Special Features of the Myanmar Legal System

- Colonial British Laws, codified under the Burma Code, are still in force unless specifically superseded
- Most legislation was published in Myanmar and English languages up to 2010
- The language of the courts is Myanmar. At university, law is taught at the undergraduate level primarily in English language
- No jury system, except labour tribunals
- Myanmar gazette is published bi-monthly
- Few official statistics are published
- The pace of civil court proceedings is slow
- Criminal cases are tried under the Code of Criminal Procedure [India Act V, 1898] and Civil Cases are tried under the Code of Civil Procedure [India Act V, 1908]. Both criminal and civil cases are also tried under the Evidence Act [India Act 1, 1872] and the Courts Manual
- There were no international accounting firms in Yangon in February 2012. There are now a number, including KPMG, Deloitte, PwC, and E&Y. Accounts system is governed by Myanmar Accountancy Law
- Exchange of foreign currencies was formerly allowed only through government banks and licensed exchange centers, which were established in late 2011. As of March 2014, the government licensed 14 of the country’s 20 private banks to offer foreign currency accounts
- On 1 April 2012, the CBM officially floated the Kyat, and adopted a “managed float”
- The laws and practices governing investing in Myanmar are undergoing rapid changes. The Myanmar Government is obtaining technical assistance and training in a number of key areas, including foreign exchange controls, finance and investment law reform and trade facilitation from foreign countries
Sources of Law

British colonial law, from India
Burma Code (13 volumes, enacted 1841-1954)
Selected laws and regulations (as amended)
- Myanmar Companies Act (1914), Rules (1940) and Regulations (1957), as amended
- Oil and gas laws: Offsets Act (1918) supplemented by numerous laws and regulations, including The Offsets Rules (1936); The Petroleum Act (1934), The Petroleum Rules (1937), The Essential Supplies and Services Act (Law No. 13/2012), The Offsets (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). Production sharing contracts are signed with Myanmar Oil and Gas Enterprise ("MOGE")
- Special Companies Act (1950) (if joint venture with government enterprise)
- Foreign Investment Law (2012) was enacted on 2 November 2012, replacing the Foreign Investment Law (1988), administered by the Myanmar Investment Commission. On 31 January 2013, the Foreign Investment Rules and MIC Notification re types of restricted activities were announced. Older notifications having continuing effect are:
  - Notification no. 43/2013 issued by President’s office on 3 May 2013 prescribing powers, duties and composition of MIC
  - Foreigners who invest in "local" companies or through nominees have no legal standing to enforce their rights. See MIC Order dated 27th February 2012 which requires all companies held by nominees before the order was issued to be transferred as foreign companies to their foreign owners and operate under the MIC Permit. These foreign companies will be treated the same as other foreign companies under the MIC Permit and will be under the same limitations
- Foreigners shall not purchase land or condominiums
- Myanmar Citizens Investment Law (2013)
- MSEZL: Myanmar Special Economic Zone Law January 2014, repealing the 2011 MSEZL and 2011 Dawei SEZL

Sources of Law (Cont’d)

- Private Industrial Enterprise Law (1990)
- Income Tax Law Rules and Regulations (1974) and notifications from time to time. (Formerly flat rate 30% applicable to companies under FIL or MCA; otherwise 35% or graduated rates 35-50%). Notification No. 41/2010 introduced withholding of income tax on specified payments, which was superseded by Notification No. 167/2011. In April 2012 the Income Tax Law was amended. On 15 March 2012, Notification No. 111/2012 was issued, and income tax rates were reduced to 25% for companies under Myanmar Companies Act, Special Companies Act and FIL. New tax laws were enacted in March 2014
- Commercial Tax Law (1990) (a turnover tax levied on goods and services, rates vary). Amended effective 1 April 2014
- Double Tax Agreements: India, Laos, Malaysia, Singapore, South Korea, Thailand, United Kingdom, and Vietnam
- Investment Promotion Treaties: China, India, Japan, the Philippines, and Thailand
- Various labour laws: Trade Unions Act was revoked, and superseded by Labour Organisation Law on 11 October 2011. The 1964 Law Defining the Fundamental Rights and Responsibilities of the People’s Workers was revoked on 21 November 2011.) Formerly there were 21 labour laws, but following recent legislation there are 14 in use On 28 March 2012, the Dispute Settlement Law relating to Labour Affairs was enacted, and the Trade Disputes Act (1929) was revoked. The Social Security Law (2012) was passed and revoked the old Social Security Act (1954). The Minimum Wages Law (2013) was enacted, and the Minimum Wages Act (1949) and Minimum Wages for Farm Workers Act (1948) were revoked
- Immigration law: governing visas for foreigners. Certain foreigners require stay permits or business visas
- Transfer of Immovable Property Restriction Law (1987)
- Central Bank Law (2013)
- The second through ninth sessions of the Union Parliament (September 2011 through January 2014) adopted 68 new laws/amendments
Selected Current Developments in Legal Regime

- Additional bills in the works:
  - Companies Act, to replace 1914 act
  - Mining Law
  - Petroleum Law
  - Foreign Investment Law to replace FIL 2012 and CIL 2013
  - Banking Law
  - Labour Law
  - Electricity Law
  - Other laws, which are being drafted by Ministries, under advisement of AGO

Arbitration
- Myanmar Arbitration Act (1944)
- Party to Geneva Protocol on Arbitration Clauses of 1923 (until 15 July 2013)
- Member of ASEAN, with obligation to ratify Protocol on Dispute Settlement Mechanism
- Conciliation through the Union of Myanmar Federation of Chambers of Commerce and Industry
- Myanmar acceded to the New York Convention effective 15 July 2013
- However, before foreign arbitration awards can be enforced in Myanmar, Myanmar must pass a new arbitration act, which is expected during 2014 and may be based on the UNCITRAL model law

Exchange Rate Centers
- Opening of licensed exchange rate centers, October 2011
- Government exchange rate US$1 to approx. 6 kyats was superseded on 2 April 2012 by a managed floating exchange rate

Permits to Trade (currently known as DICA Permit)
- Permits to Trade were granted to industrial, trading and service companies in the past. Under recent practice, they are no longer granted for foreign trading companies (but this was not officially announced), and renewals of Permits to Trade for foreign trading companies issued in the past have not been approved. See new FIL Rules & MIC Notification No. 1/2013 re restricted activities, which includes certain categories of trading related business open to foreigners

IMF Technical Assistance
- The Government took steps in consultation with IMF to reform the country’s dual exchange rate system
- Several foreign governments are offering technical assistance re: environmental and social safeguards, etc.
- On 1 August 2012, the World Bank and Asian Development Bank opened interim offices in Yangon, and in February 2013 they officially resumed work in Myanmar

Extractive Industry Transparency Initiative
- On December 2012, Myanmar took a step to implement EITI (Extractive Industries Transparency Initiative) in Myanmar. The first meeting of Myanmar’s EITI multi-stakeholder group was held on February 8, 2014. Myanmar is expected to file an application to EITI in May 2014

Website Sources of Legal and Regulatory Information

- DICA, Directorate of Investment and Company Administration (Secretariat of Myanmar Investment Commission)
  www.dica.gov.mm/: Click link to “Investment Guide”
- The New Light of Myanmar: Government publication, issues daily Gazette
- Myanmar Times: news and information in English
  www.mymtimes.com
- Mizzima: news and information in English
  www.mizzima.com
- The Irrawaddy: news and information in English
  www.irrawaddy.org
- Alternative Asean Network on Burma: comprehensive information on Assemblies’ activities (national and regional levels)
  www.altsean.org/Research/Parliament%20%20%20Research%2020%20%20Home.php
  www.loc.gov/law/help/guide/nations/burma.php
- Myanmar Online Data Information Network Solutions: information on Myanmar government, Ministries, law, politics, culture and society
  www.modins.net/myanmarinfo/
- Thura Swiss
  www.thuraswiss.com/news/newsletter
- Eleven Group and Nation Multimedia
  www.elevenmyanmar.com and http://pdf.asianewsnet.net/
- Ministry of Energy
  www.energy.gov.mm
- Business Today
  www.mmbiztoday.com
2008 Constitution of Myanmar
Announced on 29 May 2008 that Constitution of the Government of the Republic of the Union of Myanmar was ratified and promulgated by the National Referendum. The Constitution became effective on 31 January 2011 (first convening of the new Union Assembly).

Government Organization

- The Myanmar Investment Commission is responsible for administering the Foreign Investment Law, under which investors may receive incentives after receiving an MIC permit
- DICA serves as the Secretariat for MIC
- DICA’s website provides summaries of laws effecting foreign investment as well as sample application forms
- DICA’s Director General also serves as Registrar of Companies and receives applications for incorporation of foreign companies
- DICA and the MIC are part of the Ministry of National Planning and Economic Development
- [www.dica.gov.mm](http://www.dica.gov.mm)

- Special Economic Zones are each administered by a Management Committee under the MSEZL 2014, under which investors receive incentives
The new Foreign Investment Law ("FIL") was enacted on 2 November 2012, replacing the previous FIL (1988). On 31 January 2013 the Foreign Investment Rules and MIC Notification No. 1/2013 re types of restricted activities were announced.

In addition to a tax holiday of up to five years, the new FIL offers investors several incentives including:

- exemption or relief from income tax on the profits of the business kept in a reserve fund and reinvested in the business within one (1) year after the reserve is made
- accelerated depreciation in respect to machinery, equipment, building or other capital assets used in the business, at a MIC approved rate
- relief from tax on up to 50% of the profits accrued from the export of goods produced in Myanmar
- right to pay income tax on the income of the above mentioned foreigners at the rates applicable to the citizens residing within the country
- right to deduct from assessable income, expenses incurred in respect to necessary research and development carried out within Myanmar
- carry forward and offset losses up to three (3) consecutive years after the year in which the loss was sustained
- exemption or relief from customs duty, licensing requirements and internal taxes on the import of approved machinery and materials during the initial period/period of construction
- exemption or relief from customs duty, licensing requirements and internal taxes on the import of raw materials imported within the first three years of commercial production following start up/completion of construction
- exemption or relief from customs duty or other internal taxes on machinery, machinery components, instruments, equipment, spare parts and materials required for approved expansions during the permitted period
- exemption or relief from commercial tax on goods produced for export
- the right to use land for 50 years, renewable twice 10-years each

English translations have been posted on our website www.myanmarlegalservices.com

The new Special Economic Zone Law

On 23 January 2014 the Government enacted a new Myanmar Special Economic Zone Law (MSEZL), Law No. 1/2014 which applies to all Special Economic Zones, and which repeals to 2011 MSEZL and the Dawei SEZL. Rules are expected to be issued in 2014.

The MSEZL provides for a Central Body, Central Working Body, and a Managerial Committee for each SEZ.

A SEZ may have several zones: Exempted Zone, Business Development Zone, and other Zones.

The new MSEZL offers the following incentives to investors within a SEZ:

- 100% Foreign Ownership
- The right to lease land for 50 years, with a 25 year renewable period
- 7 year income tax exemption for businesses in “Exemptions Zones” and for “Exempted Businesses”; 5 year income tax exemption for “Investment Businesses” in “Promotion Zones” or other businesses in a SEZ; 5 year income tax reduction of 50% following any exemption period, reduction can be extended for another 5 years for profits which are reinvested
- No customs duties:
  - in “Exempted Zones”
  - for materials and equipment used during construction and exemptions or relief for other imported materials or equipment
- “Investors” will pay customs on raw materials and goods used for production but can apply for reimbursement if the finished goods are used in the SEZ
- The right to carry forward losses for five years after they were sustained
- Certain reliefs and exemptions from VAT and Commercial tax
- Right to open foreign currency accounts with approved banks
Project Financing in Myanmar

Local banking practices
- There is no banking sector providing financial services expected by foreign investors and financial institutions
- Currently, there are no branches of foreign commercial banks. 35 foreign banks have representative offices
- One-year loans at 13% interest are common

Regulatory approvals are required for foreign loans
- Approvals of MIC and Central Bank of Myanmar and Ministry of Finance

Foreign exchange regime
- Until 1 April 2012, the official rate was US$1 to 6 Kyats, but the unofficial rate was US$1 to approximately 800 Kyats
- Dual exchange rates posed problems for accounting, determination of taxable income, etc. New foreign exchange regime was adopted on 1 April 2012

Insurance
- Formerly, insurance had to be procured from the sole state-owned insurance organization. As of June 2013, 12 private insurance companies have been given conditional approval to begin operating

Forms of security available
- Forms of security available under British colonial law are provided for in the Burma Code. However, practice has taken over in many respects
- Most forms of security must be registered
- MIC and Central Bank approvals must be obtained for offshore security
- As a general rule, foreigners are prohibited from owning or taking any interest in immovable property
- Security over immovable property
  - Registered or equitable mortgage or a charge
  - Seven types of mortgage are provided for, with varying enforcement processes
- Security over moveable property
  - Mortgages
  - Charges
  - Transfer of actionable claims
- Other forms of security
  - Negative pledge
  - Guarantees
  - Charge on shares
  - Offshore security

Forms of security available
- Security over moveable property
- Mortgages
- Charges
- Transfer of actionable claims
- Negative pledge
- Guarantees
- Charge on shares
- Offshore security

Precedent project financings
- Yadana gas pipeline
- Yetagun gas pipeline
- MICCL copper mine
- Shwe gas and oil pipelines

US Sanctions Prohibitions
- U.S. rules apply to Myanmar, and many of its entities, banks and nationals, are complex. There are five laws, four Executive Orders and published regulations from OFAC (Office of Foreign Assets Control), 31 CFR § 537, and FinCEN (anti-money-laundering); 31 CFR § 103
- New investment by U.S. citizens is not prohibited subject to the following groups/individuals
  - U.S. citizens may not engage in investments with, or provide financial services to the Myanmar Ministry of Defence including the Office of Procurement, any state or non-state armed group; or any entity in which any of the foregoing own a 50 percent or greater interest. Such services and investment activities are also barred while individuals on the SDN list, or those determined to be engaged in or responsible for human rights abuses or atrocities, or otherwise as appropriate.
- Burmese Freedom and Democracy Act (BFDA) 2003
  - Prohibits the exportation of financial services to Myanmar, imposes an asset freeze against the SPDC, and bans imports with three foreign Myanmar trade financial institutions. Note that most restrictions have been lifted through general licenses
- JADE Act (2008)
  - Bans importation of Myanmar precious gems into the United States and subject specific categories of individuals and entities to asset freezes and travel restrictions
  - Blocks the property interests of U.S. persons that act directly or indirectly to undermine the political, reform process or peace process with ethnic minorities in Burma

SANCTIONS

The following countries have relaxed sanctions:
- United States (see www.state.gov/j/drl/rls/othr/thr/prg/hrm/wmt/mnrrp/)
  - General License No. 16, issued 11 July 2012: Authorizes exportation and reexportation of financial services by U.S. citizens to Myanmar, directly or indirectly subject to limitations outlined below under "US Sanctions Prohibitions"
  - General License No. 17 issued 11 July 2012: Authorizes new investment in Myanmar subject to limitations on engaging in investment activities with the same groups and individuals prohibited under the BFDA. U.S. citizens investing in Myanmar are required to report such activities to the Department of State pursuant to the Department's guidelines announced on 22 February 2012
  - General License No. 13 issued 6 July 2014: Authorizes new investment in Myanmar subject to limitations on engaging in investment activities with the same groups and individuals prohibited under the BFDA. U.S. citizens investing in Myanmar are required to report such activities to the Department of State pursuant to the Department's guidelines announced on 22 February 2012
- United Kingdom (see www.gov.uk/ukpga/2014/4/7/31)
- Latest relaxation: United Kingdom latest relaxation above
- Latest relaxation: Australian laws and financial sanctions have been lifted: Australia's arms embargo remains in place. Retains capacity to re-impose sanctions
- Canada (see http://www.gov.uk/ukpga/2014/4/7/31)
- Latest relaxations: Prohibitions on import, export, investment, financial transactions and technical data have been removed. Asset freeze and prohibition on transactions also removed in effect for designated individuals

Forms of security available
- Insurance
- Foreign exchange regime
- Regulatory approvals are required for foreign loans
- Local banking practices
- Project Financing in Myanmar
- Forms of security available under British colonial law are provided for in the Burma Code. However, practice has taken over in many respects
- Most forms of security must be registered
- MIC and Central Bank approvals must be obtained for offshore security
- As a general rule, foreigners are prohibited from owning or taking any interest in immovable property
- Security over immovable property
  - Registered or equitable mortgage or a charge
  - Seven types of mortgage are provided for, with varying enforcement processes
- Security over moveable property
  - Mortgages
  - Charges
  - Transfer of actionable claims
- Other forms of security
  - Negative pledge
  - Guarantees
  - Charge on shares
  - Offshore security

Forms of security available
- Security over moveable property
- Mortgages
- Charges
- Transfer of actionable claims
- Negative pledge
- Guarantees
- Charge on shares
- Offshore security

Precedent project financings
- Yadana gas pipeline
- Yetagun gas pipeline
- MICCL copper mine
- Shwe gas and oil pipelines

US Sanctions Prohibitions
- U.S. rules apply to Myanmar, and many of its entities, banks and nationals, are complex. There are five laws, four Executive Orders and published regulations from OFAC (Office of Foreign Assets Control), 31 CFR § 537, and FinCEN (anti-money-laundering); 31 CFR § 103
- New investment by U.S. citizens is not prohibited subject to the following groups/individuals
  - U.S. citizens may not engage in investments with, or provide financial services to the Myanmar Ministry of Defence including the Office of Procurement, any state or non-state armed group; or any entity in which any of the foregoing own a 50 percent or greater interest. Such services and investment activities are also barred while individuals on the SDN list, or those determined to be engaged in or responsible for human rights abuses or atrocities, or otherwise as appropriate.
- Burmese Freedom and Democracy Act (BFDA) 2003
  - Prohibits the exportation of financial services to Myanmar, imposes an asset freeze against the SPDC, and bans imports with three foreign Myanmar trade financial institutions. Note that most restrictions have been lifted through general licenses
- JADE Act (2008)
  - Bans importation of Myanmar precious gems into the United States and subject specific categories of individuals and entities to asset freezes and travel restrictions
  - Blocks the property interests of U.S. persons that act directly or indirectly to undermine the political, reform process or peace process with ethnic minorities in Burma

© Copyright - Myanmar Legal Services Limited 2018
US Sanctions Acceptable Activities

- **Goods and Services**
  - No general prohibition on providing goods and services, other than financial services/investment activities with the parties listed on slide 11, under “US Sanctions Prohibitions”
  - Myanmar goods may be imported into the United States with the exception of jadeite and rubies. During the visit of Myanmar President Thein Sein to Washington DC in May 2013, Senate Minority Leader Mitch McConnell called for the expiration of the Burmese Freedom and Democracy Act. The jadeite and rubies import bans would remain in effect

- **Operation of Accounts for individuals**
  - Subject to prior approvals of CBM, there is no prohibition of holding accounts by individuals so long as those individuals are not on the prohibited list

- **Facilitation**
  - As of 11 July 2012, U.S citizens may invest in the economic development of natural and other resources (human, commercial, financial), subject to the prohibitions stated in slide 11, under “US Sanctions Prohibitions”

- For a more detailed overview of prohibitions and acceptable activities for US citizens under current sanctions as well as relevant licensing and laws, see:

FATF (Financial Action Task Force)

On February 14, 2014 FATF confirmed its position on Myanmar announced on February 26, 2012. FATF identified Myanmar as a jurisdiction that has strategic deficiencies which pose a risk to the international financial system.

“*Myanmar has taken steps towards improving its anti-money laundering and combating the financing of terrorism (AML/CFT) regime. However, despite Myanmar’s high-level political commitment to work with the FATF and APG to address its strategic AML/CFT deficiencies, Myanmar has not made sufficient progress in implementing its action plan, and certain strategic AML/CFT deficiencies remain. Myanmar should continue to work on implementing its action plan to address these deficiencies, including by: (1) adequately criminalising terrorist financing; (2) establishing and implementing adequate procedures to identify and freeze terrorist assets; (3) further strengthening the extradition framework in relation to terrorist financing; (4) ensuring a fully operational and effectively functioning financial intelligence unit; (5) enhancing financial transparency; and (6) strengthening customer due diligence measures. The FATF encourages Myanmar to address the remaining deficiencies and continue the process of implementing its action plan*”

Kingdom of Ayutthaya 1400 CE

- 1350 - 1767
- Burmese captured Dawei in 1614
- Siam reclaimed Dawei in late 1740’s
- In 1765, Burmese recaptured Dawei and continued south, capturing Myeik
- Burmese ceded region to British after first Anglo-Burmese war (1824-1826)
Environment

Relevant legislation
- Constitution
- Environmental Conservation Law, 2012 Union Parliament Law No. 9, 30 March 2012: Implementing rules are being drafted, which provide for Environmental Impact Assessments (EIA)
- Foreign Investment Law, 2 November 2012
- MIC Notification 1/2013, requiring EIAs for 34 different types of projects
- MSEZL, 23 January 2014

Regulatory regime
- Ministry of Environmental Conservation and Forestry (formerly Ministry of Forestry, renamed 5 May 2011)
  - Planning and Statistics Department
  - Forest Department
  - Dry Zone Greening Department
  - Myanmar Timber Enterprise Department
- Environmental Conservation Committee, 2004

Absence of EIA regime

Foreign government assistance re environmental and social issues, example of exemptions from certain current sanctions

Precedents for environmental and social programs:
- Yadana/Yetagon pipeline corridor Socio-Economic Program
- MIICL program in vicinity of copper mine

Recent environmental issues:
- Myitsone hydro power suspension case, 30 September 2011
- Dawei coal fired power project
- Shwe gas and oil pipelines
- EIA, SIA and EMP obligations in current PSC’s for O&G onshore and offshore exploration blocks
As of April 2014 there are three SEZ’s: Thilawa, Kyank Phyu and Dawei

Each Special Economic Zone is administered by a Management Committee under the MSEZL 2014

- The Thilawa project is being developed by Myanmar and Japanese investors with Myanmar owning 51 percent and Japan 49 percent. The Thilawa project involves construction and development of textile, manufacturing and high-tech industries, as well as a deep-sea port. It was started in November 2013 and Myanmar-Japan Thilawa Development Limited (MJTD) was established to develop the project.

- The Kyank Phyu Special Economic Zone serves a port and an oil and gas terminal and is the western end of pipelines linking Myanmar and China. There are further plans for the SEZ. A Singapore firm has been appointed consultant.

- On 17 June 2013, Myanmar and Thailand signed an agreement to create the Dawei SEZ Development Co (DSEZ). Three memoranda of understanding were signed between Thailand and Myanmar in November 2013 creating 50/50 investment in the project and transferring the Dawei concession from Italian-Thai Development Plc (ITD) to DSEZ. The project is presently seeking further investment.
Union of Myanmar Petroleum Block Map Effective mid February 2013

NOTE: On 17 January 2013, the Ministry of Energy invited bids for 18 onshore oil and gas blocks in Myanmar’s second international petroleum licensing round. 11 bidders were awarded 16 onshore blocks on 10 October 2013.

On 11 April 2013, the Ministry of Energy invited bids for 11 shallow offshore blocks and 19 deep offshore blocks. 30 shortlisted bidders submitted bids on 15 November 2013.

Trans ASEAN Gas Pipeline Project (TAGP)

(Source: ASCOPE Secretariat, 2011)
Current Roadmap of Thailand

3,200-km trilateral highway linking India, Myanmar and Thailand

Recent announcements:
- Construction of three new cross-border highways have been approved in principle:
  - Three Pagoda Pass, Kanchanaburi
  - Ban Nam Pu Ron, Kanchanaburi
  - Singkorn, Prachuap Khiri Khan

China’s Asian Link Railway Project

- Features
  - New rail lines in Thailand, Laos and Myanmar, with plans to link existing train lines in Cambodia and Vietnam
  - As of April 2014, political situation in Thailand has frustrated making any decisions
  - High speed passenger train routes to be built from Bangkok through Vientiane up to Mainland China
### ASEAN Integration and Thailand

**Goal:** Create an ASEAN Economic Community by 2015

**BACKGROUND**

- Initiative for ASEAN Integration ("ASEAN Vision 2020") (1997)
- Hanoi Declaration (2001)
- ASEAN Concord II (2003). Roadmap for integration, to be realized by 2020
- Key Legal Agreements (among others):
  - ASEAN Trade in Goods Agreement governs the ASEAN Free Trade Area for intra-ASEAN trade in goods (ATIGA)
  - ASEAN Comprehensive Investment Agreement governs intra-ASEAN investment (ACIA)
  - ASEAN Framework Agreement on Services governs intra-ASEAN trade in services (AFAS)
- ASEAN Protocol on Enhanced Dispute Settlement Mechanism (EDSM) Chair’s Statement of 19th ASEAN Summit, Bali, 17 November 2011
  - 35. Progress of ALAWMM to develop programs to strengthen the rule of law, legal cooperation and legal infrastructures
ASEAN Integration and Thailand
Goal: Create an ASEAN Economic Community by 2015 (Cont’d)

THAILAND

Progress:
- Cross-border energy projects (JDA, Myanmar, Cambodia, Laos)
- Cross-border infrastructure (bridges, transmission lines)
- Proposed cross-border infrastructure (North-South rail, Dawei east-west road/rail links)
- Automotive sector participation
- Bank of Thailand’s preparations for regional integration of financial institutions

Regional Challenges:
- No single regulator; no set of laws and regulations
- Except for the ACIA, other ASEAN agreements cannot be invoked by private investors
- Evolving from bi-lateral investment treaties to ACIA

Thai Challenges:
- Restrictions on foreign businesses operating in Thailand (Foreign Business Operations Act)
- Restrictions on foreigners working in Thailand (Working of Aliens Act)
- Thai tariff protectionism
- Other non-tariff obstacles to intra-ASEAN trade, and need to fast track 12 priority integration sectors
- Corruption
- Political stability
- Increasing costs, e.g. increases in minimum wages
- Water management issues
- Border disputes between Thailand and Cambodia (onshore and offshore)
- English language
- In 2013 Thailand was removed from the list of countries at risk of money laundering by terrorist groups, having taken a number of actions.
- IP Priority Watch List for the 7th consecutive year in 2013. The USA said in May 2013 it will review Thailand’s status if it makes significant progress by passing key legislative initiatives and improving enforcement.

ASEAN Integration and Myanmar
Goal: Create an ASEAN Economic Community by 2015 (Cont’d)

MYANMAR

Progress:
- Cross-border energy projects (Yadana, Yetagun, Zawtika and Shwe pipelines)
- Cross-border infrastructure (bridges)
- Proposed cross-border infrastructure (transmission lines, Dawei east-west road/rail links)

Regional Challenges:
- No single regulator; no set of laws and regulations
- 4 existing bi-lateral investment treaties with ASEAN countries: Lao PDR, Philippines, Thailand, Vietnam; evolving to ACIA

Myanmar Challenges:
- Chairmanship ASEAN 2014
- Completion of Final Phase of the progressive reduction/elimination of investment restrictions and impediments in 2015 (2014 for ASEAN-8)
- Compliance with non-tariff barriers in 2015 to 2018 (with flexibility) (2010 for ASEAN-5, and 2012 for Philippines)
- Next general elections 2015
- Incomplete legal and regulatory regime, no independent judiciary
- Evolving currency exchange regime (major reform April 2012)
- Limited accommodation, telecommunications, office space, infrastructure
- Chronic electricity shortages
- Limited internet connectivity
- Primitive banking system
- Corruption and cronyism
- Frequent, unannounced and unwritten policy changes
- Weak educational system
- Sanctions and AML/CFT deficiencies identified by FATF (status confirmed 14 February 2014 by FATF)