

MYANMAR ECONOMIC OUTLOOK AND PENDING LEGISLATION UPDATE 26 OCTOBER 2015

Asia Group Advisors (AGA) would like to provide you with an assessment of Myanmar's current business climate and early projections of the election's impact on the country's economic outlook. With less than three weeks until polling day, the sentiment in Myanmar is one of cautious optimism. The current government, led by the Union Solidarity and Development Party (USDP), has made significant progress in opening Myanmar's economy and improving the operating environment for the private sector, both domestic and foreign. The election preparations have been challenging but are on track, and most observers are still giving relatively high marks to the Union Election Commission for attempting to pave the way to a fair election, notwithstanding widespread concerns over potential polling irregularities.

Nevertheless, after four years of rapid economic growth and investment, we are now seeing a distinct pause as some businesses adopt a "wait and see approach" until after the elections. This is partly due to a cooling off of Myanmar's growth rate and in part due to widespread uncertainty surrounding the likely economic policy priorities of Aung Sang Suu Kyi's (ASSK) National League for Democracy (NLD) party.

While it is normal for investment to stagnate during a period of impending political change, in the case of Myanmar there are three exacerbating factors. First, there is ongoing regulatory uncertainty as a host of draft bills remain pending at parliament. It is unclear when these bills will be passed and in what form, although we expect most of the economic bills to continue in the broadly reformist direction. Second, as above, the leading opposition party NLD has not articulated a detailed economic policy agenda, and has said little on the role of foreign investment under a potential NLD-led government.

Third, there remains downside risk that the elections will not meet the "free and fair" standard as defined by the US and European countries, and Myanmar could find itself on the wrong end of criticism, or worse, a revisiting of economic sanctions. The elections in November will offer the first real test of public opinion, and the post-election deal-making to round up parliamentary support for different presidential candidates will be another important indication of the extent to which Myanmar has embraced representational democracy.

Myanmar's current economic climate

Although weak in terms of democratic credentials, the USDP has pushed through an ambitious reform agenda that has ushered in an unprecedented period of economic growth, investment, and relative stability in Myanmar. Since President Thein Sein's government took office, the economy has grown significantly from 5.9% growth in 2011, to 7.3% in 2012, 8.3% in 2013, and 8.5% in 2014. Reported foreign direct investment (FDI) in the 2014-2015 fiscal year was US\$8.1 billion, nearly 25 times more than the year before the USDP came to power.

The USDP has also made strong efforts to improve the overall regulatory framework and has modernized many of the country’s commercial laws, some of which dated back to British colonial rule, in order to facilitate foreign investment. Two encouraging developments in particular are the 2012 Foreign Investment Law and the 2015 Competition Law. The Investment Law provided tax breaks for many types of foreign investment projects and granted longer land leases to foreign firms, while the Competition Law established frameworks to regulate monopolies, mergers, and trade practices.

A more independent and active Myanmar Investment Commission (MIC) and Directorate of Investment and Company Administration (DICA) have also helped to streamline and encourage new investments. As previously reported by AGA, earlier this year DICA completed its draft of a new Investment Law that will combine the Foreign Investment Law and the Myanmar Citizens Investment Law into a single bill. The new bill aims to create a “level playing field,” and ensure that foreign and domestic investors can enjoy the same incentives and benefits. DICA also drafted the revised Myanmar Companies Act, which will serve as the main legislation for all companies incorporated in Myanmar, covering registration processes, financial reporting and audit requirements, and directors’ duties, among other aspects. The revised bill is encouraging for foreign investors; the 1914 version prohibited direct foreign ownership in local companies. Progress on these two bills, among many others, has stalled in the lead up to the elections. This delay is due in part to the USDP’s focus on campaigning and the significant backlog of pending bills with parliament, which meant it could not review all the bills before it recessed on 28 August.

When it adjourned in August, there were 50 bills tabled at parliament; 17 with the Lower House, 24 with the Upper House, and 9 with the Union Parliament, which comprises both houses. While parliament will meet again before its term finishes on 31 January 2016 – a date has not been given for its next session – it is unlikely that all the pending bills will be promulgated before the end of the year. With the USDP potentially serving as a lame-duck administration until March 2016, legislative activity will likely be delayed. See Table 1 below for a list of relevant pending bills.

Table 1: Key legislation that is currently pending with Parliament

Legislation	Details
Myanmar Investment Law	The law will combine the Foreign Investment Law and the Myanmar Citizens Investment Law
Myanmar Companies Act	The law will establish the framework for company registration, financial reporting, and directors duties
Law amending the 1994 Mining Law	The law will clarify the legal framework for foreign and local investments and operations in the mining sector
Road Transport Law	The law will establish a national transport framework, including relevant road transportation committees and regulators
Impeachment Law	The law will establish procedures to impeach sitting lawmakers

Banks and Financial Institution Law	The law will set capital and deposit requirements for banks and regulate banking oversight and governance
National Statistics Law	The law will establish a statistical system for social and economic policy, planning, and administration

Moving Forward – What to expect post-elections

The main challenge for Myanmar moving forward will be maintaining macroeconomic stability and continuing regulatory reform, amidst a transition of power in a country new to democracy. Over the past few months, FDI inflows have slowed and many new projects are on hold until 2016. In early October, the World Bank issued a downward revision of its 2015 growth forecast to 6.5%. Also of concern is Myanmar's widening current account deficit, which is projected to rise to 4.8% of GDP in 2015 from roughly 3% last year. The effects of a cooling China, which is Myanmar's largest trading partner, and lower commodity prices are also being felt.

With the NLD looking likely to win many seats in the November elections, and perhaps an outright majority, there is keen interest in the party's economic strategy. So far, the party has articulated a policy broadly based on five priorities: fiscal prudence, lean and efficient government, revitalizing the agricultural sector, monetary and fiscal stability, and creating functioning infrastructure. Party leader ASSK has not promoted her views on Myanmar's global economic engagement, instead focusing on grassroots issues such as labor rights, promoting local business, micro finance, and fighting corruption. Sean Turnell, an Australian economist and advisor to ASSK, has hinted at other potential aspects of the NLD economic agenda, noting that an NLD victory would lead to a more independent Central Bank, greater financial inclusion, and improvements to the rural credit system.

While it remains unclear how a NLD government will shape and drive future economic reforms, we don't expect the NLD to cause significant delays in pushing through most of the pending bills sitting with parliament. Former USDP chairman and speaker of the Lower House of Parliament Shwe Mann led parliament through a largely consensus-driven approach. This gave the NLD the chance to work on and provide inputs on the bills currently under consideration. In theory, this should leave little need for the next government to make additional changes to pending legislation regardless of who is elected. Moreover, the new government will be under immense pressure to deliver on campaign promises, and passing legislation will be a quick and easy win to solidify its position in power.

AGA will continue to monitor the Myanmar elections and will keep you updated on impacts to the business environment.