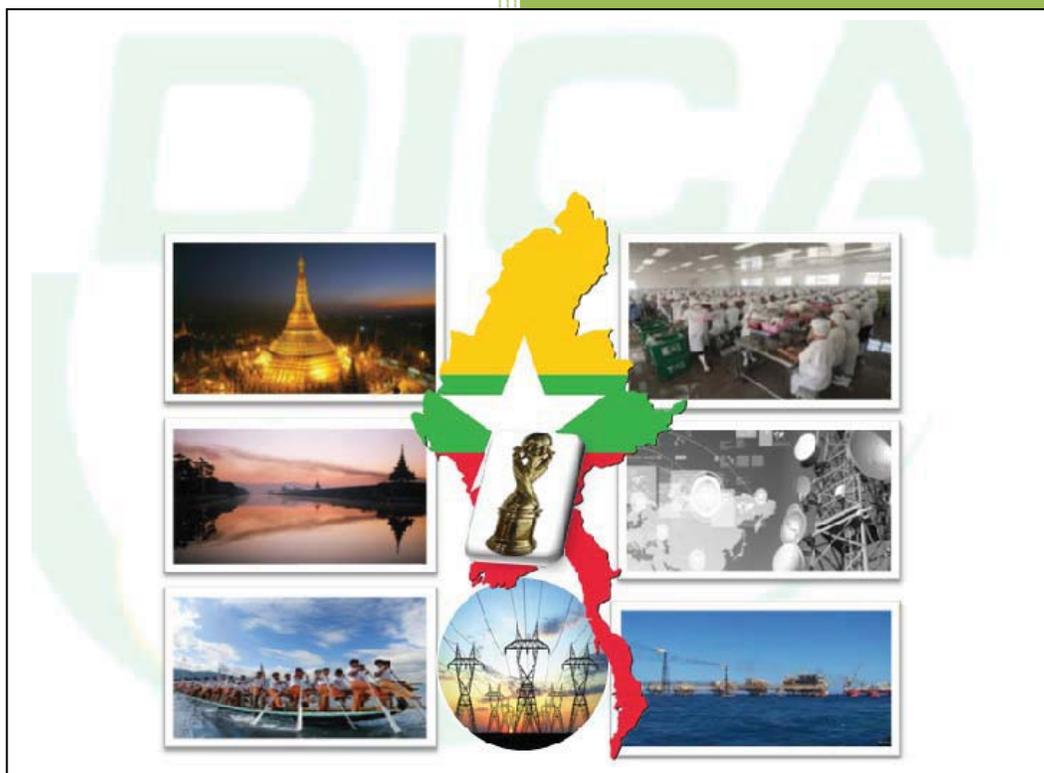


## Evolving Legal Framework in Myanmar and Implications for FDI



Directorate of Investment and Company  
Administration (DICA)  
Ministry of Planning and Finance, and  
Myanmar Investment Commission (MIC)

## **Evolving Legal Framework in Myanmar and Implications for FDI**

### **General Information**

Myanmar has a desirable geo-strategic location and abundant natural resources, being situated at the tri-junction of South Asia, South-east Asia and East Asia and bordering some of the fastest growing economies in the world such as China, India and Thailand with the population of over 51 million. After some decades of isolation, Myanmar has made a new start in a series of political and economic reforms to strengthen the country's economy and promote its sustainable development. The national economic policy aims to foster sustainable growth in Myanmar which is inclusive and people-centered.

Myanmar has worked closely with international organizations such as the World Bank, OECD, UN Development Program, UN Economic and Social Commission for Asia and the Pacific (UNESCAP), Japan International Cooperation Agency (JICA) and the Asian Development Bank (ADB). These international organizations joined forces to analyse some problem areas in which Myanmar needs to reform. Myanmar has undertaken the necessary structural number of problem areas in which Myanmar needs to reform. Myanmar has undertaken the necessary structural reforms to boost its development and is now on the right track for future success.

### **Legal Framework Reforms**

#### **Investment Environment**

Recognizing the significance of creating investor-friendly-environment for attracting the investors, Myanmar currently engages in a series of reforms and programs. Aiming to facilitate and simplify the investment-related activities, the new investment law was enacted on 18 October 2016 and its subsequent rules were prescribed on 30 March 2017. Then, the relevant notifications were issued to implement the Myanmar Investment Law. Among them, the following notifications were issued as a good move of reform process:

- (a) Notification on temporary Suspension for issuing approval on wood-based industries (Notification No. 86/2017)
- (b) Notification to carry out investment activities in education services (Notification 7/2018)

The Myanmar Investment Law can reduce the development gap among the states and regions by proportionate allocation of tax incentives for investment attraction. Investments can be made more easily under the MIL, and a more predictable

investment environment has been created. The MIL provides investors more confidence and guarantee. In order to provide accessible and useful assistance for investors across Myanmar, the branches of DICA are opened in Nay Pyi Taw, and the 14 states and regions to support the State and Region Investment Committee. Those SRICs are working together with relevant departments to issue endorsements to investors if their capital is up to USD 5 million or MMK 6000 million.

In addition to the classification of the Promoted sector, Myanmar Investment Commission announced the following prioritised areas when the investors submit their proposals:

- a) Agriculture and its related services, value-added production of agricultural products
- b) Livestock production, breeding and production of fishery products
- c) Export promotion industries
- d) Import substitution industries
- e) Power sector
- f) Logistic industries
- g) Education services
- h) Health care industry
- i) Construction of affordable housing
- j) Establishment of the industrial estate

The Arbitration Law was enacted in Myanmar on 5th January 2016. Currently, Myanmar Investment Commission is trying to establish a grievance mechanism to resolve and prevent the occurrence of disputes and carry out the relevant inquiries for the investment issues before reaching the stage of a legal dispute.

### **Myanmar Companies Law**

With the assistance of the Asian Development Bank (ADB), DICA modernised the over 100-year-old companies act to reflect the current business and regulatory environment, to reduce registration procedures, to facilitate electronic company registration. The Myanmar Companies Law was enacted on 6 December 2017. It has come into effect on 1st August 2018 with the implementation of the electronic registry. The new law aims to make it easier for businesses to be registered as companies, providing more flexibility to companies to conduct business and manage their internal affairs, while ensuring certainty and stability in corporate regulation.

The creation of a reliable and efficient regulatory framework for companies is crucial to facilitate investment and economic growth in Myanmar. The characteristics and changes of the new Company Law are as follows;

- a) Easier incorporation of companies
- b) Company constitution to replace memorandum and articles of association
- c) No more par values shares and authorised capital
- d) Foreign ownership threshold in companies
- e) Every company must appoint a Myanmar, resident director
- f) Branch offices to be registered as oversea corporations
- g) Lower compliance burden for small companies
- h) Easier decision making for companies
- i) New solvency test safeguards
- j) Increase in duties and sanctions on directors
- k) Better corporate governance and greater transparency
- l) Better regulatory power and enforcement

### **Myanmar Investment Promotion Plan**

Foreign Direct Investment Promotion Plan is revised as Myanmar Investment Promotion Plan (MIPP) to consolidate domestic investment promotion and foreign investment promotion in one plan and to reflect current economic and investment trends in Myanmar. MIPP is designed to show the roadmap of how to achieve the target in both domestic and foreign investments under the socio-economic development of Myanmar.

The Government of Myanmar will implement the strategies to promote responsible and quality investments, in which investors will act as partners for Myanmar's national development, with the following principles of investment promotion.

Category 1 - Investment-related policies and regulations

Category 2 - Institutional development for investment promotion

Category 3 - Infrastructure development

Category 4 - Business-related Systems

Category 5 - Local Industries and Human Resources

### **Myanmar Sustainable Development Plan**

The MSDP has designed all-inclusiveness of relevant parties and stakeholders, that of pragmatic economic development, and that of logical and necessary policies. Moreover, the MSDP encompasses on the sustainability, the correct policy guideline

of Myanmar in dealing with global and regional bodies, and the strategic national policy for development of the country and in line with the Sustainable Development Goals (SDGs), the ASEAN Economic Community, and the Greater Mekong Sub-region Economic Cooperation (GMS EC). The comprehensive framework of MSDP is as follows;

- Three pillars
- Five goals
- Twenty-nine strategies
- Two hundred fifty action plans

### **Second Investment Policy Review**

DICA is working together with OECD on second investment policy review of Myanmar. The second review aims to:

- Make sure the reform momentum is sustained and even deepened
- Support reform in priority areas and take stock of recent achievements
- Adopt a more selective and in-depth approach to equip the authorities with the specific and actionable policy recommendation
- Support the achievement of the sustainable development goal
- Deepen government dialogue and co-operation for the next reform agenda cycle

### **Reform Outcome**

From 2017 to 2018, permitted FDI total inflow reached USD 6.11 billion and in this current period as of 31st August 2018, it reaches USD 1.31 billion. Job creation from this permitted FDI inflow, it was 95706 in 2017-2018, and it reaches 32672 in this current period as of 2018 April to July.

### **Achievements**

As a result of Myanmar investment policy reform process broadly drew the attention of the business communities domestically and internationally and was received extensive recognition for its transparent and inclusive process, Directorate of Investment and Company Administration was awarded the “Star Reformer Award” by World Bank Group.

## **Conclusion**

Myanmar Government conducted several reforms measure of policy, legal and institutional reforms, in 2017-2018. Myanmar Sustainable Development Plan (MSDP) provides a long-term vision for the socio-economic development of the country, and that presents possible and implementable pathways, towards addressing development challenges. As Myanmar opens up, investment and trade have grown significantly. Investment policies have been, and continue to be, updated in line with regional and global commitments and standards.

Myanmar Investment Commission plays a crucial role in the reform process, and it will continue the leading role of implementing a better investment environment in Myanmar. Besides, China Myanmar Economic Corridor initiative will fulfill the needs of investment in infrastructure sector like power, road, ports and transport etc. On the other hand, Myanmar Investment Commission is working together with other government agencies to reduce the regulatory burden on investors.