prices. In addition, diesel prices are fixed at K 3,500 per gallon, and jet fuel at K 3,864 per gallon. It would appear that some forms of subsidy are given for oil, oil products, and natural gas.

Foreign direct investment is allowed in accordance with the new FDI Law and the Companies Act 1914; FDI is not allowed in the extraction of crude oil up to 1000 feet in depth.

Electric utilities

In Myanmar, approximately 77% of total electricity is generated by hydropower, followed by natural gas, which accounts for about 20%.

The Ministry of Electric Power (MOEP) governs electric utilities; it is also a provider of electric utilities services.

The MOEP's responsibilities include: regulating the electricity market, including generation, transmission, and distribution; setting up electricity trading arrangements; monitoring the operations of the electricity market; and setting electricity tariffs and their adjustment. The MOPE aims to increase investment in power generation through its own investment, investment by domestic entrepreneurs on a build-operate-transfer (BOT) basis, and investment by foreign companies on a joint venture (JV) or BOT basis.

The main laws and regulations governing electric utilities include the Electricity Law 1984 (currently being amended), and the related Regulation.

Since 2008, private companies have been allowed to participate in power generation, especially in hydropower plant projects, based on JV and the BOT system. Private sector participation is allowed not only in generation but also in distribution.[19] On-going hydropower projects of Baluchaung-3 (52 MW), Upper Baluchaung (29 MW) are implemented by private local companies under the JV or BOT schemes. About 27% of total generation capacity is owned by the private sector.

In accordance with the Foreign Investment Law, FDI is allowed in power generation (particularly in the independent power producer (IPP) scheme). FDI must be in the form of a joint venture or BOT system; majority Myanmar ownership is not required. FDI is prohibited in the "administration of electricity systems or trading of electricity"; thus, no FDI is allowed in electricity transmission.

A foreign investor must, *inter alia*, conclude a memorandum of understanding on a pre-feasibility study and memorandum of agreement, and a joint-venture agreement with the MOEP, and obtain approval from the MIC, the Attorney General's Office, the Ministry of Finance, the Ministry of National Planning and Economic Development, and the Cabinet. Approval of environmental impact assessment and social impact assessment by the Ministry of Environmental Conservation and Forestry is also required.

The terms of investment in electricity generation, including the location of generators, the types of generators to be established, and the price that can be charged, are decided by the Government. In accordance with the Foreign Investment Law, permission is required from MIC and recommendation and comments by the MOEP on policy and technical matters for FDI. Based on the cost of generation and the purchase price of power from the Shweli Hydropower Company and local IPPs, the MOEP sells power to end-users and distribution companies, which sell power to end-users in their permitted area.

The electricity tariff must be approved by the Government. At the retail level, electricity rates vary by type of end-user; K 35/kWh for general purposes and K 75/kWh for industrial purposes. The authorities indicate that the average cost of generation is K 69-71/kWh. It would appear that subsidies are given to electricity.

MANUFACTURING

Features

Myanmar's manufacturing sector, accounting for 19.9% of GDP in 2012/13, is growing but still relatively small compared with agriculture and services.

The main manufacturing subsectors include food and beverage processing, and textiles and clothing. Data provided by the authorities indicate that about 65% of manufacturing SMEs are in food and beverages. It would appear that most manufacturing firms, in terms of numbers and output, are SMEs.

In 2010, manufactured products accounted for 30% of Myanmar's exports and for 67.9% of imports.[20]

Policy objectives for the sector

Government policies for the development of the manufacturing sector have been mainly to promote small and medium-sized enterprises and to invite FDI, particularly through special economic zones. Myanmar's industrial policy tools consist mainly of the provision of training for SMEs.

The Ministry of Industry is the main agency responsible for formulating policies related to manufacturing.[21]

Laws governing the manufacturing sector include the Foreign Investment Law (2012), State-owned Economic Enterprise Law, Private Industrial Enterprise Law (1990), the Commercial Tax Law, the Promotion of Cottage Industry Law, and the Myanmar Citizens Investment Law (1994).

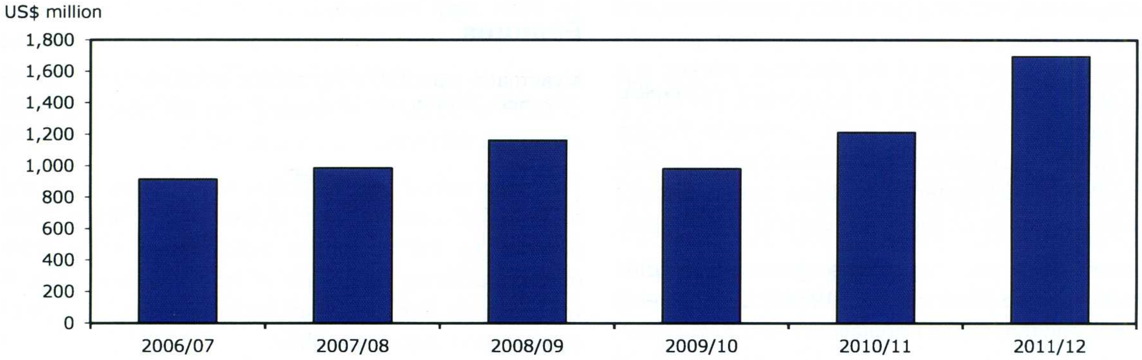
The simple average applied MFN tariff on manufacturing was 5.5% in 2013, down from 6.1% in 2008.[22] The change is due largely to the change in tariff classification. An array of non-tariff measures, particularly licensing requirements, has been used in some instances to restrict imports and exports (p. 38, 42).

Under the Foreign Investment Law 2012, FDI is restricted in "manufacturing and marketing of most food products, any kinds of spirits or beer, drinking water, plastics, rubber, leather, paper, certain chemical products and raw materials for medicines and pharmaceuticals". Prior approval is required for FDI in production/distribution of soft drinks, mineral water, and beer. FDI is allowed only in the form of joint ventures in: the production/distribution of certain foodstuff (biscuits, noodles, chocolates); and the production of paper, pharmaceuticals, plastic, and packaging. FDI is not allowed in: production of traditional food; manufacture of religious materials and equipment; manufacture of traditional and cultural materials and equipment; manufacture based on handicrafts; and manufacture of traditional medicines.

Textiles and clothing

The textiles and clothing industry has developed particularly in the form of "CMP (cutting, making and packing)" businesses, where manufacturers receive fees from foreign contractors, for CMP and exporting the

Chart 4.5 Myanmar's exports of clothing, 2006-12



Source: WTO Secretariat calculations, based on data provided by the authorities.

finished products. In 2010, clothing accounted for 4.4% of Myanmar's exports, and textiles for 7.1% of imports.[23]

Employment in Myanmar's textiles and clothing sector accounted for about 37% of the total workforce in manufacturing. Many textile and clothing factories are owned by the Government or the Military; State-owned textile factories employ about 15,000 employees, private companies around 5,400 employees, and military-owned factories about 5,300 employees. Myanmar's exports of garments have been increasing in recent years (Chart 4.5).

The simple applied MFN tariff was 8.9% for textiles and 16.8% for clothing in 2013. Tariff exemption is accorded to registered CMP businesses on imports of raw materials for manufacturing exports. The authorities state that no licensing requirements are imposed on exports of CMP garments. Import licences and the recommendation of the CMP Association under UMFCCI are needed to import CMP products.

Non-SME textile and clothing firms must be registered at the Industry Supervision and Inspection Department under the Ministry of Industry.

In accordance with the Foreign Investment Law (2012), up to 100% foreign participation is allowed. To date, four wholly foreign-invested companies have engaged in garment manufacturing; the Ministry of Industry has also concluded land-lease agreements and contracts with these companies.

Exports of textiles and clothing are exempt from Commercial Tax. The Ministry of Industry provides technical assistance, financial assistance for training, and preferential loans to SMEs through the SME bank and the MADB.

It is the Government's policy to seek foreign and local partners to invest in State-owned textile factories in the form of joint ventures and in public-private partnerships (PPPs). Wholly foreign-owned enterprises are allowed in garment manufacturing; currently, four foreign companies are operating.

The Government provides information services to encourage investment in new technology and industrial upgrading, and guidance to enterprises on export activities, through, *inter alia*, exhibitions.

SERVICES

Features

The services sector accounted for some 37.5% of Myanmar's GDP in 2012/13. In the same fiscal year, the major services activities were trade and transport/communications.

Myanmar is a net importer of services. The services trade deficit amounted to approximately 4.1% of GDP in 2011/12. The main exports and imports of services in 2012/13 included travel, transport, and insurance (Table 1.3).

In general, services are characterized by state involvement through State-owned companies and restrictions on private-sector and foreign involvement. There are foreign ownership restrictions or prohibitions for various services. Conversely, in certain services activities, particularly banking, distribution, and transport, there appears to be sizable private sector presence, although this is difficult to measure, due partly to the small scale of the operators.

Under the Foreign Investment Law 2012, FDI is allowed only in the form of a joint venture in the ownership of private, specialist or traditional medicine hospitals. Prior approval is required for FDI in supermarkets/large-scale retail and courier services. FDI is not allowed in private traditional hospitals; trading of traditional herbal raw materials; research and laboratories for traditional medicines; ambulance transportation service; establishment of health-care centres for the aged; restaurant contracts, cargo transportation contracts, and cleaning and maintenance contracts on trains; agencies; generating electric power below 10 megawatts; and publishing and distribution of periodicals in the language of ethnic peoples, including in the Myanmar language.

In the GATS, Myanmar made specific commitments in two of the 12 major sectors contained in the GATS classification list: tourism and travel-related services (hotels; travel agencies and tour operators services), and transport services (services auxiliary to all modes of transport).[24] Myanmar has made no horizontal commitments or listed any Article II (MFN) exemptions.

Banking, finance and insurance

Banking remains the most important source of credit in the financial sector. Insurance services are dominated by a State-owned company. There are no stock or commodity exchanges in Myanmar; the equity and bond markets are yet to be developed. Another notable feature of the financial sector is the high degree of government ownership. Four of the 26 banks and one insurance agency (mentioned above) are majority or fully government owned. There are very few foreign-owned financial services providers.

The authorities consider that banks in Myanmar have not been exposed to serious non-performing loans (NPLs). All domestic banks must submit their NPLs positions to the Financial Institutions Supervision (FIS) Department of the Central Bank on a quarterly basis.

Banking

As of September 2013, there were 26 banking institutions in Myanmar, of which 4 were State-owned and 22 private domestic banks. While FDI in banking is not prohibited, there has been no foreign investment in the banking sector (subsidiaries, joint ventures, or direct branches of banks established abroad) except for representative offices.[25]

The 10 largest banks, ranked by their net assets, held 90.4% of the banking system's total assets at the end of March 2012; they controlled 92% of total deposits and 91.3% of total liabilities of the banking system in 2011/12. Private banks appear to have been growing faster than State-owned banks, which traditionally had a large share of total assets, total deposits, and total liabilities (Table 4.1).

The Central Bank of Myanmar (CBM) has allowed local banks to extend hire purchase facilities to customers starting on 21 October 2011. Since 29 September 2011, money exchange counters have been introduced in private commercial banks. The Microfinance Law was enacted on 30 November 2011 and the Foreign Exchange Management Law was enacted on 12 August 2012.

There are four State-owned banks: the Myanmar Economic Bank (MEB), the Myanmar Foreign Trade Bank (MFTB), the Myanmar Investment and Commercial Bank, and the Myanmar Agricultural Development Bank. The role of the MEB, the largest bank in Myanmar, is to provide domestic and international banking services. The MFTB specializes in international banking. The Myanmar Investment and Commercial Bank, which carries out both domestic and international banking business, extends banking services to private companies, including foreign joint ventures. The MADB extends agricultural credits to farmers (p. 53). According to the authorities, the regulatory regime is the same for State-owned banks and private banks; in line with the Central Bank of Myanmar Law Section 62, the CBM treats all actions and performance of all financial institutions equally.

A number of cooperative credit societies operate under the approval of Ministry of Cooperatives.

The CBM is empowered to assume supervisory and regulatory functions for the banking sector.[26] The CBM's policy objectives include domestic price stability, financial stability, and efficient payment systems. The CBM is responsible for approving new banks and supervising new and existing banks. On 11 July 2013, the CBM was separated from the Ministry of Finance with a view to making it an independent central bank with greater autonomy in accordance with the new Central Bank of Myanmar Law, which entered into force on the same day.

The main legislation regulating the sector includes the Central Bank of Myanmar Law 2013, Financial Institutions Law 1990, Rules of Financial Institutions, and the Foreign Exchange Management Law 2012, which entered into force on 10 August 2012. The authorities are drafting a new "Financial Institutions Law". They state that the new CBM Law applies uniformly to all actions of all financial institutions; all of Myanmar's banks, private or state-owned, are subject to the same tax rates, including corporate income tax and a business tax.

Banks in Myanmar engage mainly in conventional commercial banking. There are no legal or institutional differences between head offices, incorporated subsidiaries, branch offices, agencies, and other entities. In addition to the regulators, the Myanmar Banks

Table 4.1 Performance of the banking sector, 2010-13

(K billion and %)

	2010	2011	2012	2013[a]
Total assets				
State-owned banks	1,935.1	2,491.8	3,183.0	14,701.1
Private commercial banks	1,888.5	3,579.1	5,129.1	7,630.8
Non-performing loans (% of total loans)				
State-owned banks (Myanmar Economic Bank)	13.6	7.9	5.3	..
Private commercial banks	2.9	1.5	1.6	1.6
Capital adequacy ratios				
State-owned banks	..	..	..	..
Private commercial banks	38.5	31.5	27.9	26.6

.. Not available.

a As of October.

Source: Data provided by the authorities of Myanmar.

Association (MBA), an industry association of banks in Myanmar, is responsible according to the authorities for assisting and advising the CBM and MOF in ensuring financial stability and modernization of the banking sector.

Licensing for domestic financial institutions requires, *inter alia*, company registration, financial statements for the past three years, a list of top management and their CVs (among top management, at least one person must be a banker), fit and proper test of top management, a feasibility study, and details of the source of funds. Licence holders must register certain aspects of their businesses once banking licences have been issued by the CBM. No banking licences have been issued to foreign banks (subsidiary, joint venture, or direct branching).

The CBM intends to develop the banking sector in three phases: (1) allowing domestic private banks to operate joint ventures with foreign banks; (2) allowing foreign banks to establish wholly owned locally incorporated subsidiaries; and (3) allowing foreign banks to open direct branches in Myanmar.

The CBM supervises 4 State-owned banks, 22 private banks and 4 non-bank financial institutions (e.g. leasing companies). The Ministry of Finance supervises microfinance institutions. Banking supervision is covered under the new CBM Law and will be covered in the Financial Institutions Law, if adopted. The two main functions of the Financial Institutions Supervision Department of the CBM are on-site examination and off-site monitoring.

Myanmar Insurance implements a deposit insurance scheme, on behalf of the Government. The scheme was launched on 1 October 2011; 60% of the insured deposit amount will be reimbursed in the event of bank bankruptcy. Myanmar plans to establish a Deposit Insurance Corporation as a separate organization in accordance with international practice.

Recent reforms include: the launch of the deposit insurance scheme on 1 October 2011; issuing of money exchange licences to private banks in 2011 and to individuals in 2012; and allowing private banks to carry out international banking business in 2012, and the establishment of the Yangon Interbank Foreign Exchange Market in 2013 (p. 17).

Insurance

In 2012, total insurance premium income in Myanmar was K 35.8 billion, up 48.5% from the previous year (K 24.1 billion, around 0.05% of GDP).

In Myanmar, a company may apply to the Insurance Business Supervisory Board for the establishment of a life, non-life or composite (providing life and non-life insurance) insurance company. Until very recently, Myanmar's insurance market was dominated by the State-owned Myanmar Insurance, which is a composite insurance company. On 25 May 2013, licences were issued to five domestic private insurance companies.[27]

The insurance market in Myanmar is regulated by the Insurance Business Supervisory Board (IBSB), under the Ministry of Finance. The IBSB was first established in 1996, and underwent a major reform in 2011.

The Insurance Law 1993 and the Insurance Business Law 1996 are the main laws regulating the industry.

While FDI in insurance is not prohibited, there have been no foreign providers of insurance services in Myanmar.[28] Currently, the IBSB only accepts applications for insurance licences from domestic companies. The authorities envisage that investors from ASEAN countries will be allowed to operate insurance businesses in Myanmar in accordance with the AEC Blueprint, e.g. insurance intermediation by 2014, reinsurance and retrocession by 2016, direct life insurance by 2018, and direct non-life insurance by 2020.

A business licence is required to provide insurance services in Myanmar. Under the Insurance Law, an insurer may establish itself either as a limited liability company or a wholly State-owned company. The IBSB is responsible for registering new insurance providers, as well as new products and activities. Insurers may engage in life insurance, fire insurance, comprehensive motor insurance, cash-in-safe insurance, fidelity insurance, and other insurance permitted by the Ministry of Finance. Currently, three life insurance companies are allowed to underwrite the life insurance business and nine composite insurance companies are allowed to underwrite both life and non-life insurance.

The minimum paid-up capital required to obtain a licence is K 6 billion for life insurance, K 40 billion for non-life insurance, and K 46 billion for composite insurance.[29] Licence applicants must also submit, *inter alia*, the curriculum vitae of their principal officer, profile of the company or company group, organizational structure, business plan, and location of the office and its building structure.

The IBSB carries out both on-site and off-site inspections, and supervises private insurance companies' compliance with the Insurance Business Law 1996 and Insurance Business Rules 1997 and relevant orders and directives issued by the IBSB.

Telecommunications

Data provided by the authorities show that penetration rates for fixed-line services in recent years were around 1% (Table 4.2). Substantial increases in mobile service subscribers have been observed.

Table 4.2 The telecommunications sector, 2007-12

	2007	2008	2009	2010	2011	2012
Fixed telephone lines (million)	0.47	0.46	0.55	0.61	0.59	0.60
Fixed telephone lines per 100 inhabitants	0.84	0.83	0.97	1.03	0.99	0.99
Mobile service subscribers (million)	0.28	0.51	0.70	1.47	1.98	5.44
Mobile service subscribers per 100 inhabitants	0.50	0.91	1.23	2.49	3.31	8.92
Internet users (million)	0.037	0.040	0.038	0.150	0.500	0.899
Internet users per 10,000 inhabitants	6.71	7.19	6.83	25.48	82.81	148.93

Note: Data on penetration are based on population numbers as at year-end.

Source: Information provided by the authorities of Myanmar.

Currently, the sole provider of basic telecommunication services is the State-owned Myanmar Posts and Telecommunication (MPT). The main provider of internet services is Yatanarpon Teleport (YTP), a joint venture between domestic private companies and the MPT. Provision of value-added services through interconnection with the MPT is not yet developed; the only value-added service, according to the authorities, is a call centre service provided by the YTP.

The Government is in the process of formally issuing two new nationwide telecommunications licences. It set up an inter-ministry team "the Telecommunication Operator Tender Evaluation and Selection Committee" to oversee the selection of the licensees. The selection process started with the issue of the invitation for the expression of interest (EOI) in January 2013 to inform all interested entities, domestic or foreign. It issued the rules for the prequalification application, in February 2013, which define requirements to participate in the bid for licences. The Committee shortlisted 12 applicants for the final tendering stage. The Committee announced the selection of two successful applicants on 27 June 2013.[30]

Currently only the MPT is authorized to provide mobile services. The authorities envisage that the ongoing selection process will allow two further international operators and another local operator to provide mobile services.

Regulatory structure and measures

Myanmar has no comprehensive telecommunications law: the authorities are in the process of drafting a bill for the new Communications Law.

The Ministry of Communications and Information Technology (MCIT) oversees the telecommunications sector. The Posts and Telecommunications Department (PTD), under the MCIT, is the regulator. The PTD provides recommendations to the MCIT on policies. The PTD also supervises the operation of telecommunications, manages the radio frequency spectrum, and implements telecommunications policy.

The main laws on telecommunications include: the Myanmar Telegraph Act 1885; the Myanmar Post Office Act 1898; the Myanmar Wireless Telegraphy Act 1934 (and its Amendment 1993); the State-owned Enterprise Law 1984; the Computer Development Law 1996; and the Electronic Transaction Law 2004. The main regulations include: the Myanmar Wireless Telegraphs Rules 1937; the Myanmar Wireless Receiving License Rules 1940; the Myanmar Wireless (Territorial Waters) Rules 1933; the Myanmar Wireless (Foreign Aircraft) Rules 1937; and the Myanmar Wireless Telegraphy Licence Changes Rules 1960.

According to the authorities, telecommunication tariffs in Myanmar are not yet regulated; the draft telecommunications law has some clauses on tariff regulation, which will be based on certain tariff standards administered by the PTD and other regulators.

Under the Foreign Investment Law 2012, 100% foreign ownership is allowed in telecommunication services. There are no minimum registered capital requirements for a joint venture. FDI is prohibited in publishing or media broadcasting.

No universal services requirement exists; it would appear that the draft communications law contains provision on universal services.

Transport

Air transport services

The demand for air transport services in Myanmar has grown substantially in recent years, reflecting Myanmar's overall growth. Between 2010 and 2012, the volume of civil air transport services grew at an annual average of 22%. Robust growth is expected to continue, and Myanmar faces challenges, including a need to expand capacity to meet increased demand.

As of July 2013, there were eight civil aviation carriers in Myanmar. Of these, one was a State-owned company, one jointly owned by the state and a domestic private company, five owned by domestic private parties, and one joint venture with 67% foreign equity participation.

The Department of Civil Aviation (DCA), under the Ministry of Transport (MOT) is the main agency responsible for the governance of the civil air transport sector.

The main laws and regulations governing the sector include the Aircraft Act 1934 (XXII of 1934), the Aircraft Rules 1937, the Aircraft Rules 1920 (part IX), the Carriage by Air Act (XX of 1934), and the Aircraft (Public Health) Rules.

To engage in air transport services, new carriers need approval from the Myanmar Investment Commission, and must obtain safety certificates and traffic rights authorization certificates from the DCA.[31]

No airlines have been accorded exclusive rights over domestic and international services. According to the authorities, no benefits are offered exclusively to domestic airlines.

FDI in air transport is allowed under the Foreign Investment Law. In accordance with the regulations established under the new Foreign Investment Law, the authorities intend to reduce the foreign equity participation rate to less than 50% in the near future. There is no specified minimum level of registered capital under the new Foreign Investment Law. Local representatives of foreign airlines that operate to and from Myanmar do not need to be Myanmar citizens.

As of January 2013, Myanmar had signed bilateral aviation transportation agreements with 46 trading partners; it also participates in 5 regional and multilateral air services agreements. These agreements, applied to both passenger and cargo traffic, are concluded on a reciprocal basis in terms of capacity and frequency; some agreements are without limitation on capacity and frequency.[32] On the basis of its bilateral agreements, Myanmar makes specific transportation arrangements on, *inter alia*, airline capacity, traffic rights, and cooperation between enterprises. The designated airlines of each party are generally allowed to apply to their respective authorities to provide service based upon their respective capacity. Myanmar adopts the practice of "dual disapproval" for passenger services.

Under bilateral or regional air service agreements, airlines may set prices in accordance with the relevant provisions. Prices are regulated under these agreements. For domestic flights, airlines may, in principle, set their fares without restrictions; the authorities state that fares need to be notified ex post to the DCA, for statistical purposes and to prevent unfair competition.

Code-sharing arrangements with foreign carriers is allowed.

No foreign carriers have cabotage rights in Myanmar.

Most airports are operated by the Department of Civil Aviation, while some are operated by individual companies under contractual arrangements with the Government.[33] The private sector and foreign investors (up to 100% ownership) may own airports and run airport services, as stipulated in the FDI Law. The Government is in the process of establishing a Myanmar Airports Holding Company Limited with a view, *inter alia*, to providing better services, ensuring safety, and reducing the Government's workload at airports.

According to the authorities, Myanmar has, as yet, no specific slot allocation system. Arrangements for slot allocation to national and foreign carriers comply with provisions of air traffic control services. In other airports, the authorities consider that the number of slots provided exceeds demand. There is no difference in slot allocation at peak and non-peak times.

The authorities indicate that Myanmar has not yet developed comprehensive legislation for auxiliary services. The Ministry of Transport has designated three airlines (Myanma Airways, Myanmar Airways International, and Air Bagan) for the operation of ground handling services at Yangon International Airport. Aviation oil is currently provided by Myanmar Petroleum Products Enterprise under the Ministry of Energy. Auxiliary services do not have to be controlled by Myanmar nationals.

Maritime transport services

In 2012, around 60% of Myanmar's international cargo was carried by sea. At end 2012, 21 vessels were engaged in international shipping, accounting for about 0.2 million deadweight tonnes (DWT); all were flying the national flag. According to the authorities, no vessels were "beneficially" owned by Myanmar operators and registered abroad.

The Department of Marine Administration (DMA) under the MOT is in charge of formulating shipping and port policies. The objectives of the DMA's policies include, *inter alia*: ensuring national ships' conformity to safety standards, safe practices and standards of competence; and improving the safety record of Myanmar registered vessels.

As the regulator of maritime transport in Myanmar, the DMA, *inter alia*: (1) advises higher authorities on implementing updated conventions and codes on maritime affairs; (2) administers registration of inland powered vessels; (3) conducts examinations and registration of all types of newly built powered vessels; (4) conducts examinations and issues certificates of competency for deck and engineering officers; (5) conducts examinations and issues certificates of competency for coastal and inland masters, mates, chief engineers, and engine drivers; (6) inspects inland powered vessels and imposes administrative penalties and fines on vessels that contravene relevant rules and regulations as prescribed by the Inland Steam Vessels Act 1917; (7) investigates accidents such as collisions in waterways; (8) recruits and provides training to new seafarers, and issues certificates of competence, exemptions, and clearance, and carries out registration; (9) oversees the welfare of seamen; and (10) arranges bareboat charter.

According to the authorities, there are no monopoly activities, restrictions on: key personnel or crew while in Myanmar waters (e.g. nationality); conditions on flying the national flag, such as national ownership, management and residence requirements; or incentives for flying the national flag, such as exclusivity rights or subsidies. Only Myanmar citizens are allowed to register ships as Myanmar ships according to the Myanmar Registration of Ships Act 1841. Nonetheless, registration on a bareboat charter basis is allowed for the foreign-owned ships. The authorities state that domestic and foreign companies receive equal treatment except as indicated in ASEAN horizontal commitments.

The Myanmar Merchant Shipping Act 1923 provides a general regulatory framework for maritime transport. Other main laws and regulations pertaining to the sector include: the Myanmar Registration of Ships Act 1841; the Inland Steam Vessels Act 1971; Rules of law relating to collision between vessels 1952; Shipping Administration Act 1954; the Bill of Loading Act 1856; the Carriers Act 1865; and the Myanmar Carriage of Goods by Sea Act 1925. Currently, the Maritime Transport Act is being drafted and the Myanmar Registration of Ships Act is being amended.

The Shipping Agency Department (SAD) is Myanmar's international shipping agency for international vessels that wish to call at Myanmar ports. The authorities allow most shipping lines to appoint their own representatives to carry out necessary activities such as marketing, documentation, transactions, and management operations. *Ex ante* notification allowing at least one month for approval is needed before starting up international liner services.

Examination and approval by the MOT is required for an international shipping operator to engage in international liner services. Myanmar has not signed the United Nations Convention on a Code of Conduct for Liner Conferences. No Myanmar shipping company is a member of a liner conference.

There has been no FDI in Myanmar's maritime transport services. Up to 100% foreign participation is permitted in accordance with the Foreign Investment Law. Cabotage is only open to national carriers as specified in the Shipping Administration Act 1954.

The Government encourages enterprises to expand multi-modal transport, including by: investing in deep-water container-dock construction and improving the road, railway, coastal, and freshwater transport system[34]; establishing an internationally competitive container fleet; developing container transport information technology, including electronic data interchange (EDI) and other electronic business systems; and improving the legal structure for multi-modal transport. Foreign investment (up to 100% foreign equity ownership) in international container multi-modal transport is encouraged.

There are nine ports in Myanmar, all of which are permitted to engage in international trade. International trade throughput in the ports was 20.7 million tonnes in 2012, up 19% over 2011; international container throughput at Yangon port registered 0.4 million TEUs, up 18%. In 2012, goods-handling capacity at Myanmar's ports was 25 million tonnes.

The Myanmar Port Authority handles cargo vessels in two groups: break bulk cargo ships and container ships. The authorities state that, for break bulk cargo ships, turnover time depends on tonnage, cargo type, number of gangs/hooks, and weather conditions; for example, a 10,000 DWT break bulk cargo can be discharged within 5 to 7 days if weather conditions are good. For container cargo, turnover time for feeder vessels is 2 to 3 days.

The Myanmar Port Authority regulates port businesses. The main legislation is the Yangon Port Act 1905, the Ports Act 1908, the Outports Act 1914, and the Myanmar Lighthouse Act 1937.[35] The Port Authority is currently planning to integrate the Yangon Port Act, the Ports Act and the Outports Act into one single Act (The Ports Law); it is also considering amending the Myanmar Lighthouse Act. Laws pertaining to investment in port services include the Foreign Investment Law, the Myanmar Citizens Investment Law, Myanmar Special Economic Zone Law, and Dawei Special Economic Zone Law.

The Myanmar Port Authority's port policy objective is to develop the port sector in accordance with the national policy and to comply with international standards. Its operational objectives are: to manage port development in accordance with the requirements of port services; to arrange the handling system of export and import cargo to be in line with the economic development of the country; to promote local and foreign investment in port services and to meet ASEAN and international standards with regard to the capability of ports; and to regulate private port terminals so that they comply with the Government's port policy, rules, and regulations. The MPA intends to promote domestic and foreign investment by providing incentives in accordance with the new Foreign Investment Law. The MPA also aims to reduce dependence on the state budget by exploring sources of income reducing expenditures, and investing in the development and renovation of ports. Port service providers in Myanmar include the MPA and the private sector; in terms of berth length, they account for about 25% and 75%, respectively.

To engage in port services, companies must apply to the Company Registration Department of the Ministry of National Planning and Economic Development; no licence from the MPA is required. The MPA states that it realizes the importance of private sector participation in port services, as the process of privatization is deemed the only way to improve the performance of public port organization. The Myanmar Port Authority is now implementing the port reform strategy approved by the Government. According to the strategy, the Myanmar Port Authority becomes more financially autonomous and may form joint ventures with local and/or foreign partners. There are two wholly foreign-invested enterprises in the port services sector (i.e. Myanmar International Terminals Thilawa (MITT), and Myanmar Integrated Port Limited (MIPL)).

Standard port charges are set by the MPA; criteria for setting the charges include cost recovery. Nonetheless, private terminals may negotiate port charges with their customers, and port operators may set some fees if they are not included in the standard charges.

Myanmar is a member of the International Maritime Organization (IMO). Myanmar has concluded one bilateral maritime transport agreement, with Bangladesh. The MPA has no bilateral cargo-sharing agreements.

Tourism

Myanmar received about 0.79 million international tourists in 2010 and 0.82 million in 2011.

The Ministry of Hotels and Tourism oversees tourism policies in collaboration with the Myanmar Tourism Federation, a federation of 11 associations of tourism-related service providers.[36] Main laws and regulations governing the tourism sector include the Myanmar Hotel and Tourism Law 1993, and Government Notification No. 14/93(1993).

Operating a hotel business or lodging-house business requires prior permission from the Ministry of Hotels and Tourism. After obtaining ministerial permission and completing the hotel construction, the enterprise must apply for a licence. Licences are not transferable without the permission of the authorities. Foreign direct investment, with foreign-equity participation up to 100%, is allowed in the hotels and related businesses. Incentives may be granted in accordance with the FDI Law.

A licence is required for tour operator and/or travel agency activities. Applicants must: be registered in accordance with the Myanmar Companies Act, if a limited company or joint venture; have an office to carry out the business; have sufficient financial means to set up the business; and have sufficient skilled labour. Any changes of proprietor or manager or office location within the municipality must be notified in writing. Moving outside the municipality requires a new permit. Tariffs must be published, together with the tour programmes and services offered by the enterprise. Tour operator and/or travel agency businesses are allowed only in the form of joint ventures with Myanmar citizens; foreign-equity participation is allowed up to 60%.

In order to operate tour guide business, a licence must be obtained from the Ministry of Hotels and Tourism. To be eligible for a licence, applicants must have attended and passed the tour guide training conducted by Myanmar Hotels and Tourism Services; be assessed by Myanmar Hotels and Tourism Services as qualified to attend tour guide training; or have attended and passed a similar training course recognized by the Ministry. Only Myanmar nationals are allowed to engage in tour guide businesses.

Endnotes

1 Data provided by the authorities.

2 The authorities consider that, as of 2011/12, 944 million baskets of rice are required for self sufficiency.

3 Chapter II of the Farmland Law.

4 These conditions include leaving land fallow without a good reason.

5 Commercial farming involves the use of a larger area of land than that used for subsistence farming.

6 Ministry of Agriculture and Irrigation online information. Viewed at: http://www.moai.gov.mm/index.php/business-opportunities.html [02.04.2013].

7 Ministry of Agriculture and Irrigation online information. Viewed at: http://www.moai.gov.mm/index.php/business-opportunities.html [02.04.2013].

8 Cho (2013).

9 In 1976, the MADB undertook the roles and functions of the State Agricultural Bank (SAB), which was established in 1953. Ministry of Agriculture and Irrigation online information. Viewed at: http://myanmargeneva.org/e-com/Agri/expind/agriindex/myanmar.com/Ministry/agriculture/Organi/madb.htm [09.04.2013]. In 2013, the MADB had 15 regional offices and 206 branches across Myanmar.

10 The MADB is authorized to make loans to, *inter alia*, a State-owned agricultural organization (Myanmar Industrial Crops Development Department), livestock organizations, cooperatives, private entrepreneurs, farmers, and farm labourers.

11 The interest rate is 8.5% per annum for lending, and 8% for deposit. The bank must avail itself of an overdraft loan for its loan fund from the Myanmar Economic Bank at the rate of 4% per annum.

12 According to the State-owned Economic Enterprise Law 1989, the Government has the sole right to carry out extraction, sale, and exports of teak.

13 At present, PFEs amount to 16,623,294 ha (24.57% of Myanmar's total land area) and PASs to 3,789,411 ha (5.6%).

14 The Mineral Resources Policy aims to, *inter alia*: fulfil domestic demand and increase exports; increase production of minerals; promote domestic and foreign investment in respect of mineral resources; supervise, scrutinize and approve applications submitted by persons or organizations that wish to conduct mineral prospecting, exploration or production; conduct conservation, utilization and research regarding mineral resources; and protect the environment from any effects from mining operations.

15 Chapter II, the Gemstones Law.

16 In accordance with the Law, when a geographical area is found as where gemstones can be produced on a commercial scale, the area may be designated as gemstone block.

17 Under Section 13 (a) of the Gemstones Rules 1995, if local gems companies or cooperative societies apply for a mining operation permit, the floor prices are fixed at a minimum of K 500,000 for a new block, and K 1 million for renewal of blocks where permits have expired.

18 Chapter II.1.3 and 4, the State-owned Economic Enterprise Law.

19 Power generation, transmission, and distribution are largely bundled. The main generators of electric power are the MOEP and the Shweli hydropower plant, which belongs to a joint-venture company with investment from Yunnan United Power Development Company Limited (China) and the MOEP. The MOEP and its subsidiaries dominate transmission and distribution. Some small-scale local organizations and private companies handle power generation distribution in certain regions far from the national grid, by using, *inter alia*, mini-hydro, diesel, and biomass generators; the MOEP issues permits for these activities and provides technical assistance.

20 UNSD, Comtrade database (SITC Rev.3).

21 In December 2011, the Ministry of Industry No. 1 and the Ministry of Industry No. 2 were merged to form a new Ministry of Industry.

22 Manufacturing as classified in ISIC.

23 UN Comtrade database (SITC Rev.3).

24 GATS document GATS/SC/59, 15 April 1994.

25 The CBM has allowed 33 representative offices of foreign banks in Myanmar; they may, *inter alia*, distribute business information to foreign investors.

26 The main departments of the CBM include the Financial Institutions Regulation and Anti-money laundering Department and Financial Institutions Supervision Department. The Financial Institutions Supervision Department supervises financial institutions by conducting on-site and off-site examinations.

27 These are: IKBZ Insurance Public Co. Ltd; Grand Guardian Insurance Public Co. Ltd; Aung Thitsar Oo Insurance Company; Aung Myint Mo Insurance Company; and National Finance Insurance (Public) Co. Ltd.

28 Section 29 of the Insurance Business Law and Section 14-C of the Insurance Business Rules allows the entry of foreign insurance intermediaries, underwriting agencies, and insurance brokers. Although the establishment of insurance brokers is not prohibited by law, the IBSB has not yet decided to permit their establishment. The authorities expressed their intention to permit insurance brokers in the near future.

29 An insurer must have a deposit equal to 10% of paid-up capital (K 6,000 million for life insurance and K 40,000 million for non-life insurance), and then purchase Government Treasury Bonds worth 30% of the paid-up capital.

30 MCIT online information. Viewed at: http://www.mcit.gov.mm/sites/default/files/press_release_-_licensee_selection_process_results_update_3.pdf [04.09.2013].

31 Conditions to be fulfilled in order to obtain a licence include: economic strength; routes; the use of aircraft that meet national safety and security requirements; legally licensed technical staff; possession of operation manuals; maintenance and overhaul; preparation of schedules, fares, freight rates; registered capital no less than the minimum level specified by the Government; and other conditions specified by laws and administrative regulations.

32 The coverage of these bilateral agreements include: the number of carriers; tariffs and fees; establishment of representative institutions; employment of staff; airport and flying facilities; application of laws and regulations on crossing borders; regulations on airline capacity; income remittance and exchange; security; safety-related controls; flight routes; and a dispute settlement mechanism; principles such as fair and equal opportunities for companies of both parties and negotiation of capacity and frequency with the aviation authorities of both parties.

33 Terminal building operations at Yangon International Airport are conducted by a local company under a contractual agreement with the DCA and the company. Nay Pyi Taw International Airport is operated by a local company under contractual agreement with the DCA and the company on a BOT basis.

34 According to information provided by the authorities, the average handling capacity of container ports is increasing by 25-30% annually, and the proportion of "door-to-door" transportation is also increasing rapidly. Myanmar's policy on multi-modal transport includes: facilitating the expansion of international trade among ASEAN members as well as between an ASEAN member country and third countries; stimulating the development of smooth, economic, and efficient multi-modal transport services adequate for the requirements of international trade; and adopting rules related to the carriage of goods by international multi-modal transport contracts, including provisions concerning the liability of multi-modal transport operators.

35 In accordance with these Acts, the Myanmar Port Authority compiled by-laws: Work Guidance on Traffic Department and Jetty Service Regulations.

36 Myanmar Tourism Federation online information. Viewed at: http://www.myanmar.travel/index.php/about-us/36-mtf/myanmar-tourism-federation [02.09.2013].

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Appendix Tables

Table A2. 1 Major trade-related legislation

Subject	Legislation
Foreign trade	Export and Import Law 2012
	Foreign Exchange and Management Law 2012
	Contract Act 1872
Customs clearance	Essential Supplies and Services Law 2012
	Sea Customs Act 1878 (amendment in progress)
	Land Customs Act 1924
	Tariff Law 1992
Standards and technical requirements	Science and Technology Development Law 1994
Sanitary and phytosanitary requirements	Pesticide Law 1990
	National Food law 1997
	National Drug Law 1992
	Narcotic Drugs and Psychotropic Substances Law 1993
	Plant Pest Quarantine Law 1993
	Animal Health and Development Law 1993
	Regulation for Importation and Exportation of Animals and Animal Products 2002
	Protection of Wildlife, Wild Plants and Conservation of Natural Areas Law 1994
Labelling requirements	Traditional Drug Law 1996
	National Food Law 1997
	National Drug Law 1992
Taxation	Myanmar Excise Act 1917
	Commercial Tax Law 1990
	Income Tax Law 1974
State trading or State-owned enterprises	Special Company Act 1950
	State-Owned Economic Enterprise Law 1989
Intellectual property rights protection	Myanmar Merchandise Marks Act 1889
	Registration Act 1908
	Penal Code 1860
	Television and Video Law 1996
	Motion Picture Law 1996
	Computer Science Development Law 1996
Sectoral Agriculture	Fertilizer Law 2002
	Agricultural Produce Markets Act 1941
	Seed Law 2011
	Pesticide Law 1990
	Plant Pest Quarantine Law 1993
	Farmland Law 2012
	The Vacant, Fallow and Virgin Lands Management Law 2012
Fishing	The Fishing Right Of Foreign Fishing Vessels Law 1989
	Aquaculture Law 1989
	Myanmar Marine Fisheries Law 1990
	Fresh Water Fisheries Law 1991
Forest	Forest Law 1992
Mining	Gemstones Law 1995
	Myanmar Mines Law 1994
	Myanmar Pearl Law 1995
Energy	Petroleum Act 1934
	Petroleum Rules 1937
	Oil Field Act 1918
	Atomic Energy Law 1998
	Oil Resources (Development Regulation) Act 1957
	Electricity Law 1984
Banking	Central Bank of Myanmar Law 2013
	Yangon Interbank Foreign Exchange Law 2013
	Foreign Exchange Management Law 2012
	Financial Institutions Law 1990
Insurance	Insurance Law 1993
	Insurance Business Law 1996

Telecommunications	Myanmar Telegraph Act 1885
	Myanmar Post Office Act 1898
	Myanmar Wireless Telegraphy Act 1934 (and its amendment 1993)
	Electronic Transaction Law 2004
Maritime transport	Myanmar Merchant Shipping Act 1923
	Myanmar Registration of Ships Act 1841
	Shipping Administration Act 1954
	Bill of Lading Act 1856
	Carriers Act 1865
	Myanmar Carriage of Goods by Sea Act 1925
	Sea Shipping Agreements Act 1952
Port services	Ports Act 1908
Air transportation	Aircraft Act 1934
	Carriage by Air Act 1934
	Aircraft (Public Health) Rules 1946
Tourism	Myanmar Tourism Law 1990
	Hotel and Tourism Law 1993
Investment	Foreign Investment Law 2012
	Myanmar Citizens Investment Law 1994
	Control of Money Laundering Law 2002
	Myanmar Companies Act 1914
	Myanmar Partnership Act 1932
	Arbitration Act 1944
	Private Industrial Enterprise Law 1990
	Myanmar Accountancy Council Law 1994
Road and bridges	Highways Law 2000

Source: Information provided by the authorities of Myanmar.

Table A2. 2 Main trade-related ministries and agencies

Department/Agency	Main responsibility
Ministry of Commerce	Policy coordination and implementation for all trade-related issues
Ministry of Finance	Budget, taxation, customs, revenue appeal
Central Bank of Myanmar[a]	Central bank
Ministry of National Planning and Economic Development	Formulation of trade policy and national development plan
Central Statistical Organization	Statistics
Ministry of Foreign Affairs	Foreign affairs, regional trading agreements
Ministry of Cooperatives	Regulate and organize cooperatives, facilitate SMEs' development
Ministry of Agriculture and Irrigation	Agricultural policies and plans, trade and investment
Ministry of Livestock, Fisheries, and Rural Development	Livestock development, animal health care, disease control, fisheries
Ministry of Communications and Information Technology	Postal and telecommunications services
Ministry of Transport	Maritime transport, civil aviation
Ministry of Environmental Conservation and Forestry	Forest management, wood-based industry development
Ministry of Electric Power[b]	Generation, transmission and distribution of electricity
Ministry of Energy	Petrol and petrochemical sectors
Ministry of Industry[c]	Industrial development
Ministry of Health	Public health
Ministry of Mines	Mining, issuing licences to mineral explorations, conducting environmental impact assessment
Ministry of Construction	Infrastructure construction , urban and housing development
Ministry of Rail Transportation	Road and rail transport
Ministry of Hotels and Tourism	Tourism development

a The Central Bank has been separated from the Ministry of Finance since the promulgation of the Central Bank of Myanmar Law in July 2013.

b From September 2010, only the Ministry of Electric Power (MOEP) is responsible for the generation, transmission, and distribution of electricity. Between May 2006 and September 2010, two ministries were responsible for electric power: the MOEP1 and the MOEP2. MOEP1 was mainly responsible for the development of hydropower projects, and operation and maintenance of hydropower stations, and coal fired thermal power plants. MOEP2 was mainly responsible for the planning and implementation of transmission lines in compliance with the generation plan, operation and maintenance of thermal power plants and distribution facilities, and selling power to end users. Before 2006, there was only one ministry for electric power (MOEP).

c The Ministry of Industry was two ministries until 2 December 2011. On 4 April 2012, the Ministry of Industry was reorganized with three Directorates, six industrial enterprises, and two centres.

Source: Information provided by the authorities of Myanmar.

Table A3. 1 Tariff lines with MFN applied rates that exceed their bound rates, 2013

HS code	Description	MFN applied 2013	Bound rate 2013
2620110000	-- Hard zinc spelter	1.00	0
2620190000	-- Other	1.00	0
7904000000	Zinc bars, rods, profiles and wire.	3.00	0
8432802000	- - Lawn or sports-ground rollers	1.00	0
8432809000	- - Other	1.00	0
8432901000	- - Of machinery of subheading 8432.80.90	1.00	0
8433110000	-- Powered, with the cutting device rotating in a horizontal plane	1.00	0
8433191000	- - - Not powered	7.50	0
8433199000	- - - Other	1.00	0
8433902000	- - Other, of goods of subheading 8433.11 or 8433.19.90	1.00	0
8433903000	- - Other, of goods of subheading 8433.19.10	7.50	0
8435101000	- - Electrically operated	1.00	0
8435102000	- - Not electrically operated	1.00	0
8435901000	- - Of electrically operated machines	1.00	0

8435902000	- - Of non-electrically operated machines	1.00	0
8436801900	- - - Other	1.00	0
8436802900	- - - Other	1.00	0
8436991900	- - - - Other	1.00	0
8436992900	- - - - Other	1.00	0
8701909000	- - Other	1.00	0
8708991000	- - - For vehicles of heading 87.01	1.00	0
8708992100	- - - - - Fuel tanks	5.00	0
8708992300	- - - - - Parts	5.00	0
8708993000	- - - - Accelerator, brake or clutch pedals	5.00	0
8708994000	- - - - Battery carriers or trays and brackets therefor	5.00	0
8708995000	- - - - Radiator shrouds	5.00	0
8708996100	- - - - - For vehicles of heading 87.02	5.00	0
8708996200	- - - - - For vehicles of heading 87.03	5.00	0
8708996300	- - - - - For vehicles of heading 87.04	5.00	0
8708997000	- - - - Other	5.00	0
8708999010	- - - - - - Half-shafts and drive shafts and parts thereof	5.00	0
8708999090	- - - - - - Other	5.00	0

Source: WTO Secretariat calculations, based on data provided by the authorities of Myanmar.

Table A3. 2 Domestically produced goods exempt from commercial tax

Commercial tax exemptions
Paddy
Wheat grain
Maize and other cereals
Pulses
Groundnuts
Sesame
Mustard seeds, sunflower seeds, tamarind seeds, cotton seeds
Oil palm
Raw cotton
Jute and similar fibres
Garlic, onions
Potatoes
Spices, raw (plants, parts of plants, nuts, seeds, barks, etc.)
Spices prepared
Fruits, fresh
Vegetables
Sugarcane
Mulberry leaves
Medicinal plants or herbs
Animal feed, fresh and dried (farm products only)
Thatch, reeds, dani and such agricultural products n.e.s.
Wood, bamboo
Live animals
Silk cocoons
Cane
Honey and bee's wax
Lac
Bran and pollard pulses
Cake, meal, and residue of groundnuts, sesame, cotton seeds, rice bran, etc.
Soap stocks (of oil residue)
Bleaching substances (of oil residue)
Cotton ginned
Coir yarn
Feathers
Umbrella cloth
Bandages, gauze, other surgical dressing materials, hospital and surgical outfit and sundries
X-ray film, plates and other x-ray surgical and medicinal pharmaceutical apparatus and equipment
Insecticides, pesticides, fungicides, etc.
Various kinds of gun powder, various kinds of dynamites and accessories thereof used by the civil departments
Stamps
Defence and military stores and equipment

Sealing wax and sticks
Textbooks, exercise and drawing books of various kinds and papers for the production of such books and all sorts of pencils
Slates, slate pencils and chalk
Shrimp paste
Shrimp and fish sauces
Groundnut oil, sesame oil, sunflower seed oil, rice bran edible oil, other edible oil and oil cakes
Flour (coarse and fine)
Pulses, split and powdered
Rice, broken rice and rice bran
Fresh fish, fresh prawn
Sterilized and other pasteurised milk
Milk powder
Milk for the use of infants and invalids
Chili
Saffron
Ginger
Fish paste
Ripe tamarind
National flag
Beads
Rulers, erasers, and sharpeners
Fuel sticks
Coconut oil
Eggs
Water melon seeds
Religious clothes
Graphite to make pencils
Condoms
Oil dregs or earth oil

Source: Schedule 1, Commercial Tax Law.

Annex 1: aid for trade and trade-related technical assistance[1]

OVERVIEW

Decades of isolation from the international community has limited Myanmar's ability to access external financing and assistance through which knowledge, expertise, technology, and networks are regularly disseminated and updated. The trade sector was no exception, although a limited number of partners, including the WTO, continued to provide trade-related technical assistance. Overall, while Myanmar has a high utilization rate of the technical assistance and training activities offered by the WTO, it has not built up adequate institutional capacity to deal with WTO matters, beyond the Ministry of Commerce, as reflected in the country's low-key participation in the work of the organization. With the recent reforms, enormous opportunities exist for Myanmar to further align its trade policy practice to international norms and standards, as well as to receive external support to address its constraints and challenges both on soft and hard infrastructure, including through the Enhanced Integrated Framework.

TRADE IN MYANMAR'S NATIONAL DEVELOPMENT PLAN

The Government is currently formulating the National Comprehensive Development Plan (NCDP) 2011/12-2030/31, setting out new priorities and reform agendas for the next 20 years. The NCDP, which will be supplemented by five-year, annual and sectoral plans, is expected to be finalized and adopted by Parliament during 2013. The formulation of the Plans is led by the Planning Department at the Ministry of National Planning and Economic Development (MNPED), which serves as the secretariat for the Planning Commission, chaired by its Minister. Plan Formulation Implementation Committees were established in 2011 at the level of townships, districts, and states to ensure broad-based and bottom-up consultative processes. According to the authorities, an inter-ministerial consultative process, coordinated by the MNPED, is to ensure inputs from other ministries for the preparation and implementation of the plans.

While the 20-year NCDP is being finalized, the Framework for Economic and Social Reforms (FESR), adopted in late 2012, has set out ten priority reform areas for the interim period of 2012-15.[2] The FESR stresses the importance of liberalization of trade and investment. The main objectives of trade policies stated in FESR are: (i) encouraging the diversification of export products while promoting value-added processes for primary commodities, including focusing on improving support services for trade financing, market access, and trade facilitation; (ii) exchange rate unification by eliminating the linkage between export receipts and import licensing; (iii) liberalization measures such as setting up a national single-window, liberalizing services as well as removing all non-tariff barriers in accordance with the 2015 targets for ASEAN integration; (iv) cooperation with the WTO in removing trade barriers, and with international chambers of commerce in promoting business-to-business collaboration; and (v) strengthening regulatory capacities to improve inspection and quality assurance services for both export and import operations and set up a new public facility on consumer protection. The Government is formulating a Trade Sector Plan reflecting these objectives.

FINANCING OF MYANMAR'S DEVELOPMENT STRATEGY, INCLUDING AID FOR TRADE

Myanmar's external financing was limited by years of isolation from the international community. According to the authorities, China was the largest provider of foreign aid to Myanmar until 2011, and the largest provider of FDI, although no official data are available. According to the latest statistics available from the OECD/DAC database, which does not include statistics on aid from China, Myanmar received US$376.11 million of Official Development Assistance (ODA) in 2011, 74% of which was bilateral ODA (Table 6.1). While this figure represents an increase over the 2002 figure of US$181.94 million, the country's total net ODA disbursements per capita remain low (at US$7.78) compared with other LDCs in the region. A large portion of the ODA disbursement was aimed at humanitarian aid and health, linked to the 2008 cyclone Nargis. Concessionary financing was not available to Myanmar.

Table 6.1 Total net ODA disbursement, 2002-11

(US$ million)

Year	Multilateral	Bilateral	Total Net ODA
2002	129.71	52.23	181.94
2003	125.92	48.02	173.94
2004	112.66	48.61	161.27
2005	110.80	71.83	182.63
2006	130.45	48.27	178.72
2007	157.22	68.29	225.51
2008	470.26	101.09	571.35
2009	274.08	118.16	392.24
2010	242.70	141.76	384.46
2011	274.38	101.73	376.11

Source: OECD/DAC Database.

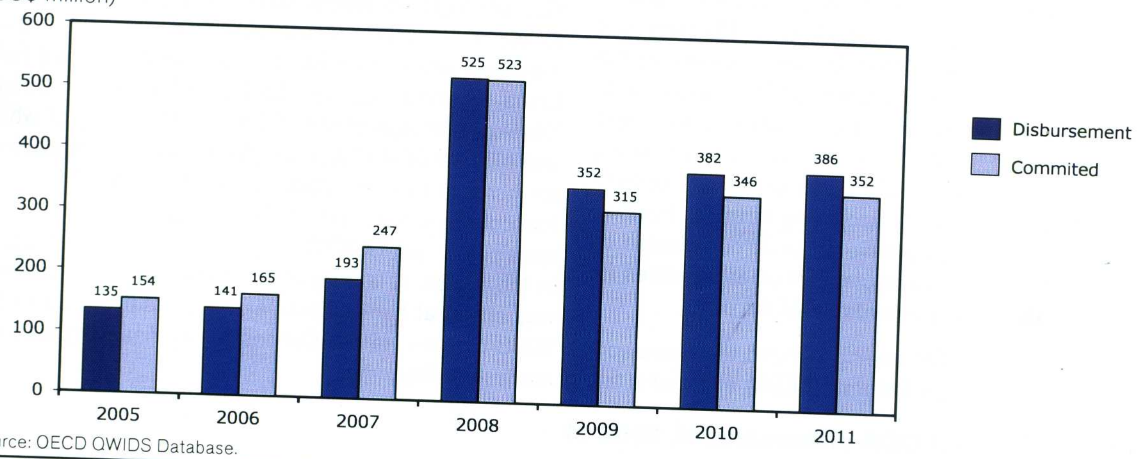
With the recent reform in Myanmar, the aid relationship with the international community has gradually been normalized. In January 2013, the Government convened the first Myanmar Development Cooperation Forum (MDCF) i.e. a platform for aid coordination with development partners, which adopted the Nay Pyi Taw Accord for Effective Development Cooperation. According to the authorities, the Accord sets out principles and commitments for aid effectiveness, in line with the Paris Declaration and the Busan Partnership for Effective Development Cooperation. While no official data of ODA is yet available for 2012 and 2013, the figure is expected to increase to at least US$400-500 million per year.[3] In addition, concessional lending by multilateral and bilateral donors has been resumed.[4] In the same month, the Asian Development Bank and the World Bank agreed to clear Myanmar's combined arrears of US$960 million, and announced US$512 million and US$440 million of loans to the country, respectively. Myanmar also reached a debt agreement with the Paris Club of sovereign creditors, which cancelled 50% of the country's public external debt, estimated at US$15.3 billion as at end 2012, and a 15-year repayment schedule for the remainder, including a 7-year grace period.[5]

The Foreign Aid Management Central Committee, chaired by the President, was set up as the state body to manage aid coordination. Reporting to the Central Committee, the Foreign Aid Management Working Committee, supported by the National Economic and Social Advisory Council, conducts project appraisal for all foreign aid proposals (grants, aid, TA). The Foreign Economic Relations Department of the Ministry of National Planning and Economic Development, serves as the secretariat for the Central Committee and the Working Committee. To ensure policy dialogue and coordination with development partners, 15 sector working groups were established and each group is coordinated by a Government Ministry and two development partners (one bilateral and one multilateral). For concessionary loans, the Ministry of Finance and Revenue is responsible for approval.

In the area of trade, many development partners, both multilateral and bilateral, have committed to support Myanmar's efforts to further integrate into the global economy, especially after the lifting of trade and economic sanctions. According to the OECD database, aid for trade to Myanmar stood at US$386 million in commitments and US$352 million in disbursements in 2011 (Chart 6.1); the figures are expected to have increased significantly for 2012-13. Various development partners provide trade and trade-related assistance (Table 6.2). Many of these assistance projects are still at the initial phase of implementation or development. In support of the Government's reform agenda, they cover a wide range of areas, including private sector development; infrastructure; financial sector reform; agriculture; and fisheries. This assistance takes the form of policy support and advice, staff training, and short- to long-term projects. To ensure donor coordination in the sector, the Government is preparing to establish a sector working group on trade sector development, which may be consolidated as the EIF process progresses.

Chart 6.1 Total aid-for-trade commitments and disbursements, 2005-11

(US$ million)



Source: OECD QWIDS Database.

Table 6.2 Overview of aid-for-trade programmes of main donors

Donor	Programme/ Strategy	Focus Areas	Link
Asian Development Bank (ADB)	Interim Country Partnership Strategy for FY 2012-14	- Building human resources and capacities (capacity building in ministries in core areas of ADB involvement, and education) - Promoting an enabling economic environment (macroeconomic and fiscal management; and trade, investment, financial sector reform); - Creating access and connectivity (rural livelihoods and infrastructure development, especially energy and transport)	http://www.adb.org/sites/default/files/icps-mya-2012-2014.pdf
International Trade Centre (ITC)	Development of a National Export Strategy of Myanmar	Will include an overarching national policy for export development, as well as individual sector and functional strategies, developed on the basis of a series of diagnostics and strategic planning exercises to identify various policies, institutional, and the enterprise level issues affecting sectors	Information provided by ITC
OECD	Investment Policy Review	Will help the Government to assess its economic and investment policies and identify priorities for further reform	http://www.oecd.org/countries/Myanmar/investmentpolicyreforminmyanmar.htm
	Multidimensional country review of Myanmar	Joint OECD/ESCAP report addressing key issues facing Myanmar, such as supply-side capacity building, industrialization, SME development, legal and regulatory reforms, and administrative reforms	http://www.oecd.org/countries/myanmar/myanmar.htm
UN Agencies	UN Inter-Agency Cluster of Trade and Productive Capacity	Coordinated by UNCTAD; provides an integrated vision encompassing macroeconomic and sectoral levels, as well as regional and global trade dimensions. First mission was in February 2013	Information provided by UNCTAD
UN Economic and Social Commission for Asia and the Pacific (UNESCAP)	Trade and Investment Capacity Building Programme 2013-14	- Strengthening the Trade Training Institute - SME law and Industrial Development Plan - OECD Multidimensional Review	Information provided by ESCAP
UNIDO	Various projects	- Strengthening the National Quality Infrastructure for Trade - Strengthening the legal and industrial metrology institutions for consumer protection and market access - Initiating a country-wide laboratory accreditation programme for food safety and reduction in technical barriers to trade - Strengthening the food safety framework and law - Strengthening private standards certification capacity	UN Cluster Joint Matrix
World Bank	Interim Strategy Note for FY 2013/14	- Public financial management to transparently link budgets to development priorities - Regulatory reform to provide access to finance for microfinance borrowers and SMEs - Private sector development to promote broad-based economic growth and job creation - Myanmar Reengagement and Reform Support Credit (US$440 million) supports critical	http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2012/10/12/000386194_20121012024925/Rendered/PDF/724580ISN0IDA00Official0Use0Only090.pdf

		reforms in macroeconomic stability, financial management and investment climate	
DFID	Various projects	Include the Business Innovation Facility project and the Investment Climate Assessment	http://projects.dfid.gov.uk/Default.aspx?countrySelect=BU-Burma
European Union	Various projects	Includes a €10 million TRTA project, covering SPS, customs, etc.	
GIZ	Various projects	Includes private sector development, financial sector development, and strengthening the technical vocational education and training system	http://www.giz.de/themen/en/37983.htm
JICA	Various projects	Includes infrastructure (Yangon Port and Main Inland Water Transport), ICT, agriculture and rural development and fisheries	http://www.jica.go.jp/myanmar/english/activities/index.html
KOICA	Various projects	Includes infrastructure (road network) and ICT	
USAID	Various projects	Includes a Food Security/Agriculture Diagnostic to expand the knowledge-base of food-security-related issues to better equip the country over the long term	www.usaid.gov/burma

Source: Various sources.

Myanmar joined the EIF in April 2013. A familiarization workshop was held in July-August 2013 and the preparation of a Diagnostic Trade Integration Study (DTIS) is scheduled to begin in 2014. The DTIS and its accompanying Action Matrix are expected to identify Myanmar's wider ranging trade-related constraints and challenges in a broader aid-for-trade context. It is expected that the EIF would facilitate the donor coordination of various on-going trade and trade-related initiatives, building on the synergies which several UN agencies have been collaborating under the UN Inter-Agency Cluster on Trade and Productive Capacity coordinated by the UNCTAD. Under the EIF, Myanmar has access to Tier I (support for national implementation arrangements) and Tier 2 (small-scale project funding for trade-related and supply-side capacities in priority areas as identified by DTIS).

WTO trade-related technical assistance

Evaluation of WTO technical assistance to date

Myanmar has regularly been invited to, and has participated in, trade-related technical assistance and training activities organized by the WTO (Table 6.3). According to the ITTC database, between 1995 and July 2013, Myanmar participated in 122 Geneva-based and regional activities, through which 172 officials were trained. In addition, a total of 279 officials have been trained through various e-learning modules since 2005; this is one of the highest levels of E-learning enrolment/completion among all LDC Members, providing a good basis for implementing the Progressive Learning Strategy in training officials on WTO matters. A further two officials were trained in Geneva under internship programmes.

While overall rate of the utilization of training opportunities offered by the WTO is high, a small portion (i.e. 13% of the global and regional face-to-face training and technical assistance activities) was attended by officials outside

Table 6.3 WTO technical assistance activities, 1995–2013 (end-July)

Activity Type	Number of activities	Number of participants
Introduction Course	10	12 (2)
Regular/Regional Trade Policy Course	18	18(1)
Advanced Trade Policy Course	3	3 (0)
Regional seminar workshop/training	68	107 (29)
Thematic/Specialized Course	9	9 (3)
Global Seminar/Workshop	24	24 (7)
Distance Learning	73	279 (87)
Internships	2	2
TOTAL	**207**	**454 (129)**

Note: The number in parenthesis indicates the number of non-Commerce officials.

Source: Institute of Training and Technical Co-operation Database. (http://wtotrta/Reports/ReportCountryPeriod.aspx).

Table 6.4 Selected WTO activities by topic (including via E-learning), 1995–2013 (end-July)

Topic/Theme	Number of activities	Number of participants (E-Learning)
TOTAL	**208**	**457 (279)**
Agriculture	1	1
Customs valuation	-	-
Dispute settlement	3	3
Government procurement	4	8
NAMA	12	36 (19)
Negotiation issues	5	6
Regional trade agreements	4	4
Rules	9	18 (16)
Sanitary and phytosanitary measures	9	21 (14)
Technical barriers to trade	17	40 (27)
Trade and development	7	13 (8)
Trade and environment	9	24 (15)
Trade and investment	-	-
Trade facilitation	10	12
Trade in services	10	27 (23)
Trade negotiation techniques	5	8
Trade-related intellectual property rights	18	67 (54)
Competition policy	2	2
IT/WTO reference centre	2	2

Source: Institute of Training and Technical Cooperation Database.

the Ministry of Commerce. In the case of E-Learning, however, the enrolment of non-commerce officials was much higher than that of face-to-face activities, representing over 30% of the participants trained; in particular, officials from the Ministries of Planning and Economic Development, Science and Technology, as well as Agriculture and Irrigation, represented over a half of the trained participants in the areas of TRIPS, TBT and SPS courses (Table 6.4). Myanmar has not taken full advantage of the opportunity to hold national activities where a larger number of officials could be trained. Since 1995, a total of 10 national workshops have been held, on: the WTO and the MTS in 1998; DDA Negotiations in 2004 and 2006; WTO Notifications in 2004; Trade in Services in 1998 and 2003; TRIPS in 2004; Textiles and Clothing in 2005; Trade Facilitation in 2005; Rules of Origin in 2007, as well as four activities associated with the establishment and upgrading of the Reference Centre (1998, 2003, 2007, and 2013).[6]

Overall, Myanmar has not effectively utilized the training opportunities to build up institutional capacity on WTO matters beyond the Ministry of Commerce.[7] Even within the Ministry, the operational knowledge on the WTO is limited, as reflected in the country's low level of engagement in the work of the organization, despite its long-standing membership, as one of the original contracting parties to the GATT in 1948. The submission of notifications is also low and many are outdated (p. 24). Myanmar's participation in the WTO has further been constrained by the lack of a national coordinating mechanism on trade policy matters, at least until the current TPR exercise, as well as the location of trade negotiating and implementing authorities in two different ministries (i.e. MOC on the WTO and MNPED on ASEAN).

Once a trade policy framework and its objectives are defined and developed into a new Trade Sector Plan, it would be important to devise a comprehensive training strategy to ensure the inclusive nature of trade policy making and implementation, including participation of the private sector, as well as the synergies between different trade arrangements in which the country is engaged.

Assessment of technical assistance and capacity building needs

Decades of the isolation limited Myanmar's access to trade-related technical assistance and other support that is normally available for LDCs in the international community, other than those offered by the WTO and a limited number of partners, including at the regional level. With the opening of its economy, Myanmar has a long list of technical assistance and capacity building needs to catch up with to achieve its ambition of integration into the global trading system. The authorities indicated that the Government faces various constraints and challenges and has technical assistance needs, many of which go beyond the boundary of the WTO (Table 6.5). Major constraints and challenges faced by Myanmar are wide-ranging and, overall fall into five areas: (i) law and legislation, (ii) policy frameworks, (iii) institutions, (iv) human resource, and (v) infrastructure. Most relate to the need to change, update or modernize the current regime, which had been left untouched for years and decades (or even over a century for some laws and legislation) to align the economic system with today's international norms and practices.

Myanmar lacks a comprehensive trade policy framework to guide its participation in the WTO and other trade arrangements. Since trade policy making, including the management of negotiations and implementation of different trade agreements, is fragmented among different ministries, there is a risk of overlapping or even conflicting policies and their implementation, thereby diminishing their full potential and efficiency. At the level of institutions, there is a need to formalize a national inter-ministerial committee on WTO, which has been established as part of the TPR exercise, to serve as a regular forum to discuss the country's engagement in the organization. If another similar committee existed, for instance, under the EIF or ASEAN, the country's participation in the WTO could be added as one of the mandates or placed on the committee's agenda.

As regards staff training needs, which are the main focus of WTO technical assistance and training, the authorities consider that workshops and seminars in all areas of the WTO Agreements, both general and specific, continue to be in demand in Myanmar. In particular, needs are very high in the line ministries dealing with agriculture, SPS, and TBT, with a focus on implementation of the agreements, including on notifications. In addition, line ministries dealing with services sectors, such as finance, communication, transport and energy, need enhanced knowledge on the application of the WTO rules and principles to the on-going legislative reforms, as well as the scheduling of commitments in these sectors. In order to meet Myanmar's need to train a large number of officials in a short period, national workshops would seem to be a suitable format for future training activities. In the case of global and regional face-to-face activities, the nomination and participation of non-commerce officials is encouraged, along with the already high level of enrolment from the Ministry of Commerce. Moreover, in organizing future WTO workshops and seminars, it is important to place greater emphasis on the relationship between the WTO Agreements and the bilateral and regional trade arrangements to which Myanmar is a party, to ensure the synergy and coherence among these initiatives. For Myanmar's infrastructure needs, a comprehensive diagnostic is expected to come out within the context of the EIF through the preparation of a DTIS.

Table 6.5 Main challenges/constraints and technical assistance needs of various ministries

Ministry	Main challenges/constraints	Trade-related technical assistance and capacity building needs
Ministry of Agriculture and Irrigation (Department of Agricultural Planning and Department of Agriculture)	- Limited knowledge and understanding of WTO Agreements on Agriculture and SPS, including implementation - Lack of technical staff - Lack of capacity for quality control	- Seminar on WTO Agreements - Training on identification of plant pests and diseases, plant inspection, diagnostic methodology, and quarantine techniques - Capacity building on Good Agriculture Practice (GAP) - Upgrading of plant quarantine laboratory facilities, including in border area entry points
Ministry of Commerce	- Weak Institutional structure and insufficient technical staff to deal with all aspects of WTO issues as a focal ministry	- General capacity building on WTO related issues - Preparation of a comprehensive trade policy consistent with WTO obligations - Awareness seminar on competition and consumer protection issues
Ministry of Environmental Conservation and Forestry (Myanmar Timber Enterprise)	- Insufficient knowledge of standardization of timber-related products	- Workshop on international trade on timber-related products, including standardization, legality, dispute settlement - Market information on timber trade
Ministry of Finance (Customs Department)	- Difficulties checking technical specification of exporting and importing goods	- Understanding of the WTO Agreements and DDA negotiations - Laboratory technical course - International auditing practices - International commercial and practice and supply chains management
Ministry of Health (Food and Drug Administration)	- Inadequate infrastructure for quality-control and testing	- Development of on-line application and certification system
Ministry of Industry (Department of Textile Industries)	- Lack of capital and technology in cotton plantation and textile production - Lack of market information - Lack of export marketing strategies - Poor knowledge of trade facilitation	- Seminar on WTO notifications - Awareness seminar on textile trading - Capacity-building for export marketing strategies - Establishment of a Market Information Centre

Ministry of Livestock, Fisheries and Rural Development	- Lack of adequate infrastructure for SPS certification - Lack of competence of inspectors and laboratory personnel - Lack of laboratory testing equipment - Lack of appropriate technical regulations for fish exports	- Capacity-building to implement quality management systems such as GAP/GMP/HACCP in supply chain of fishing vessels, landing sites, ice plants, processing establishments, feed plants - Upgrading of disease diagnosis laboratory for monitoring aquaculture farms
Ministry of National Planning and Economic Development (Project Appraisal and Progress Reporting Department)	- Lack of experience in privatization and private sector development	- Experience-sharing on regulation, framework and competition policy for privatization - Training in international practice and methods of valuation and appraisal of tangible and intangible assets - Training/upgrading on cost-benefit analysis and impact assessment of investment projects
Ministry of Science and Technology	- Formulation of new IP laws in line with TRIPS - Formulation of a National IP Policy and Strategy in line with national development policy - Lack of skilful human resource	- Institutional capacity building - Special training course on IP-related Agreements
Ministry of Transport (Department of Civil Aviation)	- Lack of knowledge of air transport regulations for policy-making - Lack of a comprehensive policy or strategy for air transportation sector	- Workshop on GATS scheduling of air transport services - Training and experience-sharing on air transport regulation

Source: Information provided by the authorities of Myanmar.

Endnotes

1 This section is prepared by the Institute for Training and Technical Cooperation (ITTC), following a request from the Government of Myanmar to conduct an assessment of the country's needs in aid for trade and trade-related technical assistance, as part of its first Trade Policy Review.

2 The ten priority areas identified in the FESR 2012-15 are: (i) fiscal and tax reforms; (ii) monetary and financial reforms; (iii) liberalization of trade and investment; (iv) private sector investment; (v) health and education; (vi) good security and agriculture; (vii) governance and transparency; (viii) mobile phones and internet; (ix) infrastructure; and (x) effective and efficient Government.

3 EIU "Myanmar economy: Donors promise to ramp up aid and lending", 25 January 2013. Viewed at http://www.eiu.com/index.asp?layout=VWArticleVW3&article_id=1970081581&region_id=1510000351&country_id=1080000308&refm=vwCtry&page_title=Latest+analysis.

4 Myanmar defaulted in 1998.

5 Paris Club Press Release, 28 January 2013. Viewed at http://www.clubdeparis.org/sections/actualites/myanmar-20130128/viewLanguage/en. The debt owed to Paris Club creditors was estimated to be around US$10.3 billion as at 1 January 2013. At the meeting, Norway waived US$534 million in debt. Moreover, in May 2013, Japan announced a debt write off of US$1.74 billion.

6 As an LDC, Myanmar is entitled to request three national TA activities per year from the WTO Secretariat.

7 Insufficient fluency in English has been cited as one impediment to meaningful participation in training activities for some participants from Myanmar.

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Part C

Report by Myanmar

Overview

As recently as 2011, Myanmar was still labelled a pariah state. However, this perception has changed as a result of the general election in 2010 followed by the establishment of a civilian government and President U Thein Sein's election in March 2011. In his inaugural speech, the President stressed the importance of reform and openness in launching the first stage of reforms, with emphasis on solidifying national reconciliation and building good governance. A year after these reforms were introduced, the President announced a second stage of reforms in May 2012, focusing on the economic as well as social transformation of Myanmar. The wide-ranging *Framework for Economic and Social Reforms* (FESR) was released in late December 2012. It was prepared in order to push the ongoing reforms forward and to accelerate Myanmar's integration into the international community. The FESR outlines policy priorities for the Government of Myanmar (GOM) during the next three years, with emphasis on agro-based industrial development, equitable sharing of resources among the regions and the states of the country, promoting local and foreign investment, effective implementation of people-centered development, and poverty reduction.

In the context of these developments, the GOM welcomes Myanmar's first Trade Policy Review (TPR), which is undertaken in the spirit of transparency, as embodied in the TPR Mechanism. It provides an excellent opportunity to bring to Members' attention progress during the past three years in transforming Myanmar from a centrally-planned into a market-oriented and more open economy at the cross-roads of Asia, and re-integrating it into the global economy, after five decades of isolation and consequent stagnation. This TPR also highlights the formidable challenges Myanmar faces in advancing its economic and social development and the key roles of trade and related policies in meeting these challenges. Liberalization of trade and foreign investment is an integral part of these economic reforms. Accordingly, Myanmar is looking increasingly outward and strongly supports the multilateral trading system (MTS). An open global trading system, including access to export markets and inward flows of FDI, is a key to Myanmar's economic development and thus poverty reduction.

At the same time, however, as a consequence of its membership of the Association of South East Asian Nations (ASEAN), and the latter's deepening economic relationship with China, Japan, Korea, India, Australia and New Zealand, Myanmar is becoming increasingly integrated economically with these regional trading partners.

The opportunities for freer trade created by the MTS and these regional trade agreements are also providing an impetus for unilateral market-driven reforms, which will enable Myanmar to take advantage of these opportunities in order to achieve sustained growth and diversify its economy, which is rich in natural resources, but hitherto largely under-developed.

The single most important economic reform so far has been the replacement of the overvalued official foreign exchange rate peg with a "managed float" in April 2012 (a main step in removing restrictions on the purchase and sale of foreign exchange for the import and export of goods and services). Among the other major economic reforms have been the new, much more liberal, law aimed at ensuring a stable and predictable environment for foreign investment, which was passed in November 2012. In addition, Myanmar has, *inter alia*, abolished import and export licensing requirement on an initial selection of 1,928 non-sensitive commodities, made some progress on land and tax reform, and made improvements to basic infrastructure (transport and telecoms). Further reforms are envisaged, including: the granting of more autonomy to the Central Bank of Myanmar (CBM) as a consequence of its separation from the Ministry of Finance in accordance with the new CBM law, which entered into force on 11 July 2013; a new financial sector law to improve the functioning of the capital market; and an overhaul of Special Economic Zones, a key element of the government's industrial development plan.

In order to ensure continued strong, sustainable and inclusive growth, Myanmar faces a number of economic policy challenges, many of which are inter-related. These include: establishing a market-oriented economy in which private enterprises play an increasingly important role; integration into the global and regional economy through trade and inward FDI (a major source of new technology and managerial know-how); achieving the removal of remaining restrictions imposed by some Members on investment in Myanmar; enhancing the transparency of economic policies and measures; establishing a fiscally viable Government that can address Myanmar's developmental needs, including essential infrastructure (such as that involving electricity, transportation, telecommunications, water, educational and health facilities); developing Myanmar's abundant natural and human resources so as to ensure that the fruits of economic growth are fairly shared, thereby contributing to social harmony; and ensuring that growth is not detrimental to the environment. These and other challenges, together with the policies designed to address them, are laid out in the Framework.

This Review also throws light on Myanmar's institutional capacity constraints and related technical assistance (TA) needs. Indeed, Myanmar greatly appreciates the TA provided by international organizations and WTO Members, which, among other things, is enabling Myanmar to bring its trade policies and measures into line with its WTO obligations, thereby creating a trade regime that is non-discriminatory, predictable and, more importantly in the context of this TPR, transparent. Myanmar relies on Members' continued support in meeting these obligations.

With this and other support, the Government of Myanmar, among the poorest countries in ASEAN, is confident that it can pursue the wide-ranging economic and trade reforms necessary to overcome the formidable challenges it faces, thereby enabling Myanmar to realize its full potential and thus learn from the success of other countries in the region in lifting per capita income and reducing poverty.

Background

Prior to World War II, Myanmar briefly enjoyed the economic benefits of its integration into the world economy and became a world leading exporter of rice. However, the 1929 Wall Street stock market crash exposed the vulnerability of its resource-based economy. Rice exports, which were then Myanmar's largest source of foreign earnings, dropped by more than half in the subsequent three years and made hundreds of thousands of rural families landless. World War II subsequently brought a fatal blow to Myanmar with the destruction of much of its infrastructure and industries.

Immediately prior to its independence on 4 January 1948, the 1947 Constitution was enacted, marking the end of British rule, and Myanmar (Burma then) became one of the 23 original founding members of the General Agreement on Tariffs and Trade (GATT). From then on, the post-war history of Myanmar's political and economic development may be succinctly categorized into four periods of Government: Parliamentary Democracy, 1948-1962; Burmese Way to Socialism, 1962-1988; Market-orientation under Military Government, 1988-2011; and Newly-Elected Government since March 2011.

PARLIAMENTARY DEMOCRACY, 1948-1962

The newly-democratic state had to contend with a multi-ethnic society, devastated infrastructure and industries, a diminished national army and a national aspiration to take control of key economic activities. The monopolized rice trade and timber industry were thus nationalized and some key industries were earmarked to be developed by state-owned economic enterprises (SEEs). It is against this background of weak national institutions and political instability that the Myanmar's army staged a coup in 1962.

BURMESE WAY TO SOCIALISM, 1962-1988

The economic strategy of the military Government was termed "The Burmese Way to Socialism", which encompassed central planning and self-reliance. The country became ruled essentially by decrees issued by the Revolution Council. The Government took swift action by nationalizing all enterprises involved in foreign, wholesale and retail trade and main industries, as well as implementing a series of price controls on the agriculture sector. In respect of trade, exports were indirectly taxed by maintaining national buying prices of commodities below their international prices by SEEs. Imports were managed in accordance with government priorities and availability of foreign exchange. Worsening economic conditions led the military Government to make some adjustment in the mid-70s, such as allowing official development assistance and encouraging SEEs to improve their efficiency. In 1987, the Government sought and obtained least developed country status.

MARKET-ORIENTATION UNDER MILITARY GOVERNMENT, 1988-2011

The Burmese Way to Socialism finally collapsed in September 1988, when a new military group took over the Government. The State Law and Order Restoration Council (SLORC) removed some restrictions on private sector participation in domestic and foreign trade and a new Foreign Investment Law (1988) was introduced to encourage foreign investment in the economy. The market-oriented reforms brought back economic growth and underpinned the Government's decision to seek and obtain ASEAN membership in July 1997. However almost simultaneously, government intervention in the economy was reinforced by means of more controls on business and trade. In May 2008, the tragic Nargis cyclone swept through the Irrawaddy Delta, leaving in its wake about 140,000 people dead, millions homeless and inflicting economic losses estimated at about 2.7% of GDP. A new Constitution was approved by referendum in 2008 and was instrumental in the establishment of a new government in 2011.

NEWLY-ELECTED GOVERNMENT SINCE MARCH 2011

The newly-elected Government has launched major reforms that have centered on three parallel processes: a peace process that strives to end all ethnic conflict ongoing since independence and achieve lasting peace; the transformation from military rule to democratic administration; and the replacement of a centralized economic system with a market-oriented economy. Myanmar, a poor country, is facing tremendous challenges in meeting these objectives. After decades of authoritarian rule, systemic changes are now needed to tackle these social and economic challenges.

Transparency and other institutional developments

PARTICIPATION IN THE MULTILATERAL TRADING SYSTEM

In formulating and implementing its trade and trade-related policies, the GOM seeks to adhere to the basic WTO principles of non-discrimination and predictability as well as transparency. As regards the latter, although Myanmar, a least developed country, currently lacks the capacity to fulfil its obligation to notify Members fully and promptly of changes in those trade policies subject to WTO agreements, it is making every effort to do so, thanks to technical assistance (TA) provided by the WTO and its Members as well as other international institutions, notably the Asian Development Bank (ADB), International Monetary Fund (IMF), and World Bank. Furthermore, Myanmar welcomes the WTO's first review of its trade and trade-related policies, undertaken in accordance with the Trade Policy Review Mechanism (TPRM).

Given its lack of technical expertise in WTO matters, the GOM also appreciates the extremely useful role this first TPR plays in throwing light on, and thereby drawing Members' attention to, Myanmar's TA needs in this regard. It is also extremely grateful to the ADB for its TA, which has greatly assisted the Government in its preparations for this Review. Such TA and capacity building is essential if Myanmar is to be able to undertake the wide-ranging reforms that are necessary to meet the many formidable challenges it faces, especially with regard to trade and trade-related policies.

As regards further trade liberalization, Myanmar is committed to achieving a successful conclusion of the ongoing negotiations related to the Doha Development Agenda (DDA). In this context, Myanmar is willing to, *inter alia*, bind more of its tariff lines and improve its offer of commitments pertaining to those service sectors covered by the GATS, provided mutually satisfactory results can be achieved in these negotiations.

INSTITUTIONALIZATION OF TRANSPARENCY

Myanmar's recent reforms have been aimed not only at "establishing a more transparent and inclusive political process" so that the democratization process succeeds. The GOM recognizes that transparency also provides the solid foundation for a thriving market economy as well as for good governance, including informed policy-making, because transparency reduces the scope for administrative discretion, and thus corruption, and ensures public accountability in the formulation and implementation of policy. In accordance with its objective of more open and transparent government, Myanmar has been undertaking reforms intended to enhance the transparency of its trade and trade-related policies and regulations, thereby increasing public accountability.

As mentioned in the Secretariat's report, enhancing transparency in the public sector has been one of the priorities of the Ministry of Commerce since 2006. The Ministry set up two websites (www.commerce.gov.mm and www.myanmartradenet.com.mm) where businesses can obtain trade information. Businesses may apply for licences from www.myanmartradenet.com.mm. The Ministry of Commerce also publishes a weekly "Commerce Journal" and a monthly "Trade News" booklet that provide trade-related information to the public and private sector. In addition, it has been cooperating closely with the Republic of the Union of Myanmar Federation of Chambers of Commerce and Industry (RUMFCCI) and other associations, conveying trade information and notifications to those organizations in a timely manner.

Furthermore, in recognition of the key role of Parliament (the Hluttaw) in the reform process, the Government now consults regularly with Parliament in undertaking economic as well as political and social reform so that the Government functions more effectively and efficiently. For example, in connection with the formulation of fiscal policy, the Government and Parliament discussed the budget bill for 2013 transparently and effectively, taking into account inputs from various constituencies. As a result, the passage of the budget bill will become increasingly systematic over time. In addition, citizens now have access to information regarding all discussions and hearings on the budget bill in Parliament. Moreover, a Tax Service Unit (TSU) was established in Yangon in 2012 in order to improve transparency in taxation by providing information to taxpayers and also investigating their complaints. Other TSUs were established elsewhere in 2013.

Two other major developments concerning transparency have been the publication in the government media of the texts of all draft laws and discussions thereof since 9 July 2012 and the subsequent lifting of press censorship on privately-run newspapers in 2013.

Many of Myanmar's existing laws are very old and out-dated, with some dating back to the pre-1948 period. These and much subsequent legislation were also rather vague leaving a great deal of scope for administrative discretion in the application of implementing regulations. In other instances, policies and measures had no legislative basis at all. However, the laws providing the basis for recent reforms are much more precise and detailed (as well as less restrictive), and thus more transparent.

Greater transparency is also levelling the corporate playing field in Myanmar in the natural resource and telecommunications sectors. The auction of exploration rights to 30 offshore oil and gas blocks is a case in point, with the Government now publicly advertising tenders in English and inviting international companies to apply. Similarly, the recent bidding process for two national telecoms licenses was opened to international bidders.

As regards the development of Myanmar's abundant natural resources, the Government is also preparing to be a signatory to the Extractive Industries Transparency Initiative, including transparent financial accounting, to ensure that there is maximum transparency in these sectors. This initiative can enable everyone to know where the revenues from these industries are going and thereby ensure that the benefits go to the vast majority of the people and not to just a small group.

In order to ensure the effectiveness of development assistance, the Government has instituted a monitoring and evaluation mechanism. It will also try to make the development assistance more effective by regularly sharing with its development partners information about the projects and programs being implemented.

An accurate and timely statistical data base is a prerequisite for transparency and evidence-based policy making. Without such a data base and key statistical indicators, policies are formulated largely in the dark. Accordingly, the GOM attaches high priority to improving the accuracy and timeliness of statistics with a view to making them publicly available. Some useful data are expected to be collected from the nationwide population census, the first in three decades, which will be conducted in 2014, and whose main objective is to obtain the basic population and socio-economic data necessary to formulate, implement, monitor, and evaluate development policies. The Government is grateful to the ASEAN, the European Union (EU) and IMF, among others, which have kindly provided technical assistance on key statistics (including inflation and trade) and would like to request Myanmar's international partners to assist with other key statistics and the census in any way they can.

Corruption is the consequence of opaque laws and regulations, and thus administrative discretion. In a crack-down on corruption, including the practice of accepting or soliciting kickbacks and bribes to award contracts, between April 2011 and December 2012, almost 17,000 state employees were disciplined, nearly 5,000 dismissed, some 400 sent to jail, and 80 forced to return money. Also, almost 700 police personnel were punished for corruption. In another significant step forward, Myanmar became a Party to the United Nations Convention against Corruption (UNCAC), which entered into force on 19 January 2013. The Convention provides Myanmar with a comprehensive framework to fight corruption through preventive measures, law enforcement and international cooperation and asset recovery. Adoption of the Convention coincided with the President's announcement of "a third phase of reform" targeting corruption in the country. In connection with the UNCAC, an anti-corruption law was enacted on 17 September 2013.

In order to streamline bureaucracy and improve delivery of public services as well as to root out corruption, the Public Services Performance Appraisal Task Force was established by the President in June 2013. Comprising 12 to 15 members including cabinet ministers, academics and politicians, the body is headed by a former Minister of Commerce, who reports directly to the President. The Task Force is required to report back within two months with recommendations that could include the restructuring or elimination of some government departments, changes in personnel, reform of fee structures and bureaucratic processes. Some, but not all, of its recommendations will have to be approved by Parliament. But changes are already in place on smaller procedures, such as duplication of forms. To gather first-hand information, the Task Force launched consultations in Yangon with business groups, ordinary consumers and bureaucrats. In one such session, some 70 key business representatives were gathered for a day-long session to question them closely about customs, commercial tax and trade-related procedures, such as export and import licenses.

REGIONAL INTEGRATION AND COOPERATION

With other ASEAN Member States to the south and east, China to the north-east, and India and Bangladesh to the west, Myanmar borders more than two billion people and the fastest growing markets in the world. Thus, the GOM attaches a high priority to regional integration and cooperation with ASEAN's Member States and its Dialogue Partners, namely Japan, Korea, China, India, Australia and New Zealand.

Myanmar joined the ASEAN in 1997 and will assume its chairmanship in 2014. While the eventual aim of the ASEAN Free Trade Area (AFTA) is to eliminate import barriers to all products within the region by 2015, Myanmar enjoys some flexibility, which allows it to eliminate tariff and non-tariff barriers by 2018. The outcome is that Myanmar's trade with ASEAN Member States and its Dialogue Partners accounted for about 95% of total trade in the past few years. In order to ensure the free flow of services, Myanmar is also committed to liberalizing intra-ASEAN trade in its services sectors by 2015. In order to increase intra-ASEAN investment and attract foreign investment into ASEAN, the ASEAN Comprehensive Investment Agreement (ACIA) was signed in 2009 with the intention of streamlining existing ASEAN Investment Agreements.

The potential benefits from further cooperation and integration with neighbouring countries are such that the GOM is focused on meeting the requirements for the establishment of the ASEAN Economic Community (AEC), with freer flow of goods, services, capital and skilled labour. Signed by ASEAN Leaders at the 13th ASEAN Summit on November 20, 2007, the AEC Blueprint lays the foundation for realising the goal of ASEAN as an integrated economic region by 2015. The AEC consists of four pillars: a single market and production base; a highly competitive economic region; a region of equitable economic development; and a region that is fully integrated into the global economy. Each of the four pillars involves various measures and initiatives that are being implemented to achieve the goals of the AEC. Myanmar plans to address the legislative and regulatory limitations that impede the timely implementation of intra- and extra-ASEAN commitments. It also plans to strengthen the Ministry of National Planning and Economic Development (MNPED), the national coordinating agency for AEC, to effectively coordinate implementation across various focal points and implementing agencies. The GOM has also informed and engaged the private sector to assess the preparedness and effectiveness of policies and measures. It also facilitated the establishment by the RUMFCCI of a well-functioning mechanism to monitor the outcomes, analyse the impacts, and address the capacity gaps to ensure that the achievement of the AEC targets will deliver maximum benefits to the private sector.

To ensure a timely implementation of the AEC initiatives, ASEAN has established a monitoring mechanism called the AEC Scorecard. As a compliance tool, the AEC Scorecard reports progress in implementing the various AEC measures, identifies implementation gaps and challenges, and tracks the realisation of the AEC by 2015. Judging by the latest report issued by the ASEAN Secretariat in 2012, Myanmar's progress is comparable to other ASEAN Members, except regarding measures to promote the free flow of capital. However, the AEC Scorecard only states that Myanmar has signed ASEAN-wide agreements and that they have been transposed into national laws; the actual degree of implementation and enforcement of specific initiatives may still lag behind the agreed schedule. Nevertheless, the Government intends to implement all its ASEAN commitments by 2015 or 2018 in accordance with the built-in flexibility.

As a consequence of its membership of ASEAN, Myanmar also participates in ASEAN's preferential agreements with China, India, Japan, Korea, Australia and New Zealand. Moreover, with a view to promoting greater economic integration in the Greater Mekong Sub-region (GMS), Myanmar, Cambodia, Lao PDR, Thailand, Viet Nam, and Yunnan Province of China have been involved in the GMS Program (launched in 1992), whose purpose is to enhance economic linkages across these countries' borders. In 2010, the GMS countries approved a comprehensive medium-term program of Actions for Transport and Trade Facilitation (TTF). Moreover, Myanmar is a member of the BIMSTEC, which provides a forum to facilitate and promote trade, investment, and technical cooperation among Bangladesh, Bhutan, India, Nepal, Sri Lanka, and Thailand.

Myanmar's strategic location in the region should provide all its international trading partners with ample business opportunities both in the domestic market and in the adjacent region. As any enterprise established in Myanmar may benefit from these opportunities, these regional agreements and other arrangements greatly increase the attractiveness of Myanmar to foreign investors wishing to enter the neighbouring markets. However, Myanmar is also looking beyond its Asian neighbours to develop trade and investment ties. Accordingly, the Government has recently concluded two agreements with the United States, namely the Trade and Investment Framework Agreement and the Investment Incentive Agreement.

Recent macro-economic, structural and other developments

MACRO-ECONOMIC DEVELOPMENTS

Since the onset of Myanmar's wide-ranging political, social and economic reforms aimed at its re-integration into the global economy following five decades of isolation and consequent economic stagnation, real GDP growth has accelerated from 5.1% in fiscal year 2009/10 (year ending March) to an estimated 6.4% in 2012/13 and 6.8% in 2013/14, led by gas production and both domestic and foreign investment. Nonetheless, Myanmar is still a poor country, with per capita GDP of only around US$900, the lowest among ASEAN countries. However, with abundant natural resources, a young labour force, and its strategic position bordering the fastest growing markets in the world with more than two billion people, Myanmar's growth potential is enormous, provided it sheds the shackles of policies that have condemned it to stagnation and therefore poverty, during the past 50 years. The Asian Development Bank, for example, estimates that Myanmar, on its current development path could sustain an annual growth rate of 7% to 8% during the next couple of decades, thereby trebling its per capita income by 2030 and propelling it into the ranks of middle-income countries. Clearly, there is considerable scope for catching-up with its partners in the AEC as well as other countries in the region as Myanmar becomes increasingly integrated into both the regional and global economies. At the same time, however, ensuring that the fruits of economic growth are fairly shared, thereby contributing to social harmony, and that growth is not detrimental to the environment are major challenges. Realizing the full extent of Myanmar's growth potential requires sound monetary and fiscal policies, in order to ensure macro-economic stability, together with structural policies, including liberalization of trade and foreign investment, as well as major advances in health and education.

In connection with an agreement with the IMF, which involved the latter establishing a staff monitored program intended to improve Myanmar's macro-economic management capacity and to establish a track record of sound macro-economic policies, the GOM presented a Memorandum of Economic and Financial Policies (MEFP) concerning the second-stage reforms. The objectives of the MEFP were to: (i) ensure macro-economic stability and debt sustainability; and (ii) lay the foundations for lasting macro-economic stability by building an appropriate macro-economic framework, and developing the institutions and instruments for effective use of them. The macro-economic goals were to maintain stable and low inflation and to build sufficient international reserves to provide a cushion against adverse external shocks as well as macro-economic risks arising from the reform process itself. Among the key macro-economic policies in this regard were foreign exchange and related monetary policy together with fiscal policy.

Foreign exchange and monetary policy

The single most important economic reform so far has been the liberalization of the exchange rate regime starting in September 2011 and the subsequent replacement of the overvalued official exchange rate peg with a "managed float" in April 2012, a main step in removing restrictions on the purchase and sale of foreign exchange for the import and export of goods and services and also in connection with Foreign Direct Investment (FDI). This reform was motivated by commitments under the AEC Blueprint, whereby the Central Bank of Myanmar (CBM) was obliged to conform with IMF Article VIII principles, just like other ASEAN Members. Prior to this reform, the local currency (kyat) was pegged at the rate of 8.50847 kyat per SDR. Under that foreign exchange regime, different exchange rates occurred in the different domestic foreign exchange markets. This situation was not only detrimental to transparency, but caused price distortions, inefficient allocation of resources, and risks to macro-economic stability and economic development. With a view to ensuring macro-economic stability and accelerating economic growth, therefore, the GOM has taken steps to unify the country's multiple exchange rates into a single rate, by replacing the official peg in April 2012 with a "managed float" through the foreign exchange auction market under the supervision of the CBM. Under the new foreign exchange regime, the reference rate is determined in the auction mechanism. At the same time, the GOM lifted key exchange restrictions, including the requirement to use only export proceeds for the purchase of imports. The CBM also issued licenses to a number of private banks enabling them to conduct international banking. Consequently, the difference between the reference rate and the informal market rate has diminished significantly. Moreover, in August 2012 Parliament adopted a new Foreign Exchange Management Law, which, once implemented, will remove all the present restrictions on current payments and transfers abroad. The CBM has also announced a redemption plan for the Foreign Exchange Certificates (FECs) that were created as a temporary vehicle for the convenient use of foreign currency under the previous rigid control mechanism. At the end of June 2013, the utilization of FECs ceased in accordance with the redemption plan.

When the new budget law was enacted by Parliament in April 2012, the Budget Department of the Ministry of Finance (MOF) had already incorporated necessary budget estimates and cost calculations based on a reference exchange rate at 800 kyats per dollar, which was in line with prevailing parallel market exchange rates. As a result of these reforms, pressure on the exchange rate to appreciate has receded and the market exchange rate has been stable at around 970 kyats per dollar. Consistent with this, the CBM will eliminate remaining exchange restrictions and multiple currency practices (MCPs), and will seek approval of the IMF's Executive Board for the MCP arising from multi-priced foreign exchange auctions, which is non-discriminatory and will be maintained on a temporary basis until the foreign exchange market of Myanmar develops. The CBM will also coordinate closely with IMF staff to ensure that new legislation, regulations, and bilateral payment arrangements do not create new exchange restrictions, and provide them with the necessary information. The CBM will take additional steps to deepen and facilitate the smooth functioning of the formal foreign exchange markets, enabling private banks to offer foreign exchange operations and services at par with state banks. Currently, although the CBM is endeavouring to establish an interbank foreign exchange market, the market is too tiny for market intervention to be effectively conducted. This situation signals that Myanmar's banking and financial sector needs to develop more vigorously.

Equipping the CBM with the instruments to conduct domestic monetary policy is important for delivering the stability necessary for sustained economic growth. Inflation remained moderate, averaging 2.8% during the period 2012/13, mainly due to declining food prices and less monetization of the fiscal deficit, although there are upward pressures, including from money growth, real estate prices and wage increases, so that inflation is projected by the IMF to rise to around 5.6% in 2013/14. The new CBM Law, which was enacted on 11 July 2013, grants the CBM the budgetary and operational autonomy to counter these pressures, if necessary, as well as to ensure proper accountability. This is in contrast to the situation in the past, when monetary policy was determined by the need to finance fiscal deficits, thereby contributing to high inflation. In the meantime, the CBM is seeking to build its capacity to conduct open market operations in the form of deposit and credit auctions, which have just begun. In order to contain potential inflationary pressure and dollarization under the new exchange rate regime, the CBM monitors domestic monetary developments so as to ensure exchange rate stability and price stability. In doing so, the CBM conducts monetary policy in coordination with fiscal policy so that both policies are conducive to export-led growth. As the revenues from new natural gas fields is expected to increase in the near future, the GOM is also preparing necessary measures to insulate these flows and to minimize their impact on exchange rate stability and the inflation rate.

Fiscal policy

The establishment of a fiscally transparent and viable Government that can ensure macro-economic stability and allocate more expenditure to Myanmar's developmental needs as a result of higher tax revenues remains a key challenge. Fiscal policy is now more transparent, and thus accountable, as a result of the decision by the Government to allow the 2012/13 budget to be debated in and approved by Parliament.

Fiscal policy is also being oriented more towards supporting continued macro-economic stability, while providing sufficient room for much-needed social and investment spending, including on poverty reduction programs and essential infrastructure, such as that involving electricity, transportation, telecommunications, water, educational and health facilities. Therefore, the GOM aims to keep the fiscal deficit in 2013/14 and over the medium-term broadly unchanged at around 5% of GDP (IMF definition, which corresponds to around 4% of GDP based on the GOM definition). Higher expenditures will be financed mainly by rising revenues from gas projects coming on stream. In future, non-concessional external borrowing will be used only to finance economically viable projects in key infrastructure (including energy, transport and telecommunications), at levels consistent with debt sustainability and low risk of debt distress. The Ministry of Finance is collaborating with IMF, World Bank, ADB and Multi-Development Partners to improve the Myanmar Public Finance Management System in order to ensure that spending is cost-effective and in line with development priorities. The Ministry of Finance is trying to establish the Public Finance Management Reform Strategy and negotiating with Multi-Development Partners to implement the Public Finance Management Reform Process in line with the Government's policy and priorities. Currently, debt management functions are jointly carried out by the CBM and the Budget Department. However, plans have been made to establish a Treasury Department under the Ministry of Finance and the consolidation of debt management into the Treasury

Department. Moreover, the Paris Club countries have forgiven much of Myanmar's debt and the IMF, World Bank and ADB have returned to offer credit as well as technical assistance in connection with fiscal reforms. For example, with the assistance of both the IMF and World Bank, the MOF has been taking steps to strengthen Myanmar's Public Financial Management (PFM) reforms, Public Expenditure and Financial Accountability (PEFA) and Public Expenditure Review (PER), thereby providing the basis for more fundamental fiscal reforms.

The 2012/13 budget increased allocations for health and education almost fivefold and twofold, respectively, compared to 2011/12, financed to a significant extent by the positive revenue impact of adopting a more realistic market-based exchange rate in SEEs operations. Moreover, starting from 2011/12, budgetary reforms have been introduced to reflect the new Constitution. Accordingly, Region and State Fund Accounts are separated from the Union Fund Account, delegating the responsibility of the budget functions and financing budget expenses to the regions and states concerned. In this regard, an Intergovernmental Fiscal Relations Division will be formed under the Budget Department for Fiscal Relations between the Union and Region/State Governments. Moreover, to strengthen budget process, the Fiscal Policy and Strategy Division will be established under the Budget Department. The MOF has also increased civil servant pensions from very low levels. At the same time, in a first step to increase their financial autonomy, SEEs have been granted limited autonomy to finance part of their operating costs by themselves (instead of through direct budget allocations).

Sustained increases in tax revenues are crucial in order to boost expenditure and reduce dependence on natural resource revenues. This requires tax reforms aimed at broadening the tax base and improving compliance, including through the planned establishment of a large taxpayer office in 2014, so as to offset the loss in revenues from trade taxes as a consequence of the abolition the withholding tax on imports and the export tax on key agricultural exports. Furthermore, the MOF has also simplified the commercial tax on domestic sales, broadened the tax base by requiring public sector employees to pay income tax, and increased the progressivity of the income tax. Limiting tax incentives is also important to prevent further erosion of the tax base.

Balance of payments

The overall balance of payments position continued to show a surplus of US$1,105.1 million during the 2011/12, compared to a surplus of US$788.1 million in the previous year. This surplus is mainly due to the trade surplus and capital inflows. During the reporting period, the trade surplus declined by 80.4% to US$524.9 million compared to the previous year owing to the faster growth in imports (owing partly to trade liberalization) than exports. Consequently, the current account registered a deficit of US$1,404.8 million in 2011/12 compared to a surplus of US$876.5 million in the previous year.

In 2011/12, the value of imports increased by 40.3% to US$7,963.9 million compared to the previous year owing to increase in capital goods, intermediate goods as well as consumer goods. According to provisional data, intermediate goods constituted 34.5%, consumer goods 31.6%, and capital goods 33.9% of total imports, while capital goods increased by 58.0%, intermediate goods increased by 33.7% and consumer goods increased by 33.2% compared to the previous year. By contrast, the value of exports increased by only 1.5% to US$8,488.8 million from the previous year, mainly due to increased exports of natural gas, marine products, rice and rice products, pulses and beans as well as garments. According to provisional data, gas exports accounted for 37.9% of total exports in 2011/12, up 23.4% from the previous year.

In 2011/12, the services account deficit continued to expand by 20.5% to US$2,378.3 million from 2010/11. This wider deficit is mainly the consequence of larger payments for partner income of foreign joint venture companies in oil and gas sector. Private transfers, consisting largely of remittances and transfers in-kind from Myanmar nationals working abroad and foreign companies, increased by 169.1% to US$448.6 million, while official grants decreased by 35.6% from the previous year to US$41.3 million.

The financial account declined by 3.3% to US$2.5 billion in 2011/12 compared to 2010/11, owing to a drop in FDI. Nevertheless, as a result of increased exports earnings and other capital inflows, gross official reserves rose to US$4.6 billion in 2012/13 (which is sufficient to finance 3.7 months of imports), and are projected by the IMF to reach US$5.5 billion (3.9 months of imports) in 2013/14. These reserves are likely to continue rising as FDI inflows are expected to outweigh the widening current account deficit.

MAIN STRUCTURAL DEVELOPMENTS

In accordance with the Government's objective of transforming Myanmar from a centrally-planned into a market-oriented and more open economy, the role of the state in trade, production and setting prices has been considerably reduced. As regards trade, for example, between 2008/09 and 2011/12, the Government's share of imports dropped from 43.0% to 26.8% and its share of exports fell from 60.5% to 53.9%. Furthermore, most SEEs have been privatized, with only 42 remaining, so that their share of GDP has fallen correspondingly. Price controls are now rare, being confined mainly to energy.

Notwithstanding Myanmar's increased economic integration into ASEAN, this does not appear to have caused trade diversion because between 2008/09 and 2012/13, the ASEAN share of Myanmar's imports declined from 44.1% to 43.7%, while their share of exports fell from 56.2% to 50.7%.

Myanmar's exports are concentrated in a few primary commodities, notably gas and wood, along with agricultural and marine products. The GOM is therefore actively encouraging export diversification while promoting downstream processing of primary commodities, by *inter alia*, improving support services in areas of trade financing, market access and trade facilitation. In this regard, the GOM is also removing barriers to inbound foreign direct investment (FDI) to help domestic industries overcome technological, financial and market barriers to upgrading their value-added activities.

Given the key role of FDI in developing and diversifying Myanmar's economy and re-integrating it into the world economy, the GOM welcomes FDI. Approved inbound foreign investment rose sharply in 2010/11 to almost US$20 billion, exceeding the peak in 2005/06. In 2011/12, however, it dropped to US$4.6 billion. The bulk of foreign investment has been in electric power, oil and gas, and mining, although a significant amount has also gone into large construction projects such as the Nay Pyi Taw airport and telecoms infrastructure. Recently, the main sources of such investment have been China, Hong Kong, Korea and Thailand.

Between 2009/10 and 2012/13, agriculture's share of GDP fell from 38.1% to 30.5%. By contrast, the share of manufacturing increased from 18.1% to 19.9%. Services' share rose slightly from 37.4% to 37.5%.

OTHER DEVELOPMENTS

Capital market policies

Myanmar's capital market is relatively under-developed (and therefore more susceptible to "market failure", which raises firms' costs). Hence, a modern, well-regulated and smooth functioning capital market is needed, not just to transmit monetary policy and reduce fiscal deficit monetization, but also to finance the private sector, including SMEs, and ensure an efficient allocation of capital.

Accordingly, the CBM is working with the World Bank to map out a master plan for the development of the financial sector and rewrite the Financial Institutions of Myanmar Law, while the IMF has assisted the CBM in rewriting the Central Bank of Myanmar Law. The CBM is also working with the Southeast Asian Central Banks (SEACEN) Centre, ADB, ASEAN partners and other countries, such as Japan and Korea, to build staff capacity, mainly in regulatory and supervisory matters, reserve management, payment/settlement system development, information technology, research, and monetary management areas. Furthermore, Myanmar has been participating in ASEAN Finance Cooperation with a view to its integration into the region's banking and insurance markets. In addition, Myanmar has been taking part in the ASEAN Capital Market Forum with a view to establishing a domestic capital market. The Securities Exchange Law, which was enacted on 31 July 2013, had been drafted with the assistance of Japan's Daiwa Research Institute. A joint venture firm of the Daiwa Research Institute and a state-owned Myanmar Economic Bank was formed to prepare the way for the establishment of Myanmar's capital market.

Labour market policies

Despite the significant decline in its population growth rate from 2.2% to 1.1% per year over the past decade, Myanmar's now has a relatively young population with a high percentage of working-age groups relative to non-working, dependent groups. This presents a golden opportunity to reap a "demographic dividend" by creating jobs for this young population, thereby building a stronger economy with inclusive growth. However, the country's youthful population is currently facing the tremendous challenges of unemployment, low levels of education, lack of skills, and infectious disease. While the macro-economic reforms and resulting growth already mentioned will do much to increase employment opportunities, there is nonetheless the need for policies to strengthen the basic education and technical skills as well as health of the population and thereby improve human capital. Hence, education and health are top priorities. Consequently, the 2012/13 budget increased allocations for health and education almost five-fold and two-fold, respectively, compared to 2011/12, and will increase expenditure further in the coming years, both absolutely and as a proportion of the total government budget. In this regard, the Ministry of Labour, Employment and Social Security has prepared a draft law on Employment and Skill Development, which is now before Parliament. The Ministry is also drafting a new Foreign Labour Law and will be conducting a labour force survey in 2014 with the assistance of the ILO.

As Myanmar is actively embracing freedom of association, the GOM is also facilitating improved industrial relations between employers, employees and their representatives. The GOM has recently adopted the Labour Organization Law, which grants labour groups the right to freely establish trade unions and representative associations while guaranteeing basic rights of workers. The GOM has not only cooperated fully with the ILO in abolishing previous laws and regulations that were tantamount to involuntary labour across the country, but also taken initiatives to educate both employers and employees regarding their rights and responsibilities as well as the provisions of the new Labour Organization Law.

Infrastructure

Major improvements in Myanmar's basic infrastructure are critical for both growth and poverty reduction. Consequently, the GOM is proceeding quickly with the completion of the high priority infrastructure projects already underway while formulating a longer term strategy and program for infrastructure development. In the immediate term, priority also needs to be given to urban transportation systems, upgrading of national airports, providing clean water, and improving power supply.

Myanmar cannot be a crossroads in the region without adequate transport links internally and with neighbouring countries. The GOM is thus turning its attention to the development of Myanmar's transport and other infrastructure in order to enhance the country's connectivity to regional economies and fulfil the goal of integrating Myanmar into the ASEAN Economic Community. It will give priority to building infrastructure projects that will fill the missing links identified in the Master Plan of ASEAN Connectivity, such as transport links with India, China and Thailand. In parallel with these links to the neighbouring economies, the GOM will also prioritize the development of rural-city connections, renovation of inter-state highways and the upgrading of the existing road infrastructure to the standards set by ASEAN.

As regards the transport, water and public works sectors, the GOM is in the process of establishing a clear and strict separation between regulatory authorities and service providers and operators. For instance, such restructuring can be achieved in the transport sector by separating regulators (civil aviation authority or port authority) from service providers/operators (airports and port facilities). Public works will be gradually privatized while building the regulatory capacity and authority of the relevant department.

Meanwhile, the GOM will emphasize the improvement of the quality of the railroad sections that connect important economic centres in the country, namely Yangon-Mandalay-Myitkyitna section and the Bago-Mawlamyine section, and the upgrading of locomotives and coaches. This emphasis on the core links and services will strengthen the previous strategy of developing railroads that connect various parts of the country to the economic centres with the objective of achieving regional equity. Greater attention will be given to regional connectivity and bridging the gaps in operations and compatibility in alignment with region-wide transport strategies.

A master plan is being prepared concerning power supply, which is one of the most pressing economic challenges facing Myanmar. Nearly three-quarters of the population, living mainly in rural areas, lacks access to electricity. Moreover, the electric power production and distribution system is plagued by frequent interruptions. Without an accessible and a reliable electricity system, Myanmar's economic progress will stall. Addressing this challenge will require an expanded and modernized electricity grid as well as new sources of domestic energy and innovative solutions for rural energy access.

Public-private partnerships (PPPs), especially those involving inward FDI, can play a key role in the development and management of infrastructure. However, PPPs need to be very carefully structured to ensure the appropriate level of public benefits, which takes time. In order to facilitate their development, the GOM intends to put in place as soon as possible a clear legal framework for PPPs.

Reform of state-owned economic enterprises (SEEs) and privatization

In line with the Government's objective of reducing the role of the State in the economy, thereby rendering it more market-oriented, most SEEs have been privatized. Their presence is large only in energy, forestry, construction, telecommunications, social and public administration. With new budget allocations, those SEEs that remain are now subject to stricter financial discipline as well as strong incentives for profit-making. The Government has sharply cut direct subsidies to SEEs while opening markets to competition with the private sector. Furthermore, the GOM is removing easy credit from state banks, which has hitherto been available to SEEs, while limiting arrears on payments to central government funds. The GOM has also instructed SEEs to undertake more aggressive collection of receivables, to align more closely investment and profitability, and to re-orient goals from output targets to profit. All the managers of SEEs are now expected to focus on marketing and product quality, while improving operational efficiency and investment decisions.

Although all SEEs are now required to operate on a commercial basis and use the market-determined exchange rate, further reforms on "equitization", commercialization and possible privatization, including a privatization law, are envisaged in the future. The GOM also takes note of lessons from other developing countries that show there is potential for making major mistakes if privatization proceeds too quickly without properly preparing regulatory frameworks and competition policies. The GOM will ensure that the state privatization authority will have sufficient capacity in the areas of project appraisal, valuation and securitization procedures, public auctioning and open tender systems in managing the process of privatizing state assets, particularly for large SEEs. The GOM will also take a judicious and cautious approach to privatizing public utilities and infrastructure industries that are critical to the functioning of the economy and are natural monopolies. It will consider a step-by-step privatization plan by separating or unbundling monopoly parts to be subjected to competition with new firms, establishing regulatory frameworks and institutions, commercializing state enterprises and encouraging private-public partnerships and joint ventures with foreign participation.

Price Controls

In accordance with its objective of transforming Myanmar from a centrally-planned into a market-oriented economy, the Government rarely intervenes in the setting of prices. Such intervention is confined largely to energy.

Small and medium-sized enterprises (SMEs)

Increased foreign competition owing to the liberalization of trade and foreign investment is a mixed blessing for Myanmar's local companies. This is especially true in the case of SMEs, which form the backbone of Myanmar's economy, accounting for over 90% of total enterprises and about 70% of the total work force. Nonetheless, SMEs are characterized by relatively low productivity owing to lack of capital and outdated technology, among other things.

In recognition of SMEs' importance for Myanmar's industrialization, the GOM is implementing a number of policies to foster their development. These policies include: establishing one-stop centres for business start-ups that help reduce red-tape, reducing/eliminating administrative controls, supporting provision of land use rights, improving access to credit (both private and public), and helping to build enterprise capacity with respect to finance, marketing, etc. Development of micro-enterprises will also be encouraged, including through support for the development of micro-finance institutions. The GOM is also setting up a specialized SME-support centre in Yangon to help emerging businesses and young entrepreneurs to catch up with the reform process. To improve SMEs' access to finance, financing and micro-finance projects are being encouraged. One SME Development Bank has been established to facilitate SME financing. A micro-finance law has also been enacted. As a result, hundreds of micro-finance providers have been extending micro-credits to rural communities. Presently, the Myanmar Industrial Development Bank is being transformed into a specialized bank for SMEs, dedicated to supporting incubation projects and research linkages and facilitating access to credit, technology and markets. These emerging SME institutions will facilitate cluster formation between the existing industrial zones across the country and regional technological schools and colleges, which in turn will link up with access points to regional economic corridors in neighboring countries. Meanwhile, the Myanmar Investment Commission has set out an active policy for supporting foreign investment in the SME sector, with incentives for higher local content, and the transfer of skills, knowledge and technology.

Land reform

Land reform is essential for rural development and thus for inclusive growth. Towards this end, Parliament has recently enacted the Farmland Law as well as the Vacant, Fallow and Virgin Land Management Law in March 2012. Although these laws allow long-term use of large tracts of land by private investors in agricultural, industrial and contract farming practices, additional measures are required to protect the land rights of small holders and poor farmers. While Parliament has formed a Commission to investigate the impact of new land laws on rural households, the GOM has also been looking into overhauling the land use policy. In August 2012, the GOM set up the "Central, Regions/States, District and Township Administrative Body of Farmland" in compliance with the Farmland Law to oversee the management of land resources throughout the country. The President has also set out policy guidelines for Government agencies to address landlessness and indebtedness of rural farmers.

Competition policy

In accordance with the ASEAN AEC Blueprint, the Ministry of Commerce has, in consultation with other relevant ministries and the business community, drafted a comprehensive competition law covering all sectors. The proposed draft law has been submitted to the President's Office for subsequent consideration by Cabinet and ultimately Parliament. The law is aimed at ensuring fair competition by addressing anti-competitive actions, such anti-competitive agreements, monopolies, and mergers. It is to be enforced by a Competition Commission.

Environmental protection

The GOM is committed to protecting Myanmar's biodiversity, conserving natural forests, greening the 17 mountain ranges in the dry zone, encouraging people to get involved in environmental conservation and management, and extracting natural resources sustainably. The GOM also attaches the highest importance to its commitment to international cooperation on climate change, while adopting new technologies for bio-diesel and other clean energy as well as actively educating the public about sustainable development. Accordingly, the Environmental Conservation Law, enacted on 30 March 2012, provides for the detailed development of environmental rules and regulations, mandatory compliance of environmental impact assessments in development projects, upgrading and standardization of environmental assessments, and joint undertakings with NGOs on broad-based public awareness campaigns. The Foreign Investment Law also contains social and environmental protection provisions.

In the case of mining, for example, the GOM is implementing measures, such as environmental and social impact assessments, to protect the environment from degradation that may result from mining and related operations. As regards forestry, it is also critical that timber and other forest products be extracted sustainably with proper technology. Therefore, the GOM will encourage better use of new technology and foreign investment in processing value-added forest products for future exports. It will also promote participatory projects of community forestry in the previously deforested areas while strengthening laws and regulations in prohibiting encroachment in the protected forest areas. The GOM will also consider promoting eco-tourism services in the designated areas.

Trade and investment policies

INTRODUCTION

Trade and inward FDI will undoubtedly play crucial roles in opening up Myanmar's economy and re-integrating it globally as well as regionally and thereby realizing its growth potential, as has been the case throughout East and South East Asia. While important measures have already been taken, notably foreign exchange rate unification and the lifting of key exchange rate restrictions (particularly the abolition of the requirement to secure private "export earnings" as a pre-requisite for purchasing imports), further reforms are essential. In this regard, the ASEAN Economic Community's targets and objectives for 2015 provide a major impetus for such reforms.

TRADE POLICIES

Customs administration and procedures

In order to expedite customs clearance, the GOM has been implementing a National Single Window (NSW) in accordance with the principles of transparency, simplicity, efficiency and consistency with a view to its integration with the ASEAN Single Window (ASW) by 2015. This Single Window will facilitate Myanmar's trade, not just with its ASEAN partners, but also globally, thereby enhancing Myanmar's role as a trade crossroads. The Customs Department is working on the establishment of the Single Window with technical assistance from Japan.

Import tariffs

As tariffs tend to disrupt supply chains, especially when they are levied on raw materials and intermediate inputs, with an average applied most-favoured-nation (MFN) tariff rate of just 5.6% in 2012 and 2013, tariff protection in Myanmar is relatively low by developing country and especially least developed country standards, much lower (and less dispersed) even than in most ASEAN countries. All applied MFN tariffs rates are *ad valorem*, thereby imparting a high degree of transparency to the tariff. While less than 20% of tariffs are bound and the average of bound rates greatly exceeds average applied MFN rates, thereby providing a great deal of scope for raising applied rates, this scope has never been used and so the average applied MFN tariff rate has hardly changed since 1996. Myanmar does not impose any tariff rate quotas (or quantitative restraints). The GOM is willing to consider binding more tariff lines in order to contribute to a successful conclusion of the current Doha Development Agenda (DDA) negotiations, provided mutually satisfactory results can be achieved in these negotiations.

Export taxes

Taxes on most exports were removed in 2012/13, so that they are now levied on only a handful of natural resource products (namely, gems, oil and gas, teak and other timber) that might be expected to generate economic rents. These remaining export taxes are mainly designed to capture an appropriate share of natural resource rents for the budget and, as such, are components of Myanmar's tax regime for natural resources. At the same time, however, they can also induce downstream processing of the products concerned.

In the case of virgin teak, however, Myanmar has announced its intention of replacing the existing export tax with an export ban, as of 1 April 2014, thereby no longer being the only country without such a ban. The ban, which is arguably more transparent than a prohibitive export tax, is considered necessary to preserve Myanmar's remaining teak forests and to develop a sustainable hardwood timber export industry.

Non-tariff barriers (NTBs) to trade

In respect of import and export licenses, the Government has so far adopted two important trade liberalization measures to facilitate trade transactions. Prior to May 2012, Myanmar's export/import licensing system was non-automatic. Instead, every license application was reviewed by the Ministry of Commerce and could be rejected for various reasons. Since June 2012, however, the license regime has been converted from non-automatic to automatic licensing with most licenses issued within 24 hours. Moreover, on 28 February 2013, the Ministry of Commerce removed license requirements from a selection of 152 exported commodities and 166 imported commodities. Licensing requirements were essentially eliminated on a selection of commodities considered as non-sensitive. The outcome was the elimination of licenses on imports covered by 1,928 HS tariff lines. As a result, it is estimated that government revenue from import license fees dropped by 40%. On the export side, licensing has been maintained on the export of natural gas, rice, timber and some other commodities considered as sensitive. The Ministry of Commerce is currently considering broadening the scope of license removal.

Contingent protection

Myanmar does not have any legislation pertaining to anti-dumping, countervailing or safeguard measures. Consequently, no such measures are currently used. The Government intends to prepare WTO compatible trade remedy laws and regulations. Technical assistance in preparing the relevant legislation and regulations would be welcome.

Technical barriers to trade (TBTs) and sanitary and phytosanitary (SPS) measures

As noted by the Secretariat, insofar as Myanmar has standards and technical regulations as well as SPS measures, they are based largely on international standards. For example, food standards are adopted from CODEX; fishery standards are based on EU regulations; pharmaceutical standards and regulations are based on British International Standards; and animal health risks are those that have been recognized by the OIE. Hence, the GOM has no intention of impeding imports of these products without science-based justification. Myanmar does have 65 existing standards of its own, however.

In order to develop a legal framework to enable Myanmar to implement its commitments under international agreements, a draft National Standards Law has been prepared with the assistance of foreign experts. In 2012 and 2013, the Ministry of Science and Technological Research Department (MSTRD) held four national consultative meetings with concerned stakeholders to review the draft law. The draft law has been submitted to the President's office for consideration and subsequent transmission to Parliament. Meanwhile, the MSTRD has set up 19 standards technical committees involving all stakeholders. In addition, MSTRD has prepared a draft Legal Metrology Law as verification and re-verification of measuring equipment are currently not mandatory in Myanmar. The draft law was prepared by UNIDO for

Cambodia and Laos, but modified according to Myanmar's specific circumstances and with the assistance of an expert from New Zealand. The draft law was also reviewed during the four national consultative meetings with stakeholders held in 2012 and 2013.

Moreover, as adherence to internationally-agreed SPS requirements is vital for the development of the agricultural and food processing sectors, the GOM is doing its best to ensure that they are upgraded in line with International Standards for Phytosanitary Measures, although its ability to do so is severely hampered by a lack of technical expertise and limited resources.

Clearly, inward FDI together with TA can enable Myanmar to implement internationally-accepted standards, not only for the benefit of domestic consumers, but also for the benefit of Myanmar's enterprises, which can then satisfy such standards and therefore enter export markets.

State trading

Several steps have been taken to encourage the active participation of the private sector in international trade. In particular, state trading monopolies were largely abolished in November 2011 so that private enterprises and individuals can now import and export all but a few products.

Special economic zones (SEZs)

In order to overcome infrastructure bottlenecks, attract FDI and increase exports, the Myanmar Economic Zone Law was enacted in 2011. This Law provides additional tax incentives for investment in several strategic locations along Myanmar's 1,300 mile long coast. This is an integral part of a strategy to promote Myanmar as a low-cost production base for export destinations within the wider region.

Tax incentives for exports

In order to promote export-based industrialization, profits of manufacturers derived from exports are eligible for income tax relief of up to 50%. As Myanmar is an economy in transition, such relief is justified on the grounds that some firms in the process of restructuring as well as those in "infant" industries need temporary assistance to enable them to compete in export markets and thereby achieve cost reductions associated with economies of scale as well to learning-by-doing and technological progress, which are among the major determinants of productivity growth, and thus become viable in the longer term.

Tax reform

The GOM is simplifying the current internal tax system and making it more neutral with respect to trade. The previously multi-rate commercial turnover tax, the sole domestic indirect tax, has now been largely unified at a relatively low rate of 5%. Only Schedule 6 goods, including alcohol, tobacco, petroleum products, and vehicles, which would normally be subject to excise taxes elsewhere, are now subject to a range of higher rates. Moreover, the commercial tax on most exports was eliminated at the beginning of 2012/13, thereby reducing the tax component in export prices and therefore making Myanmar exports more competitive on world markets.

Myanmar has also taken several important steps recently to streamline and modernize its direct tax system. In 2012, tax schedules were adjusted to the newly liberalized foreign exchange parity, tax rates for personal and corporate income tax were reduced, and some withholding taxes were eliminated. In the longer term, the GOM intends to: improve the capacity of tax (including customs) administration; reduce further tax rates and broaden the tax base, by rationalizing tax incentives for investment, thus rendering the tax system more neutral; and gradually shift reliance from direct to indirect taxation.

INVESTMENT POLICIES

Given the key role of FDI in developing and diversifying Myanmar's economy from one based largely on agriculture and natural resources into one oriented more towards manufacturing and services as well as in re-integrating Myanmar into the world economy, attracting FDI (and the associated technology and management know-how) is a very important objective of Government policy. Thus, the GOM has been steadily implementing several related measures to improve the investment and the business environment.

Accordingly, the GOM attaches the highest priority to drawing up the necessary procedures as well as environmental and social guidelines for foreign investment in accordance with the new Foreign Investment Law (FIL) promulgated in November 2012. Feedback from the business community suggests that it is particularly important that the law and procedures specify which sectors are restricted with respect to foreign investment and does not allow discretion with respect to implementation. Hence, whereas the previous law involved a "positive list" approach, whereby foreign investment was allowed only in listed sectors, the new FIL adopts a "negative list" approach that allows foreign investment in all activities except those that are listed as prohibited or restricted.

Furthermore, on 29 July 2013 the Citizens' Investment Law (CIL) was adopted. The CIL provides for a single investment framework by harmonizing the investment incentives and procedures for national and foreign investors.

The two new laws (FIL and CIL), which were closely scrutinized by Parliament, envisage not only wide range of activities where foreign investment can involve 100% equity ownership, but also lower and non-discriminatory minimum capital requirements, tax incentives (especially tax holidays), longer leasing of real estate, and vigorous standards for environmental and social protection.

At the same time, the GOM has liberalized the company registration process as of 10 September 2012 and other regulatory processes to further encourage foreign investors. The registration procedure for companies has also been simplified since 22 February 2013, and the registration period has been extended from three to five years.

Moreover, on 10 April 2013, a one-stop service for foreign as well as local investors was established in Yangon. Investors who previously had to grapple with red tape in five or more different ministries can now get everything done at the new Directorate of Investment and Company Administration (DICA). By reducing contacts between investors and bureaucrats in several different ministries, the DICA could also help combat corruption.

In addition, Myanmar has recently undertaken important reforms in order to adapt its corporate income tax (CIT) to a more open and business friendly environment. For instance, it has cut the CIT from 30% to an internationally competitive rate of 25%, eliminated special low rate regimes (notably for the "cutting, making and packaging" enterprises that were previously not subject to the CIT) and outdated tax regimes (e.g., Profit Tax Law), and updated important CIT regulations (revision of asset depreciation rates), all of which will improve the tax system's efficiency and administration.

Specific provisions in the FIL will enhance the transparency of Myanmar's foreign investment regime. The GOM is also planning to build capacity among the domestic judiciary with regard to their regulatory enforcement and intermediation. The Investment Commission is currently undergoing a reform process to become an independent board where non-transparent licensing practices will be eliminated.

Meanwhile, the GOM is cooperating with international financial institutions to conduct a comprehensive investment climate assessment to determine the full spectrum and magnitude of constraints on private sector development. The GOM will also focus on critical elements of the FDI regime, such as creating a positive business environment, providing a level-playing field (through, for example, more open tendering in respect of privatization and other government contracts as well a comprehensive competition law to combat anti-competitive practices), and other facilitation measures. Moreover, in April 2013, Myanmar became a party to the New York Convention, one of the key instruments in international arbitration.

OTHER TRADE- AND INVESTMENT-RELATED POLICIES

Intellectual property rights

Fully aware of the important role played by protection of intellectual property rights (IPRs) in attracting inward FDI, the GOM is taking steps to overhaul its outdated IPR laws and ensure that these laws are enforced. Accordingly, IPR laws in line with the TRIPs Agreement are being finalized subject to advice from the World Intellectual Property Organization (WIPO). These laws concern patents, industrial design, trademarks and copyright. The Ministry of Science and Technology is also preparing related enforcement provisions with WIPO assistance.

Government procurement

At present, Myanmar does not have any specific laws concerning government procurement. Nonetheless, all government bodies must adhere to the directives of the President's office on 2 June 2012 and 5 April 2013. These directives require, *inter alia*, the use of an open (rather than a closed) tendering system. Moreover, there is continuous internal auditing of government procurement to ensure that it is transparent and ensures "value for money", especially regarding public works projects in connection with the construction of essential infrastructure.

Sectoral developments and policies

OVERVIEW

Myanmar is well endowed with fertile land and natural resources, and its population of about 60 million offers huge consumer and production opportunities. It is also strategically located at the crossroads of the Greater Mekong Sub-Region (GMS) bordering the fastest growing markets in the world with more than two billion people. Its growth potential is enormous, but largely under-developed.

Table 6.1 Main Exports

Main Exports (% of Total)	1990/91	1995/96	2005/06	2012/13
Gas			30.4%	40.8%
Agriculture	31.9%	45.9%	12.2%	13.9%
Garment	0.2%	5.9%	7.6%	7.7%
Timber	33.8%	20.8%	13.3%	6.4%
Marine	5.7%	12.2%	5.5%	4.2%
Base metal and Ores	2.5%	1.5%	3.2%	0.8%
Precious Stones and Pearls	2.9%	2.8%	6.6%	0.1%
Others	22.8%	10.8%	21.1%	25.9%
Total (in $ million)	**447**	**897**	**3,558**	**8,977**

Source: Central Statistical Office.

The GOM is underpinning an economic diversification strategy by: promoting downstream processing of primary commodities; modernizing essential business services, i.e. banking, telecommunications, electricity and transport sectors; and developing a sustainable tourist sector. Improved market access, trade facilitation initiatives and increased FDI in the economy are playing key supporting roles in this economic diversification strategy. Myanmar is very much an agrarian economy and this is reflected in its export composition, which is concentrated in few primary commodities, notably gas, which now accounts for about 40% of total exports (virtually non-existent a decade earlier), agriculture (13.9%) and timber (6.4%). An emerging garment industry now accounts for 7.7% of total exports, larger than the historical export pillars, such as timber, marine or precious stones.

AGRICULTURE

Agriculture is a major sector of Myanmar's economy with a GDP contribution of 30.5% in 2012/13 (down from 43.9% in 2006/07) and accounting for 61.2% of total employment in 2010/11. The average farm holding is about 2.4 hectares, and about 58% of the total net sown area (13.8 million hectares) involves small scale farms (defined as those below 4 hectares).

Important market liberalization initiatives were first implemented in 1988 in the context of the State Law and Order Restoration Council (SLORC). The export of most agricultural products, with the exception of rice, sugar, rubber, cotton and jute (that were either essential for domestic consumption or used as raw material for domestic industries), was opened to the private sector. Waste and fallow land was allocated to private investors for agricultural purposes. Importation and distribution of agricultural inputs, previously handled by the state, were opened to the private sector, and tariffs on the import of agricultural inputs were removed. Input subsidies were also greatly reduced. These measures were accompanied by the Foreign Investment Law of 1988 that allowed full foreign ownership.

In 2004, state-controlled prices and compulsory sale of sugar, rubber and cotton to SEEs were lifted, but jute procurement and exports still remained in the hands of SEEs in order to provide export earnings and supply state-owned factories. Production and trade of all crops have now been liberalized, except for paddy rice, which is still subject to some controls as a "national crop important economically, politically and socially".

The importance of agriculture as a national policy priority is reflected in the first of the four national economic objectives, which states that the development of agriculture constitutes the basis for the development of other sectors of the economy. In order to achieve the three national agricultural policy objectives, i.e. food security, export promotion and increased farmers' income and welfare, the following specific targets have been established: achieving surplus rice production; reaching self-sufficiency in edible oils; and stepping up the production of exportable pulses and industrial crops. Rice area and production are targeted to increase by 19.9% and 52.8%, respectively, from 2002 to 2015, presupposing an increase of average yields from about 3.42 to 4.3 metric tonnes per hectare.

Furthermore, under the wide-ranging Framework for Economic and Social Reforms (FESR), policy priorities for 2012-15 include boosting agricultural productivity by increasing extension services and government loans, removing barriers throughout the supply chain, and promoting demand-oriented market support mechanisms. Intervention would focus on: increasing productivity of the rice sector through improved seed quality, better agronomic practices, optimal fertiliser and input dosages, and integrated pest management; promoting dry season diversification of small farmers into high-value horticulture, fresh fruit, poultry and small livestock; improving farm-level water management by promoting low-cost micro-irrigation; and expanding micro-finance in rural areas. Moreover, the GOM recognized the need to improve the efficiency of Myanmar Agricultural and Development Bank, which is the main provider of agricultural finance. The reform approach adopted is based broadly on the model of rural financial institutions operating in Thailand.

NATURAL RESOURCES

Forestry, fisheries, precious stones and pearls and to a lesser extent mining have been the other historical export pillars. Their relative importance has recently declined due to the expansion of gas exploitation in partnership with foreign investors. Although the forestry sector's contribution to GDP is less than 1%, timber (mainly teak and other hard wood) has accounted for a significant, albeit declining, share of total exports, exceeding 20% prior to 2000, but down to 6.5% in 2012/13, partly reflecting lower teak prices due to increasing volume of lower grade teak. Myanmar is one of few countries in the world with natural teak forests and continuous efforts are deployed to preserve this unique endowment. Systematic forest management in Myanmar was first initiated in 1856 and was further consolidated into guiding principles in forest management in 1894. These principles are enshrined in the Myanmar Forest Policy of 1995.

Table 6.2 Gas Consortia in Myanmar

Gas Project	Consortium			Production	Export	Start
	Sellers	Country	Shares	(MMSCFD)		Export
Yadana				900	700	1998
	TOTAL	France	31.2%	Offshore	Pipeline to	
	UNOCAL	USA	28.3%		Thailand	

	PTTEP	Thailand	25.5%			
	MOGE	Myanmar	15.0%			
Yetagun				460	460	2000
	PETRONAS	Malaysia	40.75%	Offshore	Pipeline to Thailand	
	NIPPON	Japan	19.4%			
	PTTEP	Thailand	19.4%			
	MOGE	Myanmar	20.45%			
Shwe				500	400	2013
	DAEWOO	South Korea	51.0%	Offshore	Oil and gas in parallel pipelines to China	
	OVL	India	17.0%			
	MOGE	Myanmar	15.0%			
	GAIL	India	8.5%			
	KOGAS	South Korea	8.5%			
Zawtika				345	245	2013
	PTTEP	Thailand	80.0%	Offshore	Pipeline to Thailand	
	MOGE	Myanmar	20.0%			

Source: Ministry of Energy.

The development of Myanmar's gas reserves effectively began following the adoption of the 1988 SLORC market-orientation policy, which allowed foreign participation in the economy. In 2013, there are four gas consortia in operation, all of which are predominantly owned by foreign investors and in which the SEE Myanmar Oil and Gas Enterprise (MOGE) hold a minority stake (see Table 6.2). Gas is now exported through three pipelines to Thailand and there is a fourth gas pipeline to China. In parallel with the latter, an oil pipeline transports imported oil to China. Important investment has been required to build this pipeline in recent years. Gas now accounts for about 40% of total exports, a share that is likely to be sustained in the foreseeable future as the Shwe and Zawtika pipelines began exporting activities only in 2013.

MANUFACTURING

Manufacturing which accounted for 19.9% of Myanmar's GDP in 2012/13 (compared with 14.0% in 2006/07), is growing, but still relatively small compared with agriculture and services. Manufacturing accounted for 11.3% of employment in 2010/11. The main manufacturing industries include food and beverage processing and textiles and clothing, where SMEs predominate. Relative to Bangladesh and Cambodia, the clothing industry in Myanmar is under-developed. Nonetheless, it offers huge opportunities as low-wage labour is widely available to carry out the labour-intensive activities of clothing assembly. In effect, Myanmar is well positioned to carry out the assembly process of many manufacturing products. As mentioned earlier, the new law on Special Economic Zones provides a more friendly business environment and is instrumental in the overall economic strategy to promote Myanmar as a low-cost production base for export destinations within the wider region.

SERVICES

Services in Myanmar accounted for 37.5% of GDP in 2012/13. The Government's wide-ranging FERS recognized the critical importance of major improvements in Myanmar's infrastructure in essential business services. International experience clearly shows that expanding the quantity and quality of essential business services in an efficient and effective manner is crucial to both growth and poverty reduction.

Transport

The transport sector plays a pivotal role in facilitating of the flow of goods and people that is vital for the economic development of Myanmar and the whole South East Asia region. Myanmar is now eager to reap the benefits of its strategic location with direct access to the Andaman Sea and Indian Ocean for the easier regional movement of goods and people. Improved road, rail, maritime and aviation transportation infrastructure and improved cross-border regulations will lessen dependence on the congested Straits of Malacca, thereby reducing transportation time and logistic costs. Its strategic location will provide Myanmar with a competitive advantage.

The transformation from state-control to public-private partnership is underway by formulating and implementing transport policies in compliance with Myanmar's commitments in international and regional institutions, such as International Maritime Organization, International Civil Aviation Organization and ASEAN.

In the context of ASEAN commitments, Myanmar adopted the implementation framework of ASEAN Single Aviation Market (ASAM) on 15th December 2011, which is one of the key strategies under the Master Plan on ASEAN Connectivity. The Implementation Framework is a significant undertaking that will guide the development of ASEAN's aviation sector over the next four years and beyond. At the same time, Myanmar signed the Protocol to Implement the Seventh Package of Commitments on Air Transport Services under the ASEAN Framework Agreement on Services. Myanmar signed Protocol 6 on Railways Border and Interchange Stations under the ASEAN Framework Agreement on Facilitation of Goods in Transit that aims to facilitate cross-border movement of goods trains within the region. Myanmar is also implementing its commitments in the context of the ASEAN Single Shipping market to develop an integrated and competitive ASEAN maritime transport. It is also worth noting that the final draft of the Multimodal Transport Law has been submitted to Parliament for approval and work is under way to prepare the necessary rules and regulations. Moreover, the formulation of the National Integrated Transport Master Plan is progressing well.

Implementation of a regionally-integrated regulatory framework in transport is instrumental in enhancing the attractiveness of Myanmar for the development of key transport infrastructure projects. Considerable interest has already been expressed in several large scale projects, such as the Dawei Deep Sea Port and Industrial Estate, and the Thilawa Sea Port.

Banking, Finance and Insurance

As noted earlier, the CBM has successfully managed the replacement of the former overvalued foreign exchange peg rate by a "managed float" system in April 2012 and is in the process of obtaining its full autonomy. The CBM is also working to map out a master plan for the development of the financial sector and to rewrite the Financial Institutions of Myanmar Law with the assistance of donors. It is envisaged that once this new regulatory framework is adopted, financial institutions will be able to compete more efficiently with each other in offering financial products, such as credit cards.

Telecommunications

Reflecting the economic priority attached to improved telecommunications infrastructure, the wide-ranging FESR has set an ambitious target of raising mobile phone penetration from 9% in 2012 to 80% by 2015. To reach this target, the GOM invited applications for two new nation-wide telecommunications licences, which were ultimately awarded to Norway's Telenor and Qatar's Ooredoo at the end of June 2013. In doing so, it is envisaged that this will result in the upgrading of the internet infrastructure that will allow for a comprehensive e-strategy in educational programs, government regulations and knowledge management.

Electricity

Since 2008, private companies have been allowed to participate in power generation, especially in hydropower plant projects. Private sector participation is allowed not only in generation, but also in distribution. Some 77% of total electricity is hydro-powered, followed by natural gas, which accounts for about 20%. A master plan for power production and distribution is under preparation with a view to replacing old gas turbine plants with new more efficient combined cycle plants that use the same amount of gas, but produce two to three time the amount of power.

Tourism

Myanmar, as a year round tourist destination blessed with diverse attractions, has achieved steady growth in tourist arrivals and tourism receipts owing to the government's reform policy associated with joint efforts of the public and private partnership of the tourism stakeholders. Myanmar has received increasing numbers of international visitors ever since 2008, with a notable 30% growth rate in 2012. 2013 is well on the way to recording another strong double-digit growth in international arrivals (23.7% growth during the first semester of 2013). In terms of the origin of tourists, about two-thirds come from Asia and 20% from Western Europe.

One key objective of Myanmar's tourism policy is to focus on the long-term sustainability of tourism development, notably through responsible and community-based tourism. The policy aims at maximizing economic, social and environmental benefits and minimizing costs. Myanmar is closely working together with the donor community in implementing its tourism development strategy.

Table 6.3 Tourist Arrivals and Origin

	2008	2009	2010	2011	2012
Tourist Arrivals	731,230	762,547	791,508	816,369	1,058,995
Asia	66.4%	66.2%	68.4%	66.4%	64.1%
Western Europe	19.2%	20.0%	19.2%	20.7%	22.0%
North America	7.9%	7.2%	6.1%	6.5%	7.4%
Oceania	3.1%	3.3%	2.8%	3.0%	3.5%
Total Earnings (million)	165	196	254	319	534
Average length of stay	9.0	8.5	8.0	8.0	7.0

Source: Myanmar Tourism Statistics, Ministry of Hotels and Tourism.

Monitoring the trade policies and practices of WTO members is a fundamentally important activity of the WTO. All WTO members are reviewed at regular intervals, according to their share of world trade. Each Trade Policy Review consists of three parts: a report by the government under review, a report written independently by the WTO Secretariat, and the concluding remarks by the Chair of the Trade Policy Review Body. A highlights section provides an overview of key trade facts.

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