



## LOOKING AHEAD: Elections in Myanmar

A watershed moment is approaching in Myanmar, with historic elections in November 2015 which will end the constitutional rule by the military. Parliament will likely be dominated by opposition parties and a coalition government is expected to be formed. The consequences for business will be substantial, but unpredictable. Will the formidable reform process, started in 2011, continue or will the elections thwart further economic progress?

Senior Director Romain Caillaud spent seven years in Myanmar, where he provided strategic advice to investors entering this booming frontier market. He shares insights into what lies ahead for the country and how one can best avoid pitfalls and harness opportunities there.

*Senior Director Romain Caillaud of our Global Risk & Investigations practice looks at what lies ahead for Myanmar following the country's November general elections.*

### The Breadth of Change

Myanmar has changed significantly since general elections were last held in November 2010. Under the leadership of President Thein Sein and his close entourage, what was expected to be a lukewarm transition turned into a top-down Burmese Spring. The state of emergency that had prevailed since the 1988 coup has been replaced by a constitutional order where military officers remain pervasive but are not all-powerful anymore. Most political prisoners have been released, notably Aung San Suu Kyi who sits in parliament following the National League for Democracy ("NLD") Party's landslide victory in the 2012 by-elections. Civil liberties have improved while independent and outspoken NGOs and media have flourished, and an unprecedented peace process has led to a lull in decades-old civil wars.

These far-reaching domestic political reforms have been welcomed abroad. They have allowed for Myanmar to leave the ranks of pariah states and become a darling of the international community in a remarkably short span of time. The EU has lifted all sanctions (apart from an arms embargo) and the US has suspended most restrictive measures, though notably keeps in place a list of individuals and entities with which trade and investment are prohibited. International financial institutions such as the World Bank and the Asian Development Bank have resumed technical support, credit lines and investment. Myanmar has become one of the main recipients worldwide of Japanese development aid.

Substantial economic reforms have been adopted too, boosting economic growth, foreign trade and direct investments. Fiscal and monetary policies have improved significantly thanks to the support of the International Monetary Fund. The legal framework for business has been updated and liberalised, and so far the telecoms sector has been the main beneficiary, with other sectors such as textiles, power, oil and gas, infrastructure, food & beverage and property all enjoying strong interest from domestic and foreign investors. Business visitors and tourists alike are flocking to a country sometimes described as one of the last frontiers of Asia.

## The Limits of Reforms

Much still needs to be done however, because shedding the legacy of several decades of mismanagement and misrule in just a few years is extremely challenging, if not outright impossible. In spite of the many reforms, Myanmar remains near the bottom of most international indexes, from World Bank's Doing Business to Transparency International's Corruption Perceptions. Its average yearly income per capita of USD 1,000, though growing, places Myanmar alongside Laos and Cambodia as one of the poorest countries in ASEAN.

The economy is still in a pre-industrial stage. More than 70% of the population lives in rural areas, with the great majority being either smallholder subsistence farmers or landless labourers. The agriculture sector is in a dire state due to a

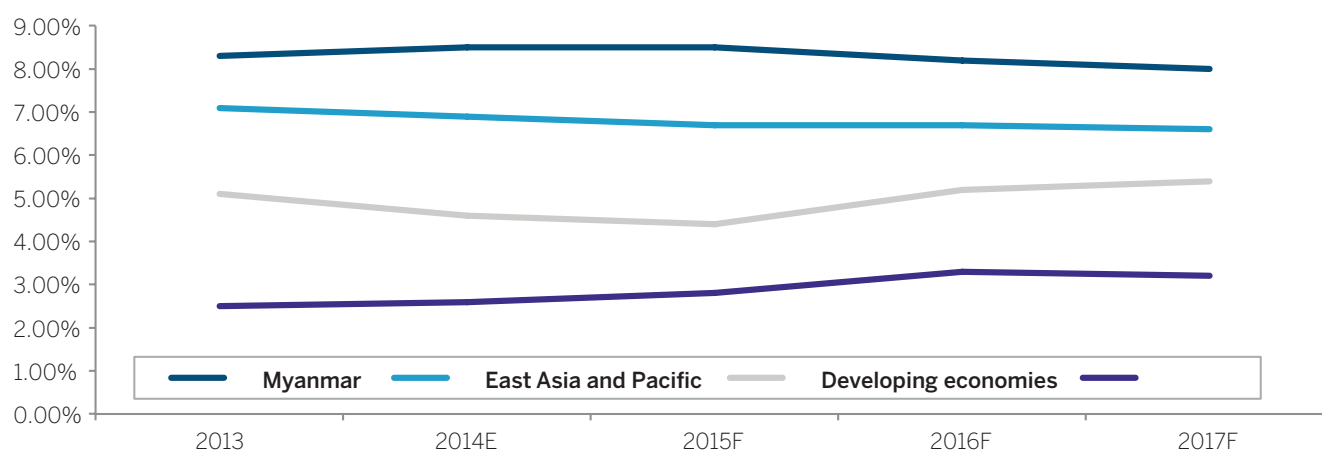
deficient regulatory framework, including legacy issues relating to land ownership, a lack of access to finance and deplorable infrastructure. Manufacturing is concentrated in Yangon and Mandalay and is essentially low-end and labour intensive. Most of the population does not yet have a bank account and companies have limited access to even the most basic of financial services.

Furthermore, despite recent developments, the business environment remains opaque, arbitrary and unpredictable. Corruption remains widespread and conflicts of interest are not uncommon, with collusion still taking place behind the scenes between officials and a limited number of well-connected conglomerates. This is further compounded by the fact that some diversified companies, owned by influential families or the military, continue to dominate a few key sectors. These include mining, commodity trading, hydropower, banking and agriculture — in large part due to these sectors being either off-limits to foreign investors or requiring the use of local partners.

The US still includes in sanctions lists many of these conglomerates and their principals, alongside military officers accused of gross abuses or arms trading with North Korea. US investors, Japanese trading houses, European MNCs and all international banks pay heed to these lists and advocacy groups and international and local media also keep a close look on potential dealings of foreign investors with blacklisted entities. These watchdogs have supporters in Tokyo, western capitals and especially amongst some conservative factions in Washington D.C., where former state secretary and 2016 presidential candidate Hillary Clinton has come under criticism for conceding too much and too fast in Myanmar.

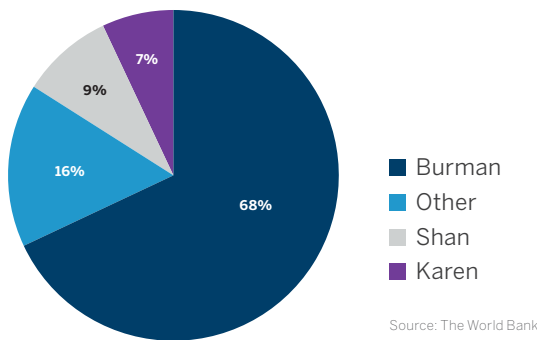
Recent events have strengthened the sceptics' view towards Myanmar reforms. The Armed Forces have reiterated their intent to remain entrenched in the political system and to keep control over the pace and direction of change. New challenges have appeared following the end of full-fledged authoritarianism, especially the rise of Buddhist radicalism and violence against Muslim minorities. Conflict continues in parts of Kachin and Shan states on the border with China. In this context, the November elections are seen as a litmus test of Myanmar's reforms so far.

Myanmar's Growth Rate Superior to Average

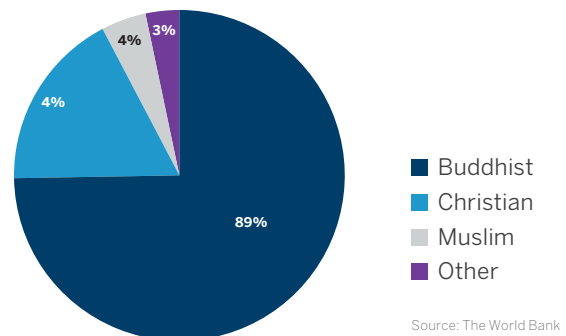


Sources: The World Bank

### Myanmar: An Ethnically Diverse Country



### Myanmar: Theravada Buddhism Dominates



### Comparison of Key Indicators between Myanmar, Thailand and Vietnam

	Ease of Doing Business Index (2015)	TI Corruption Perceptions Index (2014)	Global Competitiveness Index (2014-2015)	Gender Inequality Index (2013)	Human Development Index (2013)	2014 GDP per capita (current US\$)	FDI		Sector Contribution to GDP (2014, %)		
							2013 FDI net inflows (current US\$)	2013 FDI net inflows (as a % GDP)	Agriculture	Industry	Services
Myanmar	177th	156th	134th	83rd	150th	1,198	2,254,603,972	4	37.10%	21.3%	41.6%
Thailand	26th	85th	31st	70th	89th	5,561	14,305,004,118	4	42.00%	12.00%	46.00%
Vietnam	78th	119th	68th	58th	121st	2,052	8,900,000,000	5	39.00%	18.00%	43.00%

Sources: The World Bank; Transparency International; UNDP

## Historic Elections

The last time the whole of Myanmar went to the polls for a competitive and credible general election was 25 years ago in 1990, when the NLD won comprehensively over the military-backed party. The results of that vote were not honoured by the ruling junta however, and it waited until 2010 to hold elections again, this time in a tightly controlled manner that led to its proxy, the Union Solidarity and Development Party (USDP), obtaining 75% of eligible seats in parliament and forming the Thein Sein government. The NLD had refused to contest in 2010; its leader Suu Kyi was famously under house arrest while the vote was held. When it eventually took part in by-elections in 2012, the NLD won 43 of 45 eligible seats. It remains to be seen whether this landslide will be repeated on a larger scale in the upcoming elections, and whether such a result would be honoured by the military.

The country is actually bracing for two sets of elections in the coming months. For the first, on 8 November, electors in more than 300 constituencies countrywide will be asked to cast three votes each to fill about 1,000 seats that are up for grabs. One vote will be for candidates to the lower house of parliament, which acts as the equivalent of the US House of Representatives, with representation slanted towards the overall popular voting results. A second vote will be for seats in the upper house where, like in the US Senate, representation reflects subnational provinces — seven states and seven regions in Myanmar. The last vote will be for the provincial assemblies in these states and regions, which hold limited yet growing power as decentralisation takes hold. In all three types of assemblies, the military is entitled to 25% of the total of seats, to be occupied by serving officers selected by the commander-in-chief of the Armed Forces.

The second election, in January or February 2016, will involve the newly elected national parliament convening to choose the president. Elected representatives of the upper and lower houses each vote for a candidate, while a third contender is selected by military representatives. All members of parliament then congregate and vote for the president among those three candidates, with the two unsuccessful contenders becoming vice presidents. The president will then be able to form a government by the end of March 2016, closing a nine-month-long electoral process that started in July 2015, when the date of the vote was announced.

### MYANMAR'S GENERAL ELECTION

#### TIMELINE

## 2015

- **April 30**  
Deadline for registering political parties
- **Early August**  
Deadline for announcing an election date and designating constituencies
- **August**  
Candidate registration period (lasting 2 weeks)
- **Early September**  
Start of campaign period (likely to last 60 days)
- **November 8**  
Election day

## 2016

- **January 30**  
Expiration of current legislative term and handover to new parliament
- **Early February**  
Presidential Electoral College meets to elect president
- **March 29**  
Current administration's term ends
- **End of March**  
New administration takes power

Source: International Crisis Group, "Myanmar's Electoral Landscape", <http://www.crisisgroup.org/en/regions/south-east-asia/myanmar/200-regional-electoral-landscape.aspx>

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## Competition or Coalition?

Myanmar is currently in the midst of the pre-election campaigns. The competition is fiercest between the NLD, which embodies the people's hopes for change but whose ability to transform from an opposition party to one of government is challenged; and the incumbent USDP that has delivered far-reaching reforms over the last few years, but remains tainted by its association with military rule. Most bets are on the NLD winning against the USDP by an overwhelming majority, particularly in the central plains of the country inhabited by the Bamar ethnic majority group.

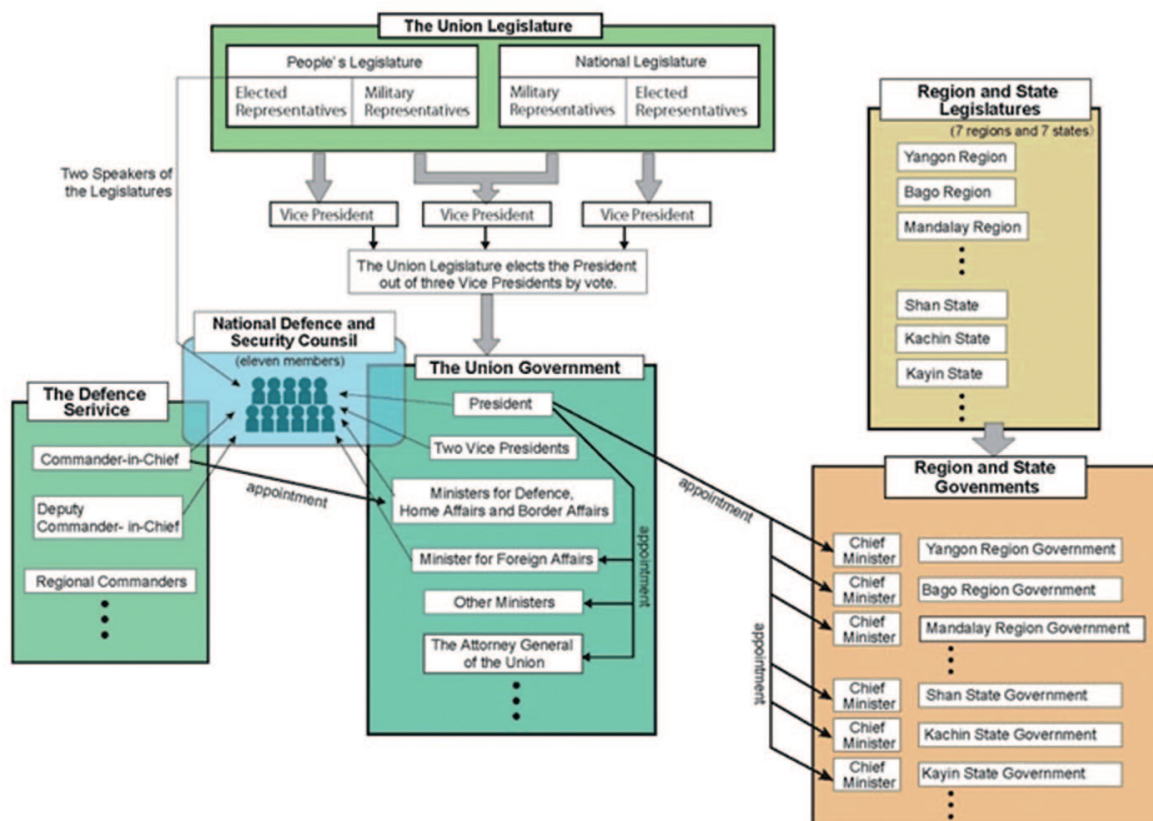
Parties representing minorities are expected to fare well in areas dominated by their respective ethnic groups, such as Kachin and Shan states in the north on the border with China; the Karen and Mon states in the east on the border with Thailand; or Rakhine and Chin states in the west bordering with Bangladesh and India respectively. In those states local assemblies and governments will likely be dominated by ethnic parties, who will also form a significant bloc within the national parliament in Nay Pyi Taw.

Tensions are expected after the elections and ahead of the convening of parliament, when negotiations over who is to hold the presidency will take place. Under a clause in the 2008

constitution (that some believe was drafted by the military with her in mind), Suu Kyi does not qualify for the role due to her children holding British citizenship. No clear replacement exists in the NLD. A compromise candidate could have been the current speaker of the lower house and chairman of the USDP, Shwe Mann, who is known to have established a trusting relationship with Suu Kyi. However Shwe Mann was forcefully dismissed from his chairmanship of the USDP in mid-August 2015, and was an increasingly unpopular figure with the military leadership that favoured a second mandate for Thein Sein, a prominent rival in the USDP. It is not impossible that Suu Kyi attempts to amend the constitution right after the elections if her party gathers overwhelming popular support in the polls, though the military would react badly to such pressure. Who the various ethnic parties will side with, and in exchange for what spoils exactly, remains to be seen.

What is clear is that negotiations and tensions within and between parties will prevent the adoption of further economic reforms by a lame duck government in the wake of the elections. Local and foreign investors alike will wait and watch who among parties and individuals come on top of this political horse-trading, holding such key roles as the presidency, ministerial positions or governorships over states and regions. Only when the dust settles will one be able to better understand what lies ahead for post-election Myanmar.

### Political Structure of Myanmar under the Current Constitution



Source: Institute of Developing Economies, JETRO (produced based on the 2008 Constitution)

## Navigating in Uncharted Waters

So what are the current risks of investing in Myanmar, and how can they be overcome?

Rudyard Kipling wrote “Burma is quite unlike any place you know”. It is true that the depth and pace of reforms over the last five years have taken the world by surprise. What will happen next is hard to predict, but we can look to countries nearby for some guidance.

While, lessons can be drawn from the recent experiences of Vietnam or Indonesia, there are important differences. Therefore, due to number of similarities, such as the influence of the military, instability due to ethnic diversity, religious tensions, the scourge of drug production and trafficking, and a diplomatic posture between the US and China, mean it might actually be Pakistan that is the best comparison to Myanmar in the wider Asia-Pacific region.

One should expect, beyond the elections, constant tensions between politicians and the armed forces, and the continuous involvement of the latter in key political and economic decisions, regular outbursts of violence, a bustling yet difficult business environment, and overall significant uncertainty and instability.

Investors should be braced for such hardships and select executives with the right experience to lead their operations. Understanding the political and business environment and monitoring the constant changes through regular, independent intelligence is therefore crucial.

### Weak Institutions, Strong Personalities

Over the last few decades, institutions such as the Government Ministries, the Courts and the Central Bank have fallen under the control of the military as it established itself as the exclusive centre of power. It is only since 2011 that these institutions have been allowed to re-emerge. Other new ones have been created, such as the national parliament, local assemblies and provincial governments.

These independent institutions have a limited track record and are very much shaped by their leadership, which are about to change in the wake of the elections. It will be the politics that will truly shape the governance of Myanmar.

Investors should identify the key stakeholders in the public and private sectors and define a clear strategy to engage with them. Keeping abreast of political reshuffles and regulatory changes, while maintaining lines of communication with the key players of today and tomorrow, will be essential in navigating through this period of flux.

### Democracy and Populism

As Myanmar transitions towards a democratic system, its policy and decision-making processes will become increasingly fragmented, decentralised, messy and populist, in much the same way that India has become.

Two examples illustrate this point. First, the suspension in late 2011 of the Myitsone hydropower project demonstrated how the Thein Sein government, contrary to the military junta, had become influenced by public opinion. This suspension took place in reaction to a nationwide campaign that gathered momentum against the multibillion dollar mega dam, as environmental activists and celebrities accused the project of only benefiting China at the cost of Myanmar’s population and environment.

More recently, a large property development in Yangon by a consortium of Hong Kong investors was cancelled due to popular opposition, as it was to be erected in the vicinity of the landmark Shwedagon Pagoda. The Dagon City project’s fate was sealed in July 2015 when Buddhist monks joined architects and conservationists in lobbying the government for its cancellation.

Investors therefore need to be attuned to cultural and religious sensitivities. Monitoring traditional and social media could prevent and pre-empt many of these issues, and assist in building a reputation as a responsible business player. This will be increasingly necessary after the election, particularly given the risk that politically sensitive investment projects may be viewed less favourably by the incoming politicians.

### Know your Business Partners

Myanmar is a challenging business environment and finding the right partners to work with is one of the keys for success. This is made even more challenging by the often opaque background of Myanmar companies, for whom transparency was, until recently, neither a legal requirement nor a business advantage. Coca-Cola was reminded of this not long ago when advocacy group Global Witness uncovered that one of the Myanmar shareholders in its local entity had undisclosed interests in jade mining, a sector sanctioned by the US.

This is changing as the country opens up, opportunities increase and the rules of business transform. Many Myanmar companies are keen to enter into transactions through joint ventures or supplier agreements with inbound investors. They also want to access credit lines from local and foreign banks as potential projects multiply and the traditional approach of self-funding becomes unsustainable. These companies understand they need to open up and clean up their acts and books if they want to attract MNCs and other international players.

Investors need to dedicate significant time and resources to pre-transaction due diligence into their potential partners to identify red flags that would prevent any deal, or issues that need to be remedied. Too often, due diligence takes place too late, but one should know early on who are the real decision makers and beneficial owners. It is important to understand who, in the fragmented political environment, one’s partners are actually aligned with.

## Operational Micro-Management

After a transaction has been approved, substantial efforts will be needed to put in place proper compliance mechanisms at the supplier or in the JV, and to monitor their enforcement. This is no easy feat in a country where corruption, tax evasion or child labour, to name a few of the issues, are the rules rather than the exception.

Norwegian telecoms operator Telenor is an investor that demonstrates best global practices can be adopted in Myanmar. The company acknowledges it has learnt tremendously from its past experiences in Pakistan, Bangladesh, Thailand and Malaysia, and its senior management is comprised of long-serving executives with experience of other Asian economies, as well as senior Myanmar professionals who have been thoroughly trained.

Investors will need to pay close attention to regulatory developments and enforcement action after the elections. The coalition government might want to show its ability to bring about quick improvements in people's lives by cracking down on malpractices, raising taxes and setting up new rules. The NLD especially, whose attitude towards business has long been ambivalent, will be under tremendous pressure by its power base to demonstrate change.

## Further Readings

### Myanmar: The Recluse Emerges

Myanmar has been under the spotlight since 2011 when military dictatorship of the nation formally ended and numerous political and economic reforms were rolled out to help the country re-enter the global market.

### Myanmar at a Pivotal Stage: Will Fortune Favor the Bold?

After nearly 50 years of economic decline and political isolation, Myanmar is experiencing a stampede of foreign companies seeking to stake their claim in one of the world's last economic frontiers.

### The Road to Mandalay

As well-heeled executives fill the business lounges of the few international hotels across the city, it's clear that investors are eager to enter Myanmar as its market opens to the world.

## Conclusion

Myanmar goes to the polls on 8 November 2015 but these legislative elections are only a first step, and tensions will likely continue afterwards. Behind the scenes negotiations are likely for the selection of the president, ministers and provincial governors, and domestically the military will seek to safeguard its interests, while the USA and the international community pushes for democratic concessions.

Investors should keep a close eye on events, as new political leaders will arise and the business environment will inevitably change. Some risks will recede, while others will endure and possibly increase.

Myanmar represents an exciting opportunity and is a true frontier market. Risks abound, but so do the opportunities for those investors who understand how to navigate this challenging but potentially highly-rewarding country.

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