WTO OMC

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Q1: Respondent details

Name	Charles Schneider
Organization	World Bank Group
Email Address	cschneider@ifc.org
Phone Number	5274+371 / 95-1-654-827

Q2: Country or Customs territory

MYANMAR

Q3: Organization

Other (please specify)
The World Bank Group (WBG) consists of five international organizations: the International Bank for Reconstruction and Development (IBRD), the International Development Association (IDA), the International Finance Corporation (IFC), the Multilateral Investment Guarantee Agency (MIGA) and the International Centre for Settlement of Investment Disputes (ICSID).

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Q4: Title of case story

Myanmar Investment Policy Project

Q5: Case story focus

Infrastructure upgrading and the development of related services markets, including through support for investment climate reforms.

Q6: Case story abstract

In the fall of 2016 Myanmar’s national legislature passed an investment reform law, culminating a three-year World Bank Group effort to accelerate economic reform and increased investment and trade in a nation undergoing political transformation. The goal of the project is to assist Myanmar in attracting sustainable private sector investment and generate savings for the private sector through streamlined administrative procedures. By streamlining tax laws, regulatory processes, and investment approval requirements, the new law is expected to generate substantial new foreign and domestic investment as well as cost savings for the private sector. Bordering with China, India, Bangladesh, Thailand, and Lao PDR, Myanmar sits astride almost 40 percent of the world's population and many of the world's fastest growing economies. It has substantial natural resources and vast underutilized land. Investors are keenly interested in opportunities in Myanmar. But the economy has underperformed due to excessive and outmoded regulations.

Q7: Who provided funding?	Bilateral donor, Multilateral organization, South-South partner
Q8: Project/Programme type	Single country

Q9: Your text case story

The origin of the project

Bordering with China, India, Bangladesh, Thailand and Lao PDR, Myanmar is adjacent to almost 40 percent of the world's population and nearby many of the world's fastest growing economies. Due to its strategic location, endowment of natural resources (including oil and gas, gold, gems and jade), vast underutilized land, and a youthful population of 60 million, Myanmar is well placed to attract investors seeking to tap its high potential natural resources, growing local market as well as for investors seeking locations for export-led investment.

The opening of Myanmar's economy was accompanied in 2012 by a pro-market reform program, the signing of international treaties and conventions on trade, and generous tax incentives. Nevertheless, as of 2014 FDI had declined. Nearly 90 percent of investment in Myanmar is concentrated in oil/gas, mining and power; manufacturing accounts for only about 7 percent. To grow the economy, attracting investment in a wider range of sectors with greater employment generation potential is needed.

That growth and diversification was hampered by unclear and onerous entry and screening procedures that burdened would-be investors and entrants into the economy. The Myanmar Investment Commission (MIC) wielded significant discretion and approval power over all investment applications, regardless of size, resulting in a process lasting at least six months to obtain MIC approval.

To address the inadequacies in the legal and regulatory environment impeding investment, the government requested World Bank Group for support to strengthen investor protections, streamline entry and screening procedures and rationalize investment incentives to help Myanmar generate greater investment and achieve its potential as a diversified investment destination.

How the project was designed

The project has focused on: (1) improving legal and regulatory framework, (2) improving administrative processes through simplification of procedures and establishment of supporting mechanisms, and (3) rationalization of investment incentives. The project has engaged Bank Group staff working with the Ministry of National Planning and Economic Development to: i) combine the Foreign Investment Law and the Citizen Investment Law into a new Investment Law; ii) revise screening and approval procedures (entry); iii) assess investment protection gaps and review incentives granting policies and procedures.; and iv) support implementation of reforms.

With the completion of the new Investment Law, the project focus shifts to implementing a concrete set of activities to promote investments in diversified sectors. Broadly, this will entail reforming the regulatory framework and implementing new procedures for: 1) promoting sector-specific investment entry, 2) strengthening investor protection guarantees; and 3) redesigning and implementing new incentives policies.

How the project has been managed and who has participated

The Myanmar investment initiative is an IFC Advisory Services effort managed by the Bank Group's Trade & Competitiveness Global Practice. Funding support from the project has come from a wide variety of bilateral and multilateral sources, including Australia, Canada, the European Union, Japan, the Republic of Korea, the United Kingdom and the United States, as well as the FIAS Trust Funds, the Myanmar Multi-Donor Trust Fund, the Asian Development Bank and the World Bank Group.

The project has been notable for its consistent and robust support for stakeholder consultation throughout the preparation of the new Investment Law as well as during the preparation of implementing regulations. Project managers moved proactively to ensure project buy-in across the political spectrum in Myanmar, an endeavor complicated by national elections and a changeover in government in 2015. Civil society, private sector stakeholders, domestic and foreign investors, established and emerging business interests, elected officials, and representatives of multiple government agencies were involved and engaged throughout the process.

IFC assessed Myanmar's investment laws and regulations, held roundtable discussions with local and foreign investors, and reviewed other diagnostics, including the OECD's Investment Policy Review. A key issue identified was the opaque and onerous procedures for obtaining approvals from the MIC. MIC is the gateway for approval of domestic investors seeking incentives and virtually all foreign investors. Without MIC approval, foreign investors have no right to lease land for over one year, import or export, hire expat workers or repatriate funds. A key recommendation was to decouple these rights, normally provided to all investors, from the MIC approval process so that foreign investors would receive the same treatment as local investors.

What the project sought to achieve and short and medium-term outputs and outcomes

The overall goal of the project is to assist the Government of Myanmar to attract private sector investment and generate savings for the private sector through streamlined administrative procedures. This will be achieved by: 1) improving the legal and regulatory framework to strengthen investor protections, 2) streamlining investment entry procedures and 3) improving the investment incentive regime.

Targeted impacts include:
- US $200 million additional investments generated over five years, by 2020, resulting from improvements to the overall legal framework, investment entry, protections and incentives.
- US $500,000 of annual compliance cost savings within two years of project close resulting from improvements to investment entry.

Targeted outcomes by the end of the project include:
- Reduction from 6 months to 3 months in the time needed to obtain MIC approval as a result of streamlined procedures. Reduction in the number of firms requiring MIC approval for market entry by 50%.
- 4 laws/regulations enacted by 2018 that improve the overall investment policy, legal and regulatory framework. These could include the new investment law and implementing regulations for investment entry and repatriation processes.
- 3 procedural improvements by 2018 related to investment protection and entry, and improving standards and practices pertaining to expropriation.
-1 law/regulation/amendment/code enacted or policy adopted to rationalize and improve the effectiveness of investment incentives by 2018.

Expected medium- and long-term impacts

The project seeks to achieve long-term sustainable private sector development as a key element in promoting broad-based economic growth and job creation. For the Bank Group, this includes promoting inclusive growth through investment and advisory engagements that: (i) improve the investment climate to enable the broader population to participate in and benefit from Myanmar's economic reform program and support investment likely to create job opportunities for the population; (ii) increase access to finance to rural and micro-borrowers by supporting the establishment of commercial microfinance and support the banking sector to increase its ability to lend to SMEs; and (iii) to support the development of key infrastructure with an emphasis on power and telecommunications to reduce key impediments to commerce and reduce operating costs. The project also seeks to help Myanmar achieve global integration through investment and advisory engagements that: (i) develop Myanmar's real sector as a competitive basis for economic growth, (ii) broaden and deepen Myanmar's financial markets as the main mechanism for capital allocation; (iii) support south-south/ regional investment to sustainably develop key infrastructure and industries in the country.

Q10: Lessons learnt

A key lesson from this project is that simply reforming legal regimes is not enough to bring about transformation in the investment climate of a country seeking to open its economy. Although Myanmar enacted a Foreign Investment Law in 2012 and a Citizens' Investment Law in 2013, foreign investment in Myanmar actually declined in the ensuing years, and debate continued within the country over the degree to which the economy should be opened.

The initial attempts at reform had significant weaknesses. For example, the investment law required that permission be obtained for every proposal from the MIC, offered no ways to settle disputes before going to arbitration, and it lacks legal clarity in terms of momentary policy and foreign currency transfer. Other shortcomings included an abundance of documents to be tendered and attached herewith and the MIC's monopoly of authority.

Progress in passing a revised investment law was slowed due to the political process and the transfer of power in late 2015. But by engaging key stakeholders across the political spectrum, and project team was able to maintain momentum for reform. For example, advocacy work took place in the form of policy note preparation and dialogue on the draft law with the legal advisor to Daw Aung San Suu Kyi. This created a common understanding of the draft law between the project team and her key advisor which is expected to pay dividends during project implementation under the new government.

A robust dialogue with key public and private stakeholders brought to light concerns about the reform in various quarters, including business circles and civil society. This enabled the project team to systematically address the concerns and build momentum for reform.

Wide public dissemination of the law through a government web site, consultations, request for public comment, consultation with NGOs in Myanmar and elsewhere, and public advocacy elements such as articulating the importance of investment for the country and balancing priorities between the regulatory space and investor protection were all key to generating support.

The team boiled down lessons learned to three key points: 1. Consult, consult, consult! 2. Remember the political economy of the client country. 3. In a context of political transition, engage with the future leader.