

Subnational Governance in Myanmar Discussion Paper Series

# Subnational Governments and Business in Myanmar



Jared Bissinger and Linn Maung Maung

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**The Asia Foundation**  
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The ***Subnational Governance in Myanmar Discussion Paper Series*** is a collaborative research initiative between the Myanmar Development Resource Institute's Centre for Economic and Social Development (MDRI-CESD) and The Asia Foundation. The paper series aims to provide Myanmar policy-makers at national and local levels, civil society organizations, the business community, development partners and other interested stakeholders with timely research on subnational governance issues that directly inform policy and reform processes. The research behind the series incorporates the perspectives of a range of government, political, non-governmental, civil society and community stakeholders in subnational governance, while also bringing to bear the most relevant policy analysis and international experience. MDRI-CESD and The Asia Foundation welcome input and suggestions on published, ongoing, or future research.

The **Myanmar Development Resource Institute's Centre for Economic and Social Development** is an independent think-tank dedicated to the economic and social transformation of Myanmar. The Centre undertakes participatory policy research studies related to economic reform, poverty-reduction, sustainable development and good governance in Myanmar. It also provides training and education services for key institutions and organizations contributing to the ongoing process of reform.

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## Preface

The Myanmar Development Resource Institute's Centre for Economic and Social Development (MDRI-CESD) and The Asia Foundation are pleased to present this second volume in the *Subnational Governance in Myanmar Discussion Paper Series*.

The pace of change in Myanmar is rapid and constantly evolving, and decentralization and local governance are issues of critical importance to the country's long-term development and priorities in the government's reform agenda. As such, there is a real need for timely research and analysis on key reform areas related to decentralization and local governance. As an extended collaboration between The Foundation and MDRI-CESD, this series of discussion papers aims to provide Myanmar's policy-makers at national and local levels, civil society organizations, the business community, development partners, and other interested stakeholders with research findings on subnational governance issues that directly inform policy and reform processes.

Economic growth in Myanmar has been strong over the past few years, with the International Monetary Fund predicting a 7.5% growth rate for 2014. Creating a conducive business environment for increased foreign direct investment as well as a vibrant domestic private sector is a key element in generating strong and sustainable economic growth. At the local level, the important role of small- and medium-sized businesses, which constitute the vast majority of businesses in the country, to provide employment and services to communities, to generate much needed revenues for local governments to finance social services and development initiatives, and to participate effectively in the emerging production chains as part of Myanmar's regional and global integration must be highlighted. Encouraging these local agents of growth is dependent on both furthering national reforms but also on strengthening the support of local governments at the state and region levels and below.

The research presented in this discussion paper by Jared Bissinger and Linn Maung Maung analyzes the role that local government institutions play in economic governance and how this affects small- and medium-sized businesses. Intended to reach a general readership, the paper provides the relevant history, policy structures and overarching reform context. Moreover, using data collected through field work carried out in Mon State and Sagaing Region, the authors illustrate and analyze local economic governance trends and the subsequent business environment for small- and medium-sized businesses. The paper concludes with key policy considerations by the authors.

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## **Acronyms**

BSPP – Burma Socialist Party Programme

DICA – Directorate of Investment and Company Administration

DISI – Department of Industrial Supervision and Inspection

GAD – General Administration Department

GDP – Gross domestic product

IRD – Internal Revenue Department

IZ – Industrial zone

IZMC – Industrial Zone Management Committee

MEB – Myanmar Economic Bank

MNPED – Ministry of National Planning and Economic Development

Mol – Ministry of Industry

RC – Revolutionary Council

SME – Small and medium enterprise

SMIDB – Small and Medium Industrial Development Bank

SLORC – State Law and Order Restoration Council

SOE – State owned enterprise

SPDC – State Peace and Development Council

VAT – Value Added Tax

## Executive Summary

Developing the private sector is a major goal of Myanmar's recent reforms and key for the country's development going forward. To support development of the private sector, Myanmar's government has removed many restrictions on businesses, abolished a range of monopolies, reduced some taxes, and eased import and export restrictions. A host of new laws have been passed, including a new Foreign Investment Law. At the same time, many economic sanctions have been removed and international interest in the country has soared, opening up new markets and business opportunities. These important changes have garnered much attention, as have the challenges that still face foreign and large domestic businesses operating in Myanmar.

Despite their prominent place in Myanmar's growth strategy, less attention has been paid to the business environment encountered by Myanmar's small and medium enterprises (SMEs). The vast majority of businesses in Myanmar—99.4%, according to the President's Office—are SMEs.<sup>1</sup> Though they account for a much smaller share of GDP, their success will be inseparable from the growth and development of Myanmar's overall economy. For SMEs, the majority of business-government engagement happens with subnational governments, including various local and state/region authorities. This report provides an introduction to the day-to-day interactions between government and normal businesses in Myanmar.

While most interactions between business and government happen at the local level, the Union government has a wide range of powers to oversee and control the economy. These powers are often executed through offices of Union ministries located at the state, district, or township level. These offices, located in cities across Myanmar, perform tasks that range from industrial inspections (Directorate of Industrial Supervision and Inspection, Ministry of Industry) to tax collection (Internal Revenue Department, Ministry of Finance). Businesses also regularly engage with the General Administrative Department (GAD), especially at the township level, for a range of business-related concerns.

State and region governments rarely have direct interactions with SMEs. When they do engage directly with the private sector, this is largely limited to granting permissions or dealing with larger businesses. Indirectly, state and region governments have considerably more engagement through Development Affairs Organizations, which now fall under their control. For most urban micro and small enterprises in Myanmar, the Development Affairs Organizations (previously referred to as "municipal offices," or in Myanmar language *sibintharyaryay*) are the authorities with which businesses most regularly interact. They provide business operating licenses, construction permits, water, sewage service, and trash collection, as well as urban road maintenance, urban electricity (such as streetlights), and they collect building taxes. Development Affairs Organizations are also unique because they are

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<sup>1</sup> Organization for Economic Cooperation and Development, *Multi-dimensional Review of Myanmar: Volume 1 Initial Assessment* (Paris: Organization for Economic Cooperation and Development, 2013), 104.

largely self-funded through the collection of taxes and fees, and can make personnel decisions below the staff officer level without Union approval. They are the only significant administrative unit from the State Peace and Development Council (SPDC) era that has been partly decentralized to the newly formed state and region governments, and are a leading example of decentralization in modern Myanmar.

Despite the changes in governing structure over the last few years, offices under the control of both the Union and the state/region governments continue to work together on a wide range of issues affecting business. These offices form a web of interlinked, overlapping and often ambiguous authority. The responsibilities of one part of government are sometimes executed by another—for example when the GAD collects taxes on land or vehicles on behalf of the state. Instead of different parts of government having different responsibilities, often at the local level in Myanmar, every part of government plays a role in everything. This dynamic is at the root of the excessive red tape and bureaucracy that constrain businesses.

Businesses engage with government for a wide range of services and permissions. Among the most important of these examined in this report, are operating licenses, construction permits, inspections, taxation, finance, and the provision of infrastructure and basic utilities. Different firms experience these interactions very differently. Notably, such variation depends more on the size of the business, sector of operation and networks of the business owner, with fewer differences evident between geographic locations.

One of the more important business-government engagements is licensing. Operating licenses are granted by a wide range of authorities in Myanmar. Licenses for companies are granted by the Ministry of National Planning and Economic Development. Businesses operating in a range of sectors, from hotels and other tourism businesses, to mining, obtain licenses from the respective ministry in Nay Pyi Taw. Small shops and restaurants are granted licenses by Development Affairs Organization. Given the range of different authorities involved, there are dramatic differences in the time and cost of obtaining a license. Business representatives interviewed for this study noted that the time required ranges from 24 hours to over 5 years, and the cost is 30,000 kyat or more, with one business noting that it could not obtain a license regardless of how much it was willing to pay. Although some businesses reported that obtaining a license is easier than in previous years, many others said that this has not changed. Many businesses obtaining operating licenses at the Union level found licensing to be a significant obstacle to doing business, though most micro and small businesses thought that obtaining a license through the Development Affairs Organization was a relatively minor challenge.

Taxation is another key business-government interaction, and along with licensing was viewed by businesses as a major obstacle. Myanmar's taxation system is complex, unpredictable and opaque. A wide range of taxes and fees are collected, ranging from commercial and income taxes to land and building taxes, as well as fees for trash collection



and sewage service. Businesses almost universally viewed the two most lucrative taxes, the commercial and the income tax, as problematic. Business owners said that taxation does not follow prescribed schedules but instead depends on relationships, negotiation, and bribery. Many businesses said that they had no choice but to bribe tax officers. This has resulted in great differences in the amount of tax paid by similar businesses, and taxes that do not reflect the performance of the business.

Other important interactions, such as inspections and obtaining construction permits, were generally viewed as less of an obstacle to doing business. Most businesses noted that they had been inspected at some point, though the time and financial burdens were minimal. Others noted that inspections were largely just a formality. No business noted having difficulties receiving a construction permit, though the time and financial costs (both formal and informal) were greater than for inspections.

While most businesses found that the processes of licensing, awarding permits, taxation, and inspections had changed little in recent years, there was a common perception that communication with, and responsiveness from government, had improved. Some business owners said simply that government is now more open, or that it is easier to meet with government staff. Many new committees have been formed through which businesses can advocate for improvements in government services or infrastructure. Often these requests can be approved by the state cabinet, without higher authorization from Nay Pyi Taw.

The decentralization of some powers to state and region governments has been met with mixed reactions from businesses. Some medium and large businesses said that the rise of state governments, notably the new power centers of the Chief Minister and his/her cabinet of state ministers, only means more officials to bribe in order to get things done.<sup>2</sup> Yet others businesses saw positives, noting that state and region governments are more accessible to SMEs, especially through a number of new committees created to facilitate government engagement. Overall, there was a sentiment among interviewees that the business environment in Myanmar is improving but decentralization is generally not the major reason for this.

Two key institutional re-orientations will be essential for Myanmar if it hopes to improve the interactions between businesses and subnational governments. First, **the government needs to reduce red tape and bureaucracy and work to create an efficient and predictable business environment.** It is this, not the promotion of business, or specifically of SMEs, that will be fundamental to the country's development. Complementary to this, **Myanmar's civil service must re-orient from seeking rents to providing services.** Rent-seeking is especially pronounced in licensing and taxation, and gradually addressing this through increasing civil

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<sup>2</sup> Interview 001.

service salaries and penalties for corruption will help lower the cost of doing business and improve the allocation of labor and capital in the economy.

## Key Recommendations

<b>Institutional Reforms</b>
Clarify the roles of each level of government and their authority over business.
Clearly define the areas of authority for each state ministers.
Further decentralize authority over SMEs to the state and region level.
Improve the predictability of government, in both policy and implementation.
Provide capacity building to civil servants at the state and region level on business-government interactions.
<b>Licensing, Recommendations and Permits</b>
Reduce the need for recommendations for business licenses, construction permits and land transfers.
Move from a relationship-based approval process to a formalized, transparent rules-based process.
Decentralize the authority to issue operating licenses to the State/Region Minister for Development Affairs (and their subsidiary, Development Affairs Organizations) regardless of the sector of operation.
Revise the draft SME law to eliminate the need of an additional registration to access any benefits under the law.
Decentralize licensing of rural SMEs from the Union Ministry of Livestock, Fisheries and Rural Development to the State Ministry of Development Affairs.
Formulate or publish the licensing fee schedule to reduce uncertainty about fees.
Harmonize and publicize the cost of operating licenses across different sectors.
<b>Taxation</b>
Improve accountability in the tax system.
States and Regions should develop their own tax collection capabilities.
Reduce the incentives for tax officers to extort bribes.
Abolish the commercial tax and replace it with a Value Added Tax.
Restrict the ability of Development Affairs Organizations to charge fees for services that are not delivered in particular areas.
Reduce informal taxation of businesses.
<b>Business-Government Interactions</b>
Clarify the roles and responsibilities of various committees and eliminate duplication in the committee approval process.
Create more democratic and representative selection of committee members.
<b>Availability of Information</b>
Make forms and other relevant documents on registration and taxation readily available and free of charge.

## ONE: Introduction

Private sector development is an important part of Myanmar's recent reforms and fundamental for the country's development. To support business development, Myanmar's government has removed a number of restrictions on businesses, reduced some taxes, and eased import and export restrictions. New laws have been passed, and almost all economic sanctions by foreign countries have been lifted. International interest in doing business with Myanmar has soared. These changes have been mostly welcomed by the local business community, and are important steps in improving the business environment in Myanmar.

For some businesses, recent reforms have improved the business environment in ways that have had a noticeable impact on a business. For others, reforms have yet to make much difference. For the latter businesses, reforms have either not yet resulted in on-the-ground improvements or did not address their major constraints. One of the most important issues businesses face is their interaction with government, and reforms have only addressed these to a limited degree. Understanding and improving business/government engagement is essential in a country where the success and failure of a business is determined as much by interactions with government as by the business model.

This report examines the interactions between business and government in Myanmar. It focuses mostly on small and medium enterprises (SMEs), which make up 99.4% of all businesses in Myanmar though they contribute a much smaller share to the country's GDP.<sup>3</sup> For SMEs, most business-government engagement happens with subnational governments, including various local and state/region authorities. This report looks at business licensing, construction permits, inspections, taxation, infrastructure, and how businesses engage with government. It explores if, and how, this engagement has changed since 2011 under Myanmar's new government, especially in the wake of the decentralization of some authority to state and region governments. It is not intended to be a comprehensive guide to business-government interactions, but instead is an introduction to the day-to-day challenges of average businesses in Myanmar. The growth and development of Myanmar's economy is inseparable from the success of SMEs, and their success depends on understanding their current situation.

The report is divided into four sections. The first section provides an overview of Myanmar's current economic situation, as well as a review of recent reforms, with an emphasis on those that affect SMEs. The second section examines the question of who does what—how Myanmar's government is structured and the ways in which businesses interact with different parts of the government structure. The third section looks in detail at how businesses and

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<sup>3</sup> Organization for Economic Cooperation and Development, *Multi-dimensional Review of Myanmar: Volume 1 Initial Assessment* (Paris: Organization for Economic Cooperation and Development, 2013), 104.

government should and actually do interact. It examines many of the important engagements between government and SMEs, including both how processes are designed to work, and how they are working in reality. The fourth section concludes with key findings. The final section explores recommendations about how to improve the local governance of SMEs, including a number of simple and concrete steps that government at all levels can take to improve the business environment.

## **Methodology**

With the limited scope of this study, it was not possible to more systematically examine the numerous issues across all states and regions in Myanmar. Instead, the paper takes a first look at the role that local, state, and Union governments play in the economy. It aims to illustrate the interactions between subnational governments and business, especially SMEs.

The two cities selected for this study were Mawlamyine, the capital of Mon State in southern Myanmar, and Monywa, the capital of Sagaing Region in central Myanmar. There were numerous reasons for selecting these two cities as the sites for fieldwork. First, one lies in a region and the other in a state. This ensured that the fieldwork reflected, if only modestly, Myanmar's ethnic diversity. Secondly, these two cities are surrounded by different regional economies. Monywa is located in the central dry zone of Myanmar, in a predominantly agricultural area where crops such as beans and pulses play an important role in the economy. Ethnically, the area is predominantly Burman, it is located in the greater Ayeryawaddy/Chindwin Valley, and hosts a number of government institutions, including universities and military installations. Mawlamyine is located in southern Myanmar, also an important agricultural area but where crops including rice and rubber are more dominant. Ethnically, it is predominantly Mon, not in the Irrawaddy Valley, and located near the main trade route to Thailand. Monywa and Mawlamyine are comparatively large cities—both in the top 10 in Myanmar when measured by population and both have a significant number of SMEs.<sup>4</sup> Fieldwork sites were not selected based on the reputation or level of activity of the state/region government.

Fieldwork spanned 11 days in November 2013, in which 30 interviews and focus groups were conducted. In total, the research team interviewed representatives from 14 businesses, 4 associations (including trading associations, industrial zone committees, and Chambers of Commerce), and 12 government officials (including state and region government officials, Union staff in local and township offices, and Development Affairs Organization authorities). Due to the sensitive nature of many of the topics discussed, the identities of interviewees have not been disclosed. Any information that could reveal the identity of a business,

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<sup>4</sup> City Population. *Myanmar*. [http://www.citypopulation.de/Myanmar.html#Stadt\\_alpha](http://www.citypopulation.de/Myanmar.html#Stadt_alpha).

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government official or other interviewee has also been obscured to protect the confidentiality of interviewees, and interviewees are identified only by number.

## TWO: Overview

### Historical context

For the last half century, the private sector in Myanmar has faced widespread challenges from a series of governments that placed tight controls on business. The most extreme of these challenges came during the socialist era from 1962 to 1988—first under the Revolutionary Council (RC) and then under the Burma Socialist Party Program (BSPP). Under the RC, Myanmar's (or at the time, Burma's) economic policies were inward-looking and socialist, guided by the Burmese Way to Socialism. Most private enterprises, and especially those at the 'commanding heights' of the economy, were nationalized. The government nationalized agricultural and industrial production, distribution, transportation, communications, wholesale and retail stores, as well as banking, private education, and many other services.<sup>5</sup> It also prohibited private imports in 1963 and exports in 1964. Forming new private enterprises was banned in 1963,<sup>6</sup> and the few remaining private businesses were subject to a battery of physical and price controls.<sup>7</sup> Yet instead of resulting in a socialist utopia, the economy was mired in inefficiency and stagnation. The BSPP came to power in 1974 and by that time economic policies had loosened somewhat, at least informally. Major changes in the economy were not forthcoming, though, and by the late 1980s, two demonetizations and a general economic downturn had left the whole economy on the brink of collapse.

The socialist economy ended in 1988 with a popular uprising and the State Law and Order Restoration Council (SLORC) took power shortly thereafter. It opened up the economy to private enterprises and foreign investment, and shifted towards a market-based economy. During the time of the SLORC, and its successor the State Peace and Development Council (SPDC),<sup>8</sup> a number of laws and notifications were passed to encourage private sector development, including the Foreign Investment Law (1988), the Private Industrial Enterprise Law (1990), the Promotion of Cottage Industries Law (1991), and the Myanmar Citizens Investment Law (1994). It also established 18 industrial zones in various states and regions and encouraged SMEs to locate in these zones. Despite the shift towards a market-based and private sector-led economy, state-owned enterprises (SOEs) continued to play an important role in the economy, and businesses were restricted by a range of measures from licensing, to foreign currency controls, to foreign sanctions that, among other things, limited access to the US dollar financial system.

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<sup>5</sup> Tin Maung Than, *State Dominance in Myanmar: The Political Economy of Industrialization* (Singapore: Institute of Southeast Asian Studies, 2006), 113.

<sup>6</sup> Sean Turnell, *Fiery Dragons: Banks, Finance and Moneylenders in Burma* (Copenhagen: NIAS Press, 2009), 226.

<sup>7</sup> Myat Thein, *Economic Development of Myanmar* (Singapore: Institute of Southeast Asian Studies, 2004), 4.

<sup>8</sup> The SLORC changed its name to the SPDC in November 1997.

The new government led by President Thein Sein took power in 2011, and since its inception has been putting an emphasis on inclusive development, poverty reduction, and private sector growth, especially for SMEs. It passed a number of laws aimed at reforming the economy, including the:

- Foreign Investment Law (2012) – Widely considered one of the most important new laws, which gives foreign investors additional tax incentives, more clearly defined lists of restricted sectors, and other benefits.
- Citizens Investment Law (2013) – Largely similar to the previous year’s Foreign Investment Law, but affords the same tax and other incentives to citizens as well.
- Central Bank Law (2013) – Gives the Central Bank more independence from the Ministry of Finance and allows greater flexibility in overseeing Myanmar’s currency and financial sector.
- Foreign Exchange Management Law (2013) – Lifts restrictions on international transactions.<sup>9</sup>

The new government has also undertaken a wide range of other economic reforms which aim to liberalize trade and investment, shrink the size of state asset and enterprise holdings, expand the sectors in which private businesses can operate, and streamline the business environment for firms. It has also eased the enforcement of other economic restrictions, including licenses. Among the most important of these recent changes are:

- Aligning the exchange rate;<sup>10</sup>
- Eliminating the ‘export first’ policy;<sup>11</sup>
- Eliminating foreign exchange certificates (FECs);<sup>12</sup>
- Issuing international banking licenses to private banks in Myanmar;<sup>13</sup>
- Easing licensing requirements for imports and exports (March 2013). In an effort to promote trade, the Ministry of Commerce abolished formerly compulsory import licenses for 166 goods and export licenses for 152 goods;<sup>14</sup>
- Reducing barriers and waiting times to obtain operating licenses;
- Privatizing SOEs and other state assets;

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<sup>9</sup> Yin Mya, *Country Presentation: Myanmar – “Progress of Reforms in Myanmar,”* Conference Presentation, 46<sup>th</sup> Asian Development Bank Annual Meeting, Delhi, India, May 4, 2013. Retrieved from <http://www.adb.org/sites/default/files/annualmeeting/2013/delhi-2013-myanmar-country-presentation-20130504.pdf>.

<sup>10</sup> Daniel Ten Kate and Lilian Karunungan, “Myanmar Sets Kyat Reference Rate as It Adopts Managed Float.” *Bloomberg News*, April 2, 2102. <http://www.bloomberg.com/news/2012-04-02/myanmar-sets-kyat-reference-rate-as-it-adopts-managed-float-2-.html>.

<sup>11</sup> The ‘export first’ policy required that imports to Myanmar be paid for using only earnings from exports.

<sup>12</sup> Joseph Allchin, “Govt to Phase out FECs, Cut Export Taxes.” *Democratic Voice of Burma*, August 15, 2011. <https://www.dvb.no/news/govt-to-phase-out-fecs-cut-export-taxes/17047>.

<sup>13</sup> Yin Yin Mya. (2013). *op cit*.

<sup>14</sup> VDB Loi, *Myanmar Starts with Abolishing Import and Export Licenses*. <http://www.vdb-loi.com/vdb/analysis/myanmar-starts-with-abolishing-import-and-export-licenses/>.

- Reducing the corporate income tax rate for companies;<sup>15</sup>
- Simplifying the commercial tax on domestic sales in September 2011;<sup>16</sup>
- Eliminating the profit tax, starting in April 2012;<sup>17</sup>
- Reducing export taxes;<sup>18</sup>
- Abolishing the withholding tax on imports;
- Eliminating a tax on key agricultural exports to support external competitiveness.<sup>19</sup>

Lastly, in order to guide the country's long term economic development and reforms, Myanmar's government has developed the Framework for Economic and Social Reforms.<sup>20</sup> The Framework "outlines the policy priorities for the government in the next three years while identifying key parameters of the reform process that will allow Myanmar to become a modern, developed and democratic nation by 2030."<sup>21</sup> It also covers a wide range of policy areas directly relevant to SMEs, including macroeconomics, improved governance and improved public expenditure.

### Small and medium enterprises

Large-scale private industrial enterprises were treated more favorably than other sectors during the SLORC and SPDC eras. Under the new government, more emphasis is being given to the importance of SMEs for the Myanmar economy. According to the President's Office, SOEs and large enterprises account for less than 1% of Myanmar's nearly 127,000 registered enterprises.<sup>22</sup> SMEs account for the vast majority of registered enterprises, though the figures estimate that there are also 620,000 informal enterprises in Myanmar.<sup>23</sup>

The definition of SME in Myanmar dates back to the SLORC era, and as such, reflects the emphasis on industrial production that characterized that time. Four different metrics are used to assess firm size, including an industrial-focused indicator of power used (measured in horsepower). Myanmar's previous and current definitions of SMEs come from the Private Industrial Enterprise Law of 1990 and the updated Private Industrial Enterprise Law of 2011.

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<sup>15</sup> World Bank, *Doing Business 2014: Understanding Regulations for Small and Medium-Size Enterprises*. (Washington, DC: World Bank Group, 2013).

<sup>16</sup> Ministry of Finance, *Commercial Tax Law (1990)*.

[http://www.irdmyanmar.gov.mm/eng/?q=taxlaw\\_and\\_notifications/commercial-tax-law](http://www.irdmyanmar.gov.mm/eng/?q=taxlaw_and_notifications/commercial-tax-law).

<sup>17</sup> "Myanmar Expected to Cancel Profit Tax in April." *People's Daily Online*, February, 14 2011.

<http://english.people.com.cn/90001/90777/90851/7286543.html>.

<sup>18</sup> "Exporters Want Burmese Government to Reduce Export Taxes More." *Burma News International*. July 20, 2011. <http://www.bnionline.net/index.php/news/mizzima/11190-exporters-want-burmese-government-to-reduce-export-taxes-more.html>.

<sup>19</sup> Yin Yin Mya. (2013). *op cit*.

<sup>20</sup> Government of the Republic of the Union of Myanmar, *Framework for Economic and Social Reforms: Policy Priorities for 2012-15 towards the Long-Term Goals of the National Comprehensive Development Plan* (Nay Pyi Taw: Government of the Republic of the Union of Myanmar, 2012).

<sup>21</sup> *Ibid*.

<sup>22</sup> Nay Pyi Taw News (2013). *op cit*.

<sup>23</sup> *Ibid*.



**Classifications for Small, Medium and Large Enterprises(1990  
Private Industrial Enterprise Law)**

Category	Small	Medium	Large
Power used (in horsepower)	3 to 25	25 to 50	50 +
Number of employees	10 to 50	51 to 100	100 +
Capital (million kyat)	0 to 1	1 to 5	5 +
Annual turnover (million kyat)	0 to 2.5	2.5 to 10	10 +

**Classifications for Small, Medium and Large Enterprises (2011  
Revised Private Industrial Enterprise Law)**

Category	Small	Medium	Large
Power used (in horsepower)	5 to 25	25 to 50	50 +
Number of employees	10 to 50	50 to 100	100 +
Capital (million kyat)	0 to 1	1 to 5	5 +
Annual turnover (million kyat)	0 to 2.5	2.5 to 5	5 +

As evident above, the Private Industrial Enterprise Law of 1990, and the 2011 revision, focuses on small- and medium-sized industries. However, a draft SME law is currently under consideration in Myanmar which would redefine SMEs and create a range of new committees and promotion mechanisms. The stated purpose of the new law is twofold:

1. “To develop the economy throughout the country by promoting the development of small and medium enterprises, to create job opportunities, to generate new incomes and raise the standard of living.
2. To provide a conducive environment for SME development that facilitates growth and improves competitiveness, including easy access to business-related information, technical support services, funding, and access to national and international markets.”<sup>24</sup>

The draft law also notes the need to establish the “necessary legal and administrative framework for enabling SMEs to flourish by reducing barriers for businesses” as well as the need to promote entrepreneurship, innovation, vocational education and training, and financing mechanisms.<sup>25</sup>

The draft SME law also changes the definition of SMEs to include non-industrial enterprises, though it does have different definitions, depending on the sector. SMEs are grouped into three categories, depending on whether they are labor intensive, capital intensive or in the service sector. The proposed SME law *does not* exclude micro enterprises that employ fewer than 10 workers, and which were previously defined as cottage industries. These definitions are as follows:

<sup>24</sup> Government of the Republic of the Union of Myanmar, *Draft SME Law* (Nay Pyi Taw: Government of the Republic of the Union of Myanmar, 2013).

<sup>25</sup> *Ibid.*

**Proposed Classifications for Small, Medium and Large Enterprises under the Draft SME Law<sup>26</sup>**

<i>Manufacturing, Mining, Construction and Quarrying Sectors</i>			
	Small	Medium	Large
Number of Employees	0-50	51-300	301+
Capital (million kyat)	0-500	501-1000	1001+
<i>Labor-intensive or Contract Manufacturing Sector</i>			
	Small	Medium	Large
Number of Employees	0-300	301-600	601+
Capital (million kyat)	0-500	501-1000	1000+
<i>All Other Industries</i>			
	Small	Medium	Large
Number of Employees	0-30	31-200	201+
Annual Turnover (million kyat)	0-50	51-100	100+

There is potential for these classifications to overlap. For example, some SMEs could meet some of the criteria for a large enterprise and some for a medium enterprise. Other SMEs may have some operations that are labor intensive and others that are capital intensive. The law makes no reference regarding how businesses with the attributes of several size or sector classifications will be handled. The new law also proposes a new, Union-level registration regime. This new registration will be open to all SMEs that can register at a yet-to-be-specified office, though one interviewee noted that registrations will take place at a local office of the SME Development Center.<sup>27</sup>

In April 2012, the government established the Central Department of Small and Medium Enterprises Development (commonly referred to as the SME Development Center) under the Ministry of Industry. The SME Development Center is intended to support, give guidance and monitor the performance of SMEs. The establishment is a requirement of the ASEAN Economic Community (AEC) blueprint, and mandatory for all ASEAN member countries.<sup>28</sup>

SME financing is also a priority area for the government and the business community. The Union government, through the SME Development Center, and in cooperation with the Small and Medium Industrial Development Bank (SMIDB) has started a loan program for SMEs, regardless of their sector. The loans are available for 1-year terms, at an interest rate of 8.5%, with collateral. The terms are similar to standard commercial loans in Myanmar, though the interest rate is lower than the near-universal 13% on commercial loans. Although all SMEs

<sup>26</sup> *Ibid.*

<sup>27</sup> The SME Development Center is also known as the Central Department of Small and Medium Enterprises Development, the SME Service Center and the SME Center. Currently, there is only one SME Service Center located at No (35), B15, New University Ave, Bahan Township, Yangon.

<sup>28</sup> Central Department of Small and Medium Enterprise Development, *Organization Chart*. [http://www.smedevelopmentcenter.gov.mm/?q=en/org\\_chart](http://www.smedevelopmentcenter.gov.mm/?q=en/org_chart).

can apply for loans, preferential treatment is still given to the industrial sector over the service or trading sectors. Moreover, loans are not limited only to SMEs. Large enterprises are also eligible to apply, although the SMIDB and the SME Development Center are intended to work with SMEs.

There is widespread international interest in SME development in Myanmar. Both the German government and the Japan International Cooperation Agency (JICA) are considering programs for SMEs. GIZ is providing capacity building for SMEs through its private sector development program. In collaborating with the SME Development Center, the Friedrich Naumann Foundation has also been providing technical training to SMEs.<sup>29</sup>

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<sup>29</sup> The information, which FNF provided technical training at Mandalay Industrial Training Center, was found in *The Golden Industrial Journal*, (November 2013), 6.

### **THREE: Government Structure and Distribution of Authority**

Recent reforms in Myanmar have brought changes to the structure of government, most notably in the newfound autonomy of states and regions and the partial decentralization of Development Affairs Organizations to these states and regions. Reforms have also brought some changes in the distribution of responsibilities over business. Despite these changes, the majority of formal and informal powers over business remain with the Union government and its hierarchical subnational governing structures. Many of the day-to-day business-government interactions remain largely unchanged from the previous government.

#### **Union government and its subnational hierarchy**

The Union government plays a dominant role in overseeing business in Myanmar. The legacy of Union dominance stretches back more than half a century, with the most extreme vestige being the nationalization of much of the private sector in the 1960s. Following the Soviet model, at this time, the government *was* business in many of the most lucrative and important sectors of the economy, including trade and industry. While the State Law and Order Restoration Council (SLORC) transitioned to a “market” economy, state-owned enterprises (SOEs) remained dominant in key sectors. Some private businesses were also allowed in key sectors with the permission of the government, leading to the rise of crony capitalism.

The Union government plays a central role in many of the most important aspects of economic governance. Providing permissions and licenses to do business in most lucrative sectors, especially natural resources, is the exclusive domain of the Union government. Licenses to import and export are also issued by the Union government. Most tax revenue goes to the Union government, which has the constitutional authority to collect all currently lucrative taxes, including the commercial tax, income tax, and natural resource-related taxes. The *Pyidaungsu Hluttaw* (Union Parliament) has the authority to make laws and rules regarding most economic activities. In short, to do business of any scale in Myanmar, permission from, and engagement with, the Union government is essential.

While engagement with the Union government often involves dealing with Nay Pyi Taw, the Union and its ministries also maintain a wide range of subsidiary offices at the state/region, district, and township level. It is with these subsidiary offices that SMEs most often interact. Among the most important of these subnational subsidiaries is the General Administrative Department (GAD) under the Ministry of Home Affairs. The GAD has a presence at all levels of the subnational hierarchy. The GAD is discussed in depth in the publication, *State and Region Governments in Myanmar*.<sup>30</sup>

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<sup>30</sup> Hamish Nixon, Cindy Joelene, KyiPyar Chit Saw, Thet Aung Lynn and Matthew Arnold. *State and Region Governments in Myanmar* (Yangon: The Asia Foundation and Myanmar Development Research Institute-CESD), 31-35.

At the state and region level, the GAD has little direct engagement with business. Among the most important functions of the GAD at this level is providing support and staffing to the state government and the state/region *hluttaw* (parliament). At the district level, the GAD similarly has little direct interaction with business though it plays an important role in coordinating activities between higher and lower levels of government. It also works in consolidating information collected at lower levels and passing that upwards. In terms of direct interactions with businesses, the only engagement noted by interviewees was that of district administrators approving licenses for shops selling alcohol. Land grants can also be approved by the district GADs.<sup>31</sup>

The most important level of GAD interaction for many businesses is the township, which regularly engages with micro and small businesses. The township GAD is headed by the township administrator, and supported by staff officers and lower level staff. According to one township administrator, the township GAD is responsible for promoting social and economic development through management of township affairs, oversight of implementation for higher level projects and coordinating with other parts of government.<sup>32</sup> Direct interactions between the township GAD and businesses include licensing stores that sell particular goods such as alcohol. The GAD also provides the recommendations necessary for a range of licenses and permits, including land transfers, construction permits and operating licenses, and collects certain taxes on alcohol and land. Ward and village administrators are the lowest level of the GAD's hierarchy, and their engagement with businesses is limited to providing recommendation letters for certain licenses and permissions.

Like the GAD, many other Union ministries have offices at the state, district and township levels that engage directly with businesses. Interviewees noted a range of these, including the:

- Internal Revenue Department, Ministry of Finance – Collects income and commercial taxes from businesses, as well as various other taxes and duties.
- Settlement and Land Records Department, Ministry of Agriculture and Irrigation – Oversees the registration and transfer of land.
- Directorate of Industrial Supervision and Inspection, Ministry of Industry – Conducts inspections of businesses as part of the licensing process, as well as inspections of electrical wiring, transformers, and boilers in industrial enterprises, both within and outside industrial zones.
- Township Police, Ministry of Home Affairs – Sustains law and order, and provides recommendations for businesses to transfer land and obtain construction permits and business operating licenses.

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<sup>31</sup> Interview 014.

<sup>32</sup> Interview 022.

- Township Fire Service Department, Ministry of Social Welfare, Relief and Resettlement – Provides recommendations for businesses to obtain construction permits and operating licenses.
- Township Health Department, Ministry of Health – Provides recommendations for businesses to obtain construction permits and operating licenses.
- Ministry of Labor – Conducts local inspections, notably of enterprises in industrial zones.

This list is far from a comprehensive register of the Union government presence at the local level, and excludes many ministries (for example, the Ministry of Education) that have a local presence but little direct engagement with business. It also excludes some sectoral ministries, such as Mining and Forestry that are active and have offices at the local level, but only interact with businesses in their respective sectors. Nonetheless, the list reveals the strong presence of the Union even in basic government functions at the local level.

### **State and region governments**

State and region governments serve both as part of the Union government hierarchy as well as independent governing bodies. With the exception of the legislative and taxation powers granted to state and region governments in the 2008 Constitution (and attached as Annex 1 and Annex 2), state and region governments have limited power over business. The business-related legislative powers that states have are limited and not in strategic or lucrative sectors. For example, in the industrial sector, states are given the power in “industries other than those prescribed to be undertaken by the Union level,” as well as “cottage industries.”<sup>33</sup> In practice, oversight of all industries is under the jurisdiction of the Union, leaving little power for states and regions. Similarly, in the energy, electricity, mining and forestry sectors, states and regions have been given authority over only five small areas, including “salt and salt production, cutting and polishing of gemstones..., and village firewood plantations,” none of which are significant economic sectors.<sup>34</sup>

The 2008 Constitution prescribes a range of taxation powers to the states and regions, though again, most are limited in their power to raise revenue. Among the most important of taxation powers granted to states and regions is the right to collect land and excise revenue. Most of the other taxation powers granted to states and regions yield little income. For example, states and regions have the right to returns from state-owned property and investments. However, most states and regions have few, if any of these, though some Chief Ministers, State Ministers, and Regional Military Commands have ownership stakes in businesses.<sup>35</sup> States and regions are also afforded a number of relatively regressive, direct taxation powers including over use of jetties, state-maintained toll roads, entrainments, etc. but again they

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<sup>33</sup> Constitution of Republic of the Union of Myanmar Annex II.

<sup>34</sup> *Ibid.*

<sup>35</sup> Interview 005.

yield little revenue. Notably, states do not have their own revenue collection offices (though they do have an oversight office, headed by the State Minister for Finance). Most taxes that are granted to States and Regions in the Constitution are collected through either Development Affairs Organization workers, the township GAD, or the Internal Revenue Department (IRD), and then passed along to the state governments.

### **Development Affairs Organizations**

Among the most notable, and until now largely ignored reforms for business is the decentralization of Development Affairs Organizations from the Union to state and region governments. Development Affairs Organizations, previously referred to as municipal offices in English or *sibintharyaryay* in the Myanmar language, are also commonly referred to as “city development committees.” They fall under the authority of the State Minister for Development Affairs. Development Affairs Organizations are responsible for delivering a range of services to residents and businesses in urban areas in Myanmar. These services include the provision of city roads and bridges, water, sewers, garbage removal, street cleaning, and electricity in public spaces in urban areas (e.g. streetlights).<sup>36</sup> Development Affairs Organizations are responsible for providing operating licenses to a wide range of businesses. Public sector interviewees noted that it takes 7 to 10 business days and costs 200-300 kyat in fees for the documentation needed to obtain a license.<sup>37</sup> Development Affairs Organizations also issue special operating permits for businesses in certain sectors, such as butchers or shops that sell dangerous goods and they issue construction permits for both commercial and residential projects. In some cities, they conduct inspections of industrial enterprises operating within urban areas.<sup>38</sup>

Most Development Affairs Organizations have a central office for coordination, while much of the implementation and contact with citizens happens through “Township Development Affairs Organization” offices which are in charge of service delivery.<sup>39</sup> Township Development Affairs Organization offices have fieldworkers who work throughout urban areas collecting taxes and fees, licensing businesses, and delivering other services. However, township Development Affairs Organization offices are not the same as township GAD offices. Development Affairs Organization offices can cover more than one township. For example, Yangon’s Development Affairs Organization, the Yangon City Development Committee, covers all townships in Yangon City, a much larger area than any single township. Development Affairs Organizations are also under the authority of, and funded through, state and region governments, while township GADs are under the authority and funding of the Union government.

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<sup>36</sup>Interviews 003 and 017.

<sup>37</sup>Interview 003.

<sup>38</sup>Interview 003.

<sup>39</sup>Interview 003.

The decentralization of Development Affairs Organizations is especially notable because they are the only sizable part of the previous Union government whose authority has been meaningfully shifted to state and region governments. Possibly the most important sign of this devolution is the power to make personnel decisions. Previously, Development Affairs Organizations were referred to as municipal offices and came under the Ministry of Progress of Border Areas and National Races and Development Affairs and functioned identically to any other department in a Union ministry. Since the decentralization, states and regions have had unparalleled power to make personnel decisions in Development Affairs Organizations, though these powers are not unrestricted. Understanding the limits of these powers takes some explanation of Myanmar's civil service structure. The civil service is divided into 12 levels, the top six comprising the commissioned civil service, and the bottom six the non-commissioned. Commissioned civil servants are recruited through the Union Civil Service Board in Nay Pyi Taw or direct transfer from military service. Any government official in the commissioned service, whether they work for a Union ministry or a state/region government, must be approved in Nay Pyi Taw. Non-commissioned officers, which include all staff up to the Deputy Staff Officer level, are hired directly by a ministry or state/region government. With the decentralization of Development Affairs Organizations, non-commissioned staff that work for Development Affairs Organizations are hired directly by the Development Affairs Organization without Union approval.<sup>40</sup> If Development Affairs Organizations have staffing needs, they approach the State Minister of Development Affairs who proposes the hiring to the final decision maker, the State or Region Chief Minister.<sup>41</sup> Thus, for Development Affairs Organizations, states and regions have the same hiring authority as a Union ministry. Notably, Development Affairs Organizations are the only body under the states and regions with this authority over personnel.

Development Affairs Organizations also have the right to raise revenue through fees for public services, as well as business registrations. In practical terms, many of the revenue powers assigned to the states (such as the collection of land tax) are collected through other entities. This is partially by necessity because state and region governments have no tax office of their own. Instead they only have a State Minister for Finance and Revenue. States and regions are also dependent on regressive, direct taxes for revenue.

The publication, *State and Region Governments in Myanmar* found that "the administrative structure for carrying out the responsibilities given to states and regions in Schedule Two is still situated broadly within the union ministries."<sup>42</sup> While largely true, the devolution of Development Affairs Organizations from union to state/region authority represents the most notable exception to this trend. While all other state ministers lack a state and region ministry to lead, the State Minister of Development Affairs often has a large institution under his or

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<sup>40</sup> Deputy Staff Officers are the highest level of the "non-commissioned" civil service in Myanmar. Any hiring and firing decisions at the Staff Officer level and above are conducted through the Union Civil Service Board.

<sup>41</sup> Interview 017.

<sup>42</sup> Hamish Nixon., *et al. op cit.*, 28.



her direct oversight.<sup>43</sup> All this raises the question of whether the newfound decentralization of Development Affairs Organizations can help improve the local business environment for SMEs in Myanmar?

### **Engagement between Union and state and region governments**

Despite the newfound independence of the state and region governments and their subsidiary Development Affairs Organizations, there is still a significant amount of overlap, coordination and dependence between all levels of government. Examples of this include inspections conducted by officers from many different Union and Development Affairs Organization authorities, and the collection of taxes by GAD or IRD on behalf of the state or region. For example, The Department of Industrial Supervision and Inspection under the Ministry of Industry (Mol) works in tandem with the Ministry of Health and Development Affairs Organization inspectors to carry out inspections of sewage, water and other services at industrial businesses in urban areas.<sup>44</sup> Directorate of Industrial Supervision and Inspection (DISI) officials also conduct electricity inspections, boiler inspections and work with industries to get licenses from Mol, mostly by feeding information to the ministry in Nay Pyi Taw.<sup>45</sup> In rural areas where there are no Development Affairs Organizations, township GADs collect land taxes for the state government. When paying tax, businesses first receive a tax notice and go to the IRD to finalize their tax bills. They are then issued a receipt which they take to the local branch of the Myanmar Economic Bank (MEB) to pay.

State Ministers are a pronounced example of the ambiguous responsibilities in the new state and region governments. State Ministers play an important role in feeding information up the integrated union government hierarchy. In their interviews for this study, State Ministers noted various responsibilities including “submitting reports to union ministries,”<sup>46</sup> “monitoring,”<sup>47</sup> “coordinating plans mandated by the central government,”<sup>48</sup> and “assisting the union government.”<sup>49</sup> Despite their close integration into the union hierarchy, State Ministers are nominally under the state and region governments and can also drive their own agendas and projects. To do this, the State Ministers must first seek support from the State or Region Chief Minister, who then takes these ideas up at the Union level.<sup>50</sup> State Ministers also play a role in approving larger projects by private businesses. However, as many interviewees noted, this role is unclear and informal.<sup>51</sup> As interviews with State Ministers and other examples illustrate, differences in how businesses interact with nominally different

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<sup>43</sup> *Ibid.*

<sup>44</sup> Interview 003.

<sup>45</sup> Interview 005.

<sup>46</sup> Interview 005.

<sup>47</sup> Interview 005.

<sup>48</sup> Interview 005.

<sup>49</sup> Interview 005.

<sup>50</sup> Interview 005.

<sup>51</sup> Interview 010.

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parts of the government are widespread, and can lead to confusion about who has authority to make decisions.

## **FOUR: The Reality of Business-Subnational Government Engagement**

Businesses in Myanmar engage with government regularly on a range of issues, from obtaining licenses and paying taxes to requesting improvements in infrastructure. Though fieldwork for this study was conducted in two different states, little discernible difference in the governance of business was found between these two. This was due, in part, to limitations on the time and number of interviews conducted for this study. Undoubtedly if fieldwork had been conducted in Kachin or Rakhine States, different conclusions might have been reached. However, it may also be the case that there is simply little geographic difference in the local governance of SMEs. This would not be surprising, given Myanmar's institutional history, in which the Union government was paramount and, until 2011, virtually all the institutions with which SMEs interacted were under Union control.

### **Business operating licenses**

The power to grant operating licenses to businesses in Myanmar is spread across a wide range of authorities in various union ministries and Development Affairs Organizations. The type of operating license required depends on the size and sector in which the business operates, the corporate form of the business (whether the business is incorporated as a company under the Myanmar Citizens Investment Law or the Foreign Investment Law), the location of the business, and the products carried. Based on these factors, there are dramatic differences in the cost and ease of obtaining an operating license. The extremes encountered in this research ranged from obtaining a license on the same day to being unable to obtain a license after more than 5 years. For most medium and large enterprises, the current licensing regime represents a significant obstacle to doing business and is one of the primary ways that government extracts bribes from the private sector. However, for most micro and small enterprises, obtaining a Development Affairs Organization operating license is a significantly less severe obstacle.

#### *Company licenses from the Ministry of National Planning and Economic Development*

Through the Directorate of Investment and Company Administration (DICA), the Ministry of National Planning and Economic Development (MNPED) registers all businesses that invest under the Foreign Investment Law and the Myanmar Citizens Investment Law.<sup>52</sup> Businesses in Myanmar are not required to invest under these laws, but they do afford a range of benefits to investors, notably tax incentives. Registrations with the MNPED are based on their corporate structure, as all businesses registered must be corporations. Registration with other Union-level ministries is based on the type of economic activity. If a business operates

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<sup>52</sup>The Myanmar Citizens Investment Law was first passed in 1994, and updated in July 2013. The law provides domestic investors with a range of incentives comparable to those under the foreign investment law. Note that foreign companies also register with DICA, however they do so under the Foreign Investment Law.

in a sector that does not need a sectoral-based operating license (discussed below), the MNPED registration is the only operating license required to do business.

Most businesses in Myanmar are not registered with the MNPED as the cost is high and the process cumbersome. Only one interviewee had obtained a license from the MNPED, which was acquired with comparative ease. This business owner noted that the license cost 1 million kyat and the process took 7-10 days. The application required a copy of the owner's ID card, Board of Directors list, shareholder list, and evidence of paid up capital.<sup>53</sup> This experience may not be reflective of what the average business encounters, however. The World Bank's *Doing Business* report for 2013 ranked Myanmar as the hardest country in the world in which to start a business.<sup>54</sup> The Bank estimated that obtaining a license took, on average, 11 procedures, 72 days, and cost \$1,475 (1.43 million Myanmar kyat).

#### *Licenses from union ministries*

Many businesses obtain operating licenses from the Union ministry responsible for the sector in which the business wishes to operate. While many Union ministries handle registration, some of the more important ones are the Ministry of Industry, Ministry of Commerce, Ministry of Mines, and Ministry of Hotels and Tourism. For example, manufacturing firms register with the Ministry of Industry, while trading and services firms register with the Ministry of Commerce. Businesses from many economic sectors can register with the Ministry of Cooperatives, as long as they have fewer than 10 employees.

In practice, the cost, length of time required and availability of operating licenses varies widely across ministries and between businesses. One interviewee described his/her challenging experience in obtaining a license from the Ministry of Hotels and Tourism. The owner noted that it took 6 months to obtain the license and cost 1 million kyat, though "only 20,000 kyat" ever went to official coffers.<sup>55</sup> The process involved at least five inspections and obtaining numerous permissions, and is illustrated below:

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<sup>53</sup> Interview 016.

<sup>54</sup> World Bank, (2013), *op cit.*

<sup>55</sup> Interview 013.



However, other business owners interviewed did not report the same cumbersome process in obtaining an operating license. Interviewees from two industrial enterprises that had been in operation for some time, noted that when they obtained their licenses, the process was relatively easy. They said the costs were low—30,000 kyat and 50,000 kyat, respectively. This variation is unsurprising since the Ministry of Industry assesses fees at different levels, based on the size of the business.<sup>56</sup> Another interviewee from a services company noted that the business recently expanded into a new sector and received a license in 10 days. This entrepreneur noted that while businesses previously had to apply in Nay Pyi Taw, local officials were now required to process the application within 5 days.<sup>57</sup>

### *Development Affairs Organization licenses*

Most SMEs in urban Myanmar have an operating license granted by the Township Development Affairs Organization. These licenses are granted to many types of businesses, however the two most common are restaurants and small shops. Development Affairs Organizations also collect daily fees from street merchants, but most of these businesses would be classified as micro enterprises, not SMEs.

To obtain a Development Affairs Organization license, businesses provide a completed application form (a 1-page document), a fee, an ID card copy, a household list, and a ward administrator's recommendation to the Development Affairs Organization. Business

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<sup>56</sup> Interview 028.

<sup>57</sup> Interview 008.

interviewees often noted that they did not need to visit the Township Development Affairs Organization office to obtain their license, as all paperwork can be completed by Development Affairs Organization employees who visit them. Licenses are renewed annually, again often by Development Affairs Organization employees who visit the business. Some business owners noted that their Development Affairs Organization license fees have been increasing. One owner reported that his Development Affairs Organization license fees had more than tripled since he started his business two years ago.<sup>58</sup> Yet the cost of Development Affairs Organization licenses was comparatively low—no business mentioned paying more than 80,000 kyat for a 1-year license.

In rural Myanmar, where Development Affairs Organizations do not exist, operating licenses are issued by the Department for Rural Development in the Ministry of Livestock, Fisheries, and Rural Development.<sup>59</sup> Until recently, operating licenses for both urban and rural businesses were issued by the Department for Development Affairs in the former Ministry of Progress of Border Areas and National Races and Development. However, authority for Development Affairs Organizations was transferred to states and regions, while authority for rural development was transferred to the former Ministry of Livestock and Fisheries.

### *Other licenses*

Businesses are often required to obtain a range of other licenses depending on the type of business in which they are engaged. Development Affairs Organizations offer a range of licenses and permissions, including for the sale of dangerous goods, the operation of a home-based shop, and for specific sectors such as butchers.<sup>60</sup> Township GADs are also a common place from which businesses must obtain licenses and permissions. Licenses for particular activities, including the sale of alcohol and real estate, are issued by the GAD.<sup>61</sup> While not a steadfast rule, township GADs are often involved in economic activities that could be perceived as having 'social' implications.<sup>62</sup>

The vast differences in the licensing regime have a number of negative consequences. Most notably, centralization of licensing for many sectors at the Union level raises the financial and time costs for obtaining a license. Higher barriers to entry decrease the number of businesses operating in these sectors, lessening competition. Higher costs tend to favor established and more financially stable companies and artificially disadvantage SMEs, which generally lack the capital that larger firms can access. Bigger businesses also generally have better access to networks and are more able to pay bribes to move the licensing process along. In addition,

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<sup>58</sup> Interview 008.

<sup>59</sup> Interview 017.

<sup>60</sup> Interview 017.

<sup>61</sup> Interview 017.

<sup>62</sup> Social implications could include activities that may affect social stability and law and order, for example selling alcohol or educational services.

the complexity of the licensing regime encourages the clustering of businesses, such as street vending, small shops and restaurants, in sectors where the barriers to entry are not high. However, excessive competition in these sectors also lowers the profit margins of the businesses concerned.

### **Construction permits**

In urban areas, in order to build buildings, businesses must obtain a construction permit from the Development Affairs Organization authorities. Construction permits were not often cited by businesses as a significant obstacle to doing business in Mawlamyine and Monywa. However, some business owners noted that bribes were required in order to obtain these permits.<sup>63</sup> One business owner described the process of obtaining a construction permit as follows: First, obtain recommendations from the township fire department, health department, police, and ward administrator. Then, take these recommendations, as well as proof of land ownership to the township administrator. The township administrator “scrutinizes” the land records of the applicant and submits it to the Development Affairs Organization if everything is in order.<sup>64</sup> The Development Affairs Organization approves the permit with the payment of a one-time fee.<sup>65</sup> Buildings above a certain height (in Monywa, 4-5 stories) require approval from the regional government.<sup>66</sup>

In obtaining a construction permit, businesses in rural areas do not follow the same process as businesses in urban areas. Since there are no Development Affairs Organization authorities in rural areas, rural businesses do not need to obtain a construction permit.<sup>67</sup> Instead the land owner must get the approval of neighboring landowners on all sides (North, South, etc.), as well as a recommendation from the village administrator and provide evidence of land ownership.<sup>68</sup> When these requirements have been met, the owner can start construction.

### **Inspections**

While not uncommon, inspections and other ongoing examinations of existing businesses were generally not viewed as a significant obstacle to doing business. Businesses almost always found that these presented a significantly smaller financial and time burden than obtaining the licenses and permissions needed to operate a business.

Businesses reported a range of different inspections, which are often sector specific. A few industrial enterprises in industrial zones (IZs) reported an annual visit from an inspector from

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<sup>63</sup> Interview 013.

<sup>64</sup> Interview 022.

<sup>65</sup> Interview 003.

<sup>66</sup> Interview 022.

<sup>67</sup> Interview 015.

<sup>68</sup> Interview 026.

the Ministry of Labor.<sup>69</sup> Another enterprise in an IZ noted that they had inspections of electrical work and boilers from the Ministry of Industry.<sup>70</sup> Other businesses in industrial zones reported that they did not receive any inspections, as was the case with some businesses in urban areas.<sup>71</sup> When discussing Development Affairs Organization inspections, one business owner said that they existed “only on paper.”<sup>72</sup> Examples of sector-specific inspections include pharmacies, which receive annual inspections from a team of officials from the Food and Drug Administration, the township GAD, township medical officer, police, Development Affairs Organization, and fire department.<sup>73</sup>

Notably, no businesses reported that inspections were used to extract bribes from owners unless these were part of the licensing process. Fines could be levied but these were generally in response to violations.<sup>74</sup> Some business owners noted that they had to pay fees for the inspection, but the only business to specify cost noted that it was generally 4,000 to 5,000 kyat and for inspections of electrical wiring.<sup>75</sup> Generally speaking, though, ongoing inspections that were not part of the licensing process were not used as a way to exert control or extract bribes from businesses.

### **Taxes and fees**

Myanmar’s taxation system is complex, unpredictable and opaque, and an area of significant concern for businesses. There are many ministries and other government bodies that collect taxes and fees ranging from income tax to fees for sewage service and trash collection. Along with licensing, collection of taxes and fees is an area in which perceptions of government corruption are common and viewed as a significant obstacle to doing business. Almost universally, business owners said that taxes did not follow prescribed schedules but instead depended on relationships, negotiation, and bribery.

The two most important taxes for businesses in Myanmar, the commercial tax and the income tax, are both collected by the central government’s Internal Revenue Department (IRD). Commercial tax is, by a small amount, the most important tax and accounts for 50% of the Department’s revenues.<sup>76</sup> For most goods and services, commercial tax is 5% on the total sales of a business, less the costs of any intermediate goods. Businesses can deduct the cost

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<sup>69</sup> Interviews 012 and 027.

<sup>70</sup> Interview 015.

<sup>71</sup> Interviews 007 and 008.

<sup>72</sup> Interview 009.

<sup>73</sup> Interview 018.

<sup>74</sup> Interview 018.

<sup>75</sup> Interview 028.

<sup>76</sup> Internal Revenue Department. *Annual Report for the Year 2011-12*.  
[http://www.irdmyanmar.gov.mm/eng/?q=overview/annual\\_report](http://www.irdmyanmar.gov.mm/eng/?q=overview/annual_report).



of intermediate goods by completing and turning in to the IRD, the appropriate forms, such as those for import licenses or presenting the IRD with receipts from buyers and sellers.<sup>77</sup>

Income tax is the other significant source of tax revenue for the central government, accounting for 46% of the IRD's tax revenue. Income tax is assessed according to a tax schedule, with rates increasing as income increases.<sup>78</sup> Companies registered with MNPED pay income tax at a rate of 25%, while individuals pay according to a progressive schedule.<sup>79</sup> It is unclear whether businesses which are registered with a ministry, but not incorporated as a company with MNPED, pay a flat rate of 25% or as an individual, according to the progressive schedule.

Commercial and income taxes are paid at different offices, depending on the business registration. For companies registered with MNPED under the Foreign Investment Law or the Citizens Investment Law, tax is paid to the Companies Circle Tax Office in Yangon. All other businesses, including those with registration from a Union ministry or a Development Affairs Organization, pay tax at the Township Internal Revenue Department (IRD). Business owners generally visit the township IRD office, pay a small fee (one business noted it cost 3,000 kyat) to obtain the needed forms and complete them.<sup>80</sup> They then meet with a tax officer, who reviews the paperwork. After a final tax amount is reached, the IRD issues a receipt to business owners who take the receipt to the Myanmar Economic Bank to pay the tax. Many businesses are also required to pay "advance tax," an up-front payment of the estimated amount of tax that will be due for the year.<sup>81</sup>

Most businesses also pay taxes on land and buildings as well as Development Affairs Organization fees. Land taxes are assessed once a year and collected by various authorities, including Development Affairs Organization staff and the township GAD, depending on the location of the business (rural vs. urban).<sup>82</sup> Land tax rates are very low, as they were fixed decades ago and have not been adjusted for inflation. Building taxes are collected on buildings in urban areas, however tax rates were not available. One business mentioned that they paid between 10,000 and 15,000 kyat (\$10 to \$15) per year in building taxes.<sup>83</sup> Development Affairs Organization fees are collected monthly for provision of public services, including water, sewage, and trash collection. However, some businesses noted that Development Affairs Organization services such as trash collection were not provided even though fees were paid.<sup>84</sup> There were numerous other taxes and fees mentioned by businesses, including

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<sup>77</sup> Interview 006.

<sup>78</sup> Internal Revenue Department. *op cit*.

<sup>79</sup> Interview 006.

<sup>80</sup> Interview 018.

<sup>81</sup> Interview 006.

<sup>82</sup> Interviews 006, 010 and 015.

<sup>83</sup> Interview 028.

<sup>84</sup> Interview 010.

excise duties on alcohol, serving licenses for alcohol, social welfare taxes for employees, and taxes on wood-based products from the Ministry of Forestry.<sup>85</sup>

Despite having tax codes that are publicly available, businesses universally complained that tax officials did not follow these rules. Businesses regarded taxation as arbitrary and dependent on relationships and negotiation, not business performance or documents provided. The commercial and income taxes collected by the IRD were by far the most problematic. Most businesses noted that they negotiated their taxes with the IRD.<sup>86</sup> One went so far as to directly state that they could “get a discount” on taxes paid to the IRD by bribing the revenue officer.<sup>87</sup> Another business said that “the revenue officer controls everything” and they have little choice but to pay a bribe.<sup>88</sup> While negotiations were key to determining the final tax owed by a business, other factors that influenced the negotiations included the amount of tax paid in the previous year, the size of the business and the number of employees.<sup>89</sup> However, this did not mean that similar businesses would have similar tax burdens. One business owner noted that even for similar-sized restaurants, tax rates can be vastly different—up to a factor of three, in some cases.<sup>90</sup>

Part of the problem in tax collection, especially with the commercial tax, is the poor design of the tax, which makes it impossibly unaffordable for many businesses. In principle businesses are allowed to deduct the cost of inputs from their commercial tax liability, but in practice revenue officers often calculate a tax of 5% of total revenue, without allowing any deductions, which encourages businesses to negotiate with, and bribe, tax officers. One business noted that their sector was very low margin due to strong competition, making it impossible to afford such a tax.<sup>91</sup> Businesses in sectors with high input costs are especially challenged. Local IRD offices are also given a “budget” from the Union government that they must collect, creating the incentive not to enforce the tax code properly.<sup>92</sup>

The Union government collected the lion’s share of Myanmar’s tax revenue, with 96% coming from the commercial and income taxes. Taxes paid to the state government were small, coming mostly through land and excise duties on alcohol. Excise duties were paid yearly by businesses that sold or produced alcohol, and in Mon State, made up the majority of the revenue. Land taxes comprised only a small portion of the Mon State government revenue because tax rates are fixed in outdated laws that have not been adjusted for inflation.

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<sup>85</sup> Interview 013.

<sup>86</sup> Interviews 008, 009, 013, 014, 015 and 018.

<sup>87</sup> Interview 009.

<sup>88</sup> Interview 018.

<sup>89</sup> Interviews 008 and 015.

<sup>90</sup> Interview 016.

<sup>91</sup> Interview 018.

<sup>92</sup> Interview 006.

Consequently, land taxes were seen as an insignificant barrier for businesses. One business mentioned that their land tax on one acre of land was approximately 100 kyat (\$0.10).<sup>93</sup>

Other taxes and fees were regarded as more straightforward by businesses. Businesses did not complain about land or excise taxes, with a few noting that these taxes were straightforward and transparent, compared to commercial and income taxes.<sup>94</sup> Development Affairs Organization fees were often, though not always, seen as predictable and clear.<sup>95</sup> Some businesses complained that Development Affairs Organization services were not delivered or their quality was poor.<sup>96</sup> No businesses complained about the time burden imposed by any of the various taxes and fees.

While government interviewees noted that tax information, in the form of booklets and forms, should be provided to businesses upon registration, businesses often did not receive these materials.<sup>97</sup> Further, there did not appear to be an avenue for businesses to receive updates on changes in the tax code.

## **Finance**

Finance was noted by a number of businesses as a major obstacle to growth, and in this area government is both part of the problem and increasingly part of the attempt to find a solution. Commercial banks in Myanmar face a host of government-mandated restrictions that limit their ability to lend. The most critical of these is the requirement that all loans be secured with collateral. While in theory collateral can include land with buildings, cash on deposit, gold, bonds, or crops, in practice almost all banks choose to accept only land with buildings. Loans are generally worth a fraction of the forced sales' value of the collateral—around 30%. Except in rare cases, loans are limited to a 1-year term at an interest rate of no less than 13%. There is also no credit bureau in Myanmar. Together, these restrictions limit the ability of banks to lend to the majority of SMEs.

Outside of general reforms to the financial sector, two new government-linked loan programs targeting SMEs have started in an attempt by government at various levels to address private sector financing obstacles. The first is run by the Ministry of Industry's SME Development Center, in cooperation with the Small and Medium Industrial Development Bank (SMIDB). The program offers collateralized loans at a 'concessional' rate of 8.5% per year, underwritten by the Myanmar Economic Bank. These loans are largely similar to the standard commercial loans offered by banks in Myanmar, though the application is processed by the SME Development Center instead of the bank. As such, it creates an additional burden for SME owners not

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<sup>93</sup> Interview 015.

<sup>94</sup> Interview 010.

<sup>95</sup> Interview 010.

<sup>96</sup> Interview 009.

<sup>97</sup> Interviews 006 and 010.

located in Yangon. One loan recipient noted that he had to travel to Yangon 4-5 times to deliver documents to the SME Development Center (instead of to the local branch of the SMIDB), and that in total, the process took 5 months.<sup>98</sup> Though it creates additional obstacles for some SMEs, the program will likely be sustainable, given the low default rates that result from such highly collateralized loans.

The other program is a SME loan program implemented by committees under the state and region governments, which was operational in Sagaing Region. The program lent to groups of five individuals who were generally micro and small entrepreneurs, in amounts of 1 million to 6 million kyat.<sup>99</sup> Loans were funded by money from the Sagaing Region government.<sup>100</sup> Loans were not collateralized, and were more similar to microfinance loans than commercial loans. To receive a loan, business owners must approach and obtain approval from a range of government committees, including the township small production committee, the management committee and the organization committee.<sup>101</sup> As loans are uncollateralized and largely based on relationships, this loan program will likely have higher default rates than the SME Development Center loan program. However, these loans should be more accessible to SMEs that do not have the collateral needed for regular loans.

### **Infrastructure and Basic Services**

Infrastructure has traditionally been an area where SMEs had little influence, though the recent creation of a range of committees is providing new avenues through which business can engage with government to improve infrastructure and the business environment. At the local level, infrastructure provision is still a relatively ad-hoc process. Some roads and bridges in the city are constructed by the Development Affairs Organization. Business owners can petition a committee for an infrastructure improvement, but frequently they have to bear some of the costs through what one interviewee described as a “cost-sharing” arrangement.<sup>102</sup> For example, if they want to improve the road in front of their business, the Development Affairs Organization may provide labor and machinery but the business would be asked to provide the construction materials. This self-reliance for provision of goods that are public is mirrored in other areas, such as the use of generators to compensate for poor public provision of electricity. There are many other important issues with the government supply of public infrastructure, though that discussion is outside the scope of this paper.

The delivery of basic services, often by the Development Affairs Organization, remains unreliable. One company said that the Development Affairs Organization “never delivers

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<sup>98</sup> Interview 028.

<sup>99</sup> Interview 020.

<sup>100</sup> Interview 020.

<sup>101</sup> Interview 020.

<sup>102</sup> Interview 017.

services” and said they had to do things such as dispose of their own trash.<sup>103</sup> While poor quality services are often a nuisance for businesses, with the exception of poor provision of electricity (which is the responsibility of the Union government), few mentioned poor quality of services as significant obstacles.

### **Business-Government Engagement**

The general sentiment among private sector interviewees was that the engagement between business and government has improved since reforms started. Some business owners said that government is simply now more open.<sup>104</sup> Others said that it is now easier to meet with government staff directly if they need to.<sup>105</sup> One of the biggest changes has been the founding of a wide range of committees to promote engagement between government and local stakeholders, including businesses. Interviewees mentioned committees that include the Organization Committee, Urban Development Committee, Township Supporting Team, Development Affairs Committee, and Township Planning and Management Committee.<sup>106</sup> The last committee was the only one that interviewees defined clearly, noting it had the goal of “promoting social and economic development” and served to coordinate between the Development Affairs Organization and township governments.<sup>107</sup>

These newfound committees are important for businesses because they provide an avenue through which businesses can advocate for changes in services and infrastructure provision. For example, if a business wanted to petition the government to improve the road beside their business, the committees would be the first point of engagement. If the committees approve, then proposals go to the state cabinet, where many decisions are made.<sup>108</sup> Businesses can also petition committees for: (1) financial capital, which many states and regions can provide through issuing small loans; and (2) training and capacity development, which some states and regions have addressed by organizing training or sending business owners to other countries for training.<sup>109</sup>

Another recent change in the interactions between business and government concerns the management of industrial zones, which is now handled by two committees instead of the Ministry of Industry. The first committee, the Industrial Zone Supervision Committee (IZSC), is chaired by the State Minister for Electricity and Industry in the state/region government. The second, the Industrial Zone Management Committee (IZMC), is comprised of business owners from the industrial zones. IZMCs serve a number of functions, many of which are fulfilled by one of their subcommittees. For example they inform members of policy changes

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<sup>103</sup> Interview 009.

<sup>104</sup> Interview 008.

<sup>105</sup> Interview 018.

<sup>106</sup> Interview 010.

<sup>107</sup> Interview 022.

<sup>108</sup> Interview 010.

<sup>109</sup> Interview 020.

which are communicated to the IZMCs from the Department of Industrial Supervision and Inspection (DISI) of MoI, which oversees the IZMCs.<sup>110</sup> Subcommittees also help businesses to get electricity and access government services more efficiently. IZMC recommendations are needed for the improvement of road infrastructure in an IZ and they collect IZ management fees which are spent on services such as road improvements or transformer replacements.<sup>111</sup>In addition, IZMCs meet with government regularly to communicate about infrastructure and social needs.<sup>112</sup>

While many businesses interviewed for this study responded positively about the committees and the general increase in the openness of government, other businesses had some concerns about the government's role in the economy. One business owner said that the most important thing about the committees is that they grant permissions.<sup>113</sup> Permissions are needed to upgrade deficient public infrastructure even though this is at the expense of the private business.<sup>114</sup> These critiques point to one of the major flaws of the committees: they are a more democratically-named group, though often they are not more democratically formed. Members of many, though not all of these new committees, are appointed by government. Committee members may be geographically closer to, or more representative of the constituents they serve, but they are largely not elected by their constituents.

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<sup>110</sup> Interview 024.

<sup>111</sup> Interview 026.

<sup>112</sup> Interview 029.

<sup>113</sup> Interview 029.

<sup>114</sup> Interview 029.

## **FIVE: Key Findings**

The challenges in reforming the subnational governance of business in Myanmar are great but promising first steps have already been taken. However, 50 years of institutional legacies and inbuilt incentive structures are not changed overnight. Doing so would not be feasible or recommended. Many of the structures of previous governments, and the way that they engage with business, are still in place at the local level. Many of the reforms in the past two years have been driven by high-level institutions, including the President's Office, the national Parliament and various ministries. The drive for reforms at these levels is not in doubt. However, their implementation has often lagged, due in part to the pace at which many reforms are happening. Given the many levels of government between these high institutions and the implementing bodies on the ground, as well as the different circumstances of officials at these different levels, it is unsurprising that reforms and changes in thinking have yet to trickle down to lower levels of government. Also, few of the reforms have addressed the key constraints faced by many SMEs in Myanmar.

Though Development Affairs Organizations have been decentralized and new committees formed, many of the everyday processes and procedures of business-subnational government relations remain the same. As one SME owner noted, "at the township level, there have been no changes at all. Everything is the same."<sup>115</sup> That includes the corruption that has long characterized subnational government, about which the same SME owner said, "in reality the local government is not clean."<sup>116</sup> The business owner noted that bribes are still required, taxes are still arbitrary and while companies can file corruption complaints at the Union level, at the state level they can't do anything.<sup>117</sup>

The decentralization of authority to states has been met with mixed reactions from businesses. On the one hand, state and region governments have created another power center in the government of Myanmar. As one business owner noted, there are "no clear distinctions of authority on what the state government can do and what the union government can do. So there's just more red tape."<sup>118</sup> Others report that this new level just means more time and money is necessary to get things done. On the other hand, state and region governments have brought in a host of new avenues through which business and government engage, including a wide range of committees. While this new system is not entirely bottom-up, it is less top-down than under the SPDC.

While some progress has been made, big challenges remain in the reform of subnational governments in Myanmar. At the center of these are two key long-term institutional re-

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<sup>115</sup> Interview 016.

<sup>116</sup> Interview 016.

<sup>117</sup> Interview 016.

<sup>118</sup> Interview 004.

orientations which will be central to the growth of business, especially SMEs in Myanmar. **The first is that government at all levels needs to reduce bureaucracy and red tape, and “do less”.** Many of the reforms and discussions about SMEs to date are underpinned by the notion that SME success will depend on the government’s efforts to support and promote them. While promotion can be useful, it is no substitute for an efficient and predictable business environment. Reforms should address the complaints of businesses, whose problems generally stem from too much government interference as opposed to a lack of proper support. **The second is that Myanmar’s civil service must re-orient from a rent seeking to a service delivery institution.** There were widespread complaints from SMEs that civil servants at the local level use their authority to extract bribes from business. While this is not surprising given the low wages of government staff and lax enforcement, it is a major barrier for SMEs.



## SIX: Recommendations

A wide range of recommendations have come out of this study.<sup>119</sup> Some are long-term recommendations, which are complex and often theoretical. Others are “quick wins” which tend to be practical, implementable but relatively narrow in scope. Recommendations are divided into sections and include:

### Institutional Reforms

- **Clarify the roles of each level of government and their authority over business.** Current business-government interactions can be confusing for SMEs when authorities from one level of government deliver services on behalf of another.
- **Clearly define the areas of authority for state ministers.** The new positions of State Ministers have created a powerful, yet poorly defined, authority that some businesses find to be an additional barrier. Clearly delineating the responsibilities of each minister would cut down on confusion for SMEs, and unnecessary work for these state ministers.
- **Further decentralize authority over SMEs to the state and region level.** Bringing government and its services close to SMEs (both geographically and figuratively) can reduce the time and cost of accessing government. It can also improve the quality of services delivered if local feedback mechanisms are in place.
- **Improve the predictability of government, in both policy and implementation.** Uncertainty about policy and service delivery reduces and redirects business investment into less productive areas. An improved policy environment could enhance investment and productivity.
- **Provide capacity building to civil servants at the state and region level on business-government interactions.**

### Licensing, Recommendations and Permits

- **Reduce the wide range of permissions needed for business licenses, construction permits and land transfers.** Currently, these activities require business owners to obtain recommendations from a range of authorities, which is time consuming and costly. While this system is not surprising given the emphasis on consensus in Myanmar society, it is often used as little more than a mechanism to extort bribes.
- **Move from a relationship-based approval process to a formalized, transparent rules-based process.** The present licensing regime creates barriers to entry, and in some sectors, it prohibits all but a few businesses from operating. This distorts the allocation of labor and capital, prevents competition, and leads to clustering in other economic

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<sup>119</sup> Notably, the World Bank’s 2014 Doing Business report has the subtitle “Understanding Regulation for Small and Medium-Size Enterprise”, and has a wealth of useful recommendations about the governance of SMEs. It is a valuable complement to the recommendations contained here.

sectors. A rules-based process in which any business can obtain a license if it meets certain attainable and reasonable minimums would alleviate this.

- **Decentralize the authority to issue operating licenses to the State/Region Ministers for Development Affairs (and their subsidiary, Development Affairs Organizations) regardless of the sector of operation.** Licensing through Development Affairs Organization authorities was generally viewed as straightforward, convenient, and less prone to corruption than licensing at the Union level. For businesses such as factories or pharmacies that require inspections or other approvals to operate, Union government inspectors from line ministries should conduct inspections and then report to the Development Affairs Organization or state minister's office, who issues business operating licenses. This amounts to only a procedural change, as local inspectors from Union ministries would report first to the line ministry in Nay Pyi Taw, and then to the final license issuer (the Development Affairs Organization or state minister).
- **Revise the draft SME law to eliminate the need for an additional registration to access any benefits under the law.** Creating another registration office under the SME Development Center adds cost and redundancy to business registrations. All registered businesses with a valid license from a Development Affairs Organization or Union ministry should automatically be eligible for any benefits under the SME law.
- **Decentralize licensing of rural SMEs from the Union Ministry of Livestock, Fisheries and Rural Development to the State Ministry of Development Affairs.** This would concentrate all SME licensing under one authority and reduce duplication between union and state authorities. The State Ministry of Development Affairs is the most sensible authority with which to concentrate SME licensing, given the existing capacity in the Development Affairs Organizations and the relative ease with which Development Affairs Organization licenses can be obtained.
- **Formulate and publish the licensing fee schedule to reduce uncertainty about fees.** Conduct consultations with SMEs about the collection and use of fees to ensure that licensing fees do not present a major burden on businesses.
- **Harmonize and publicize the cost of operating licenses across different sectors.**

#### Taxation

- **Improve accountability in the tax system.** Business interviewees often complained that the taxes and fees they paid did not result in improvements in services or infrastructure, and they often questioned what happened to the funds they paid. Improving the links between tax paid and benefits received is crucial moving forward.
- **States and regions should develop their own tax collection capabilities.** States and regions are entitled to numerous tax revenues, including land tax and excise duties. Creating tax collection capabilities at the state and region level would enhance decentralization and eliminate dependence on Union officials, notably the GAD.

- **Reduce the incentives for the extortion of bribes by tax officers.** At present, there are numerous problems within the tax system that incentivize civil servants to take bribes to reduce the tax burden of businesses. In order to address these challenges, Myanmar should consider a range of reforms including:
  - Increasing the salaries of key civil servants.
  - Increasing the penalties for the extortion of bribes.
  - Adopt a self-declaration system with risk based auditing.
  - Revising the tax system to make it feasible for viable businesses to pay tax (for example, the structure of the commercial tax can present major challenges for low margin businesses).
  - Creating an independent corruption investigations office under a relevant state or region ministry.
- **Abolish the commercial tax and replace it with a Value Added Tax (VAT).** The commercial tax is designed, in theory, to work similarly to a VAT because it allows taxpayers to deduct the cost of inputs and prevents cascading. In practice, however, the system is administratively burdensome, difficult for businesses to understand, and open to exploitation. Moving to a VAT would not eliminate corruption in the tax system, but it would eliminate complexity and most importantly, create a structure in which compliance is possible for low margin businesses.
- **Restrict the ability of Development Affairs Organizations to charge fees for services that are not delivered in a given area.** For example, if the Development Affairs Organization does not provide sewage service in some parts of an urban area, they cannot collect sewage fees from businesses in these areas. Fee schedules should be publicly available both at all Township Development Affairs Organization offices and on the Internet.
- **Reduce informal taxation of businesses.** Many businesses noted that they frequently made donations to a variety of social causes, such as local monasteries, often at the “encouragement” of government. These donations constitute an informal tax which businesses pay, but for which they receive no benefits (such as tax credits). Reducing and eliminating these ‘donations’ would give businesses flexibility to use revenues for either commercial or philanthropic purposes.

#### **Business-Government Interactions**

- **Clarify the roles and responsibilities of various committees and eliminate duplication in the committee approval process.**
- **Create more democratic and representative selection of committee members.**

#### **Availability of Information**

- **Make forms and other relevant documents on registration and taxation readily available and free of charge.**
  - Licensing forms should be available both on the internet and at Union ministries and Development Affairs Organizations offices.

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- Taxation forms should be available at the IRD and Companies Circle Tax Office, and tax guide books for the commercial and income tax should be available at all township IRD offices for viewing in a public area and available at cost. All key regulations should be posted for public viewing.
- Create a “master file” at either the Township Development Affairs Organization office or township GAD office with all relevant licensing (operating, construction, etc.), taxation, and finance documents as well as details on committees (a filing cabinet in a public space could suffice).

## **Annex I: Region or State Legislative List from the Constitution of the Republic of the Union of Myanmar (Schedule Two)**

### **1. Finance and Planning Sector**

- a) The Region or State budget;
- b) The Region or State fund;
- c) Land revenue;
- d) Excise duty (not including narcotic drugs and psychotropic substances);
- e) Municipal taxes such as taxes on buildings and lands, water, street lightings and wheels;
- f) Services of the Region or State;
- g) Sale, lease and other means of execution of property of the Region or State;
- h) Disbursement of loans in the country from the Region or State funds;
- i) Investment in the country from the Region or State funds;
- j) Local plan; and
- k) Small loans business.

### **2. Economic Sector**

- a) Economic matters undertaken in the Region or State in accord with law enacted by the Union;
- b) Commercial matters undertaken in the Region or State in accord with law enacted by the Union; and
- c) Co-operative matters undertaken in the Region or State in accord with law enacted by the Union.

### **3. Agriculture and Livestock Breeding Sector**

- a) Agriculture;
- b) Protection against and control of plants and crop pests and diseases;
- c) Systematic use of chemical fertilizers and systematic production and use of natural fertilizers;
- d) Agricultural loans and savings;
- e) Dams, embankments, lakes, drains, and irrigation works having the right to be managed by the Region or State;
- f) Fresh water fisheries; and
- g) Livestock breeding and systematic herding in accord with the law enacted by the Union.

### **4. Energy, Electricity, Mining and Forestry Sector**

- a) Medium and small scale electric power production and distribution that have the right to be managed by the Region or State not having any link with national power grid, except large scale electric power production and distribution having the right to be managed by the Union;
- b) Salt and salt products;
- c) Cutting and polishing of gemstones within the Region or State;
- d) Village firewood plantations; and
- e) Recreation centres, zoological gardens and botanical gardens

**5. Industrial Sector**

- a) Industries other than those prescribed to be undertaken by the Union level; and
- b) Cottage industries.

**6. Transport, Communication and Construction Sector**

- a) Ports, jetties and pontoons having the right to be managed by the Region or State;
- b) Roads and bridges having the right to be managed by the Region or State; and
- c) Systematic running of private vehicles within the Region or State.

**7. Social Sector**

- a) Matters on traditional medicine not contrary to traditional medicine policies prescribed by the Union;
- b) Social welfare works within the Region or State;
- c) Preventive and precautionary measures against fire and natural disasters;
- d) Stevedoring;
- e) Having the right of management by the Region or State, the following:
  - (i) preservation of cultural heritage;
  - (ii) museums and libraries.
- f) Theatres, cinemas and video houses; and
- g) Exhibitions such as photographs, paintings and sculptures.

**8. Management Sector**

- a) Development matters;
- b) Town and housing development; and
- c) Honorary certificates and awards

## **Annex II: Taxes Collected by Region or States from the Constitution of the Republic of the Union of Myanmar (Schedule Five)**

*Note: This list details the taxation powers afforded to states and regions in the constitution of Myanmar.*

1. Land Revenue
2. Excise revenue
3. Water tax and embankment tax based on dams and reservoirs managed by the Region or State and tax on use of electricity generated by such facilities managed by the Region or State.
4. Toll fees from using roads and bridges managed by the Region or State.
5. (a) Royalty collected on fresh water fisheries; (b) Royalty collected on marine fisheries within the permitted range of territorial water.
6. Taxes collected on vehicles on road transport and vessels on inland waterway transport, in accord with law, in a Region or a State.
7. Proceeds, rent fees and other profits from those properties owned by a Region or a State.
8. Fees, taxes and other revenues collected on services enterprises by a Region or a State.
9. Fines imposed courts in a Region or a State including Region *TayaHluttaw* or State *TayaHluttaw* and taxes collected on service provision and other revenues.
10. Interests from disbursed by a Region or State.
11. Profits returned from investment of a Region or State.
12. Taxes collected on extraction of the following items from the forests in a Region or a State
  - a. Taxes collected on all other woods except teak and other restricted hardwoods;
  - b. Taxes collected on firewood, charcoal, rattan, bamboo, birdnests, catch, thanetkha, turpentine, eaglewood, and honey-based products.
13. Registration fees.
14. Taxes on entrainments.
15. Salt tax.
16. Revenue received from the Union Fund Account.
17. Contributions by Development Affairs Organizations in a Region or State concerned.
18. Unclaimed cash and property.
19. Treasure trove.



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