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AgCLIR MYANMAR

Agribusiness Commercial Legal and Institutional Reform Assessment

EXECUTIVE SUMMARY

February 2014



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MYANMAR: OPPORTUNITIES FOR IMPROVEMENT

Emergent Myanmar is a country ripe with extraordinary possibility, yet is addled by extraordinary risk that looms over the agricultural sector. Myanmar holds great potential to enable agriculture-led growth and development. The agro-ecological diversity present in Myanmar, its immediate proximity to key exports markets, and a tradition of excellence in agricultural production evoke an agriculture-led economy full of promise. Yet the Myanmar emerging out of three decades of political and economic policy neglect remains a country where long-term investors are uncertain about the strategic trajectory and commitment to ongoing political and economic reforms.

The governing class in Myanmar finds itself at an important crossroads, with the opportunity to orient the country's development pathway. The policies and laws passed today, the manner in which these policies and laws are passed, and the manner in which these policies and laws are implemented, will likely have significant effect on domestic and international investment into the agricultural sector, as well as the welfare of the economic actors in the agricultural sector, whether large or small, formal or informal.

WORLD BANK – MYANMAR DOING BUSINESS INDEX, 2013 AND 2014

| DOING BUSINESS TOPICS | DB 2014 RANK | DB 2013 RANK | CHANGE IN RANK |
|-----------------------------------|--------------|--------------|----------------|
| Starting a Business | 189 | 189 | none |
| Dealing with Construction Permits | 150 | 140 | -10 |
| Getting Electricity | 126 | 123 | -3 |
| Registering Property | 154 | 149 | -5 |
| Getting Credit | 170 | 167 | -3 |
| Protecting Investors | 182 | 182 | none |
| Paying Taxes | 107 | 113 | 6 |
| Trading Across Borders | 113 | 114 | 1 |
| Enforcing Contracts | 188 | 188 | none |
| Resolving Insolvency | 155 | 153 | -2 |

Source: 2014 World Bank Doing Business Index

For the first time, the World Bank's annual "ease of doing business" index has provided scores on the ease of doing business in Myanmar for 2013 and 2014 (see table at right). These scores reflect the possibility of the agricultural sector in Myanmar, yet illustrate a decidedly challenged enabling environment, with a relatively high regulatory burden that affects the ease of doing business. Simply put, starting and operating a business in Myanmar is a challenging proposition. Starting an operating an agricultural activity in Myanmar, as observed throughout this report, seems even more fraught with risk and challenge, especially for small scale producers, aggregators, transporters, and marketers that must deal with regulatory uncertainty and uneven implementation.

THE AgCLIR APPROACH

The Agribusiness Commercial, Legal, and Institutional Reform (AgCLIR) diagnostic addresses the legal, institutional, and social environment for starting and operating a business in Myanmar's agricultural sector and can be used for a variety of purposes: as a foundation for agriculture policy development, a framework for donor intervention, a substantive resource for future projects, a benchmark for assessing change, a tool for academic instruction, and, most immediately, a "jumping off point" for stakeholder discussion and consensus-building.

The AgCLIR approach has several topics of analysis which overlap with Doing Business topics. These are highlighted in blue in the table at right. Those topics are broken down by section in the main report, and can be accessed individually, or as a whole.

From August 5 – 23, 2013 a cross-disciplinary team of consultants convened in Myanmar to conduct interviews across the agriculture sector. The team was advised by the USAID/ Myanmar mission, which recognizes the critical need for a more productive agricultural sector. The team met with more than 150 national and local officials; farmers and their associations; small, medium, and large agricultural enterprises; business associations; think-tanks and other non-government organizations; educational and research institutions; the banking, lending and investment community; donor representatives; and many others. Interviews took place in and around Nay Pyi Taw and Yangon, as well as rural regions surrounding these cities. The diagnostic concluded with a roundtable presentation and discussion in Yangon on August 19, attended by more than 65 stakeholders, including members from the government, private sector (including large agribusinesses, small firms, and small-holder producers represented), advocacy organizations, and international organizations.

CROSS-CUTTING THEME: MYANMAR AND THE ASEAN COMMUNITY

Myanmar is making major strides in opening up its economy to regional and global markets. The country's Framework for Economic and Social Reform put forth in December 2012 emphasizes the critical importance of building on policies to open up the national economy for trade and investment. To this end, the potential for Myanmar to join a planned ASEAN Economic Community by the end of the year 2015 (AEC 2015) is high.

The AEC Blueprint lays the foundation for realizing the goal of ASEAN as an integrated economic region by 2015. It contains four pillars, each with various measures and initiatives that are designed to achieve the goals of the AEC, and create a single ASEAN economic region:

1. A Single Market and Production Base
2. A Highly Competitive Economic Region
3. A Region of Equitable Economic Development
4. A Region That Is Fully Integrated With the Global Economy

Achieving these four pillars in Myanmar will be no small feat, and it is not clear that the goals of AEC 2015 will be achieved by the December 31, 2015, deadline. However, progress is being made. The Blueprint calls for the creation of an ASEAN single window (ASW) to integrate and facilitate trade across the 10 member states. At the request of Myanmar, the ASEAN secretariat is currently conducting a legal gap analysis to identify where adjustments will need to be made to meet this requirement. Myanmar is also in the process of drafting a competition law to strengthen consumer protection—another key objective laid out in the Blueprint.

The Framework for Economic and Social Reform notes the important measures already undertaken in Myanmar, and recognizes that further reforms are essential—demonstrated by the creation of internal targets and action plans for meeting AEC commitments. While it is clear that Myanmar has a challenging road ahead to meet all the goals of the AEC, the Blueprint can be used as a lever of change that promotes strong economic growth and investment. Looking to the next year, achieving AEC 2015 will require, at a minimum, the following conditions to be met:

1. Creating a common understanding of the **baseline and gaps** remaining to be bridged.

The Myanmar Ministry of National Planning and Economic Development (MNPED) is the national coordinating agency for the AEC. Its mandate is to effectively communicate requirements and coordinate implementation of AEC 2015 objectives across various focal points and implementing agencies. At the time of this writing, it does not appear that MNPED fully understands legal and institutional gaps, nor does it have the necessary convening authority or prestige to galvanize and sustain the inter-ministerial efforts.

2. Mobilizing **financial resources** to begin work on rectifying those gaps.

Myanmar has a very low government revenue generation base as well as spending per person on essential social services. Tax revenues are unusually dependent on funds transferred from State Owned Enterprises and from concessions. Under these conditions, the Government of Myanmar will be dependent on donor largesse to implement key aspects of the AEC Blueprint.

3. Improving the **legal reform process**, while overcoming a bureaucratic, hierarchical culture of ministries.

Generally, draft laws do not appear to be widely circulated for comment, meaning that Myanmar neither benefits from the experience of international technical experts cognizant of contemporary trends, nor from comments and suggestion from Myanmar stakeholders. Also, there is the concern that draft laws may not contain everything needed to fully support and implement AEC 2015 commitments.

4. Navigation of the **political economy** of the challenge.

AEC 2015 will require the finessing of powerful stakeholders linked to the previous military government, who have significant economic interests and could attempt to derail reforms. Creating a productive atmosphere for coordination among government bodies and between the public and private sectors will be crucial.

As 2014 approaches, the year that Myanmar hosts ASEAN, pressure to intensify efforts will increase and it remains to be seen whether this role will serve as a sufficient driver to overcome remaining resistance in Myanmar to meet the AEC 2015 obligations.

AgCLIR TOPIC SUMMARIES

EMPLOYING WORKERS

The majority of the population in Myanmar is still directly engaged in the production of food. Most of these people are smallholder farmers who use largely traditional means with little or no mechanization, low quality information, inadequate access to capital, poor infrastructure, uneven inputs, and limited ability to organize to get better deals. While these smallholders are nominally considered independent entrepreneurs, under both socialism and the military regime they were historically constrained in their freedom to act or associate. Myanmar prohibited all labor unions until recently, and still restricts the right of its people to associate far more than in open societies; through recent organization by farmers owning small plots has resulted in initial coordination and advocacy.

Lack of both basic and advanced support for agricultural progress is clearly demonstrated in the resources devoted to agricultural education and extension support. It is encouraging that the Government increased the budget of the main agricultural university at Yezin seven-fold last year; but academic/industrial linkages do not exist in Myanmar; as tertiary education and vocational skills taught in the classrooms are often drastically different than those demanded by industry.

RECOMMENDATION

- *Support improved skills courses and improve the linkages between agricultural training and industry needs*

GETTING CREDIT

Myanmar's financial markets are highly fragmented, exhibiting the following characteristics: (1) borrowers and lenders cannot carry out efficient transactions; (2) lenders cannot protect themselves against local credit risks by easily diversifying their loans; (3) capital savings and investment do not readily balance between surplus and deficit regions; and (4) the cost of capital to equally credit-worthy borrowers is not the same everywhere. As such, these markets do not enable broad-based access to credit for the agricultural sector; especially in rural areas.

Myanmar's financial institutions are averse to lending for many reasons, not the least of which is that lending laws are restrictive on types of collateral available, including pledges of livestock, equipment, and farm and trade fixtures (such as storage bins, pumps, sheds, etc.). Another reason is that the procedures required to create, perfect, and enforce secured transactions are costly, while the prioritization of creditors is uncertain, and enforcement of debt actions are highly unpredictable.

RECOMMENDATIONS

- *Support the Government of Myanmar's planned equity market*
- *Better integrate Myanmar into global financial markets*
- *Repurpose the Myanmar Agricultural Development Bank*
- *Build the capacity of regulatory agencies*
- *Improve the availability of borrower and collateral information*
- *Improve the risk management capabilities of lenders in agriculture*
- *Support market opportunities that increase access to financial services in rural areas*
- *Ease restraints on the banking sector, including interest rate ceilings*

PROTECTING INVESTORS

Agricultural investments currently represent only a small number of the total investments in Myanmar; but the potential for the country to become a leading agricultural producer is apparent. However, Myanmar's investment climate contains several risks. The country is still adjusting to its post-military regime-turned-democracy identity. The judiciary has inadequate capacity to properly protect investors and lacks independence and training in modern commercial litigation. There is also a lack of training and comprehension of alternative dispute resolution mechanisms, which holds back efficient administration of commercial disputes.

Foreign investment laws establish an ambiguous legal mandate for discretion within the investment promotion regime, and also establish conflicting and uncertain provisions guiding foreign investment. Company laws are outdated, and do not provide many of the protections to minority investors that are a hallmark of contemporary corporate governance, such as disclosure obligations and director liability. Where investment and corporate laws do exist, there is effectively no enforcement and most new laws remain untested.

RECOMMENDATIONS

- *Remove high levels of government discretion in performance of investment promotion activities*
- *Build more capacity in staff to authorize investment applications*
- *Build general capacity within the Myanmar Investment Commission*
- *Provide financial sector trainings in due diligence*
- *Provide training and legal education on the enforcement of foreign arbitral awards*

PAYING TAXES

Taxes collected in Myanmar—at an astoundingly low 4% tax to GDP ratio—are too low to support a functional government offering basic public services to its people. Needless complexity in taxes and exceptions, paired with a labor-intensive filing and collection process, makes navigating the tax system in Myanmar a challenge for the typical citizen. In general, taxes in Myanmar number too many, and the administration of taxation occurs in an unfair and inequitable fashion, with non-enforcement creating a competitive disincentive for those individuals and companies that comply with tax laws. Agricultural commodities and inputs are formally excluded from all forms of taxation, although speed payments and other forms of low-scale corruption creates an informal taxation on the system. The overall tax receipts are sufficiently low that numerous small-scale producers indicated a desire to pay taxes based upon the following conditions:

1) taxes were administered fairly across their competitors, and 2) that tangible benefits could be demonstrated through improved infrastructure and public services.

The commercial tax in Myanmar is structured as a hybrid transfer tax that favors vertically integrated large firms by taxing value additions when the product is sold. This can drive out certain production chains involving small firms because of a cascading effect of taxation in market segments that are not excepted from the commercial tax. The Internal Revenue Department has developed a generally sound reform strategy, and is in discussions with numerous bilateral and multilateral donors for financial and technical support for its reform agenda.

RECOMMENDATION

- *Many of the key next steps for Myanmar's tax system reforms are about to commence or are already underway, so limited opportunities exist for USAID involvement at this time. However, certain specific trainings have been requested that would help support a reform approach that—if coordinated with existing donor activities—could help propel the tax reform process forward. Specifically, a request for regulatory impact analysis as a supplemental skills-training course for budget planning and tax policy reforms would be useful, and is a skill that could be a useful supplement to other activities.*

COMPETING FAIRLY

The structure of Myanmar's farm input and food distribution markets demonstrates a pressing need for framework laws and institutions to protect competitors and consumers from abuses, as vast swathes of the economy are monopolized or

oligopolized. In the fertilizer and pesticide sectors, for example, the two largest firms have combined market shares of 50 to 60 percent.

Competition and consumer protection laws were drafted a year ago without incorporating international best practices or foreign input. As such, it is impossible to know what they address and what kind of entity they will create. Unfortunately, Myanmar's lack of transparency is greater than anywhere else in ASEAN. As the ASEAN economic integration plan for 2015 requires a law that protects competition, it is unclear as to whether the Association, with the primary legal mandate to enforce competition, will have any capacity to influence policy or enforce law.

RECOMMENDATION

- *Undertake a program to open the agricultural sector to competition through deregulation, privatization, and creation of an independent agency empowered to enforce laws against cartels, abuse of market power, and deceptive marketing practices*

ACCESSING MARKETING INFRASTRUCTURE

Prolonged economic stagnation and a state-mediated system of market organization have severely limited the development of agricultural marketing in Myanmar. Improving access to critical rural services in input supply, agriculture extension, transport, and rural infrastructure could all contribute to a more dynamic rural farming sector that could boost livelihoods through the development of real agriculture value chains. Transportation, for example, is a sector that has at least four different ministries involved, with several other agencies becoming involved when it comes to planning new large scale infrastructure development and finance projects.

An overwhelming majority of private market actors cite the absence or the reliability of the electricity supply as the principal constraint to running a business or making investment and expansion decisions – with many considering it their only constraint. In addition, the state of rural organization is exceedingly weak in Myanmar. Individualistic farming practices and a pervasive lack of information fundamentally block the development of a more dynamic smallholder sector.

RECOMMENDATION

- *Undertake a campaign to support the formation of rural action committees to expand access to market information and enhanced rural services*

TRADING ACROSS BORDERS

Myanmar has committed to becoming an active partner under the Asia Pacific Economic Community (APEC) umbrella, and is transitioning from a managed-trade to a market economy. This transition, however, is far from complete and many remnants of the managed-trade environment remain which have a direct, negative bearing on the development of numerous import and export industries within the country.

The most significant impediment to sustainable growth of international trade in Myanmar is the continued involvement of Directorates of the Ministry of Commerce in the granting of individual trade permits for many import and export trade transactions. This process creates a bottleneck and is ripe for abuse. In addition, Myanmar has been a member of the World Customs Organization (WCO) since March 1991, yet its customs rules and procedures are not in line with all WCO best practices. Government transit policies requiring “transit permits” plus collection of revenues on transit trade are inconsistent with international norms, and effectively undermine Myanmar’s competitiveness in the region.

RECOMMENDATIONS

- *Support transition away from a managed trade approach*
- *Draft new Customs Act and implementing regulations and procedures*
- *Reconcile transit practices with international best practices*
- *Drop “fixed price” valuation and adopt the WTO’s Customs Valuation methodology*
- *Shift to a client-centric approach in the Customs Department to advise traders on how laws and policies can promote growth across sectors*
- *Reconcile all ministries involved in regulating trade through an interagency cooperation strategy to yield a single, integrated border agency*

ENFORCING CONTRACTS

Much of Myanmar’s commercial and contract law has been carried over from colonial days, and while partly outdated for modern usage, key parts provide a reasonable basis for the creation and enforcement of many kinds of contracts. However, the process for enforcing contracts in Myanmar is an expensive proposition - reaching the full resolution of a claim takes an extraordinarily long period of time. The Myanmar court system likewise draws on a long tradition of respectable common law jurisprudence. A sound tradition of well-trained lawyers and a respected judiciary serve as a foundation upon which to undertake the significant reforms required to adopt a contracts enforcement regime.

In the agricultural sector, unwritten contracts dominate, and are often not enforceable in courts as the high standards of the Evidence Law presents certain limitations on the admissibility of oral contracts into evidence. Because of this, most contract enforcement and dispute resolution occurs informally, especially in the agricultural sector. Alternative Dispute Resolution (ADR) and the enforcement of foreign arbitral awards are relatively new in Myanmar, and much training will be required to enable lawyers and jurists to more fully understand how to undertake ADR, and how it can be most effective at resolving commercial disputes.

RECOMMENDATIONS

- *Conduct a study to better understand oral agricultural contracts and improve enforceability of commitments*
- *Develop basic, standard written contract templates for easier enforcement.*
- *Train in ADR to complement existing formal dispute resolution mechanisms*

RESOLVING INSOLVENCY

Great uncertainty exists as to whether Myanmar has a means of dealing with insolvency, a fundamental element of a business enabling environment. It exists, yet the uncertainty itself speaks to just how far the outdated, colonial-era insolvency regime falls from the needs of a modernizing market system. Currently a process exists, but it is spread across many different laws. The lack of centralization leads to uncertainty over the prioritization of claims in debt proceedings. Further, a company has limited options with which to work out its insolvency—both of which are significant problems for Myanmar’s insolvency regime. Under the current terms of the Myanmar Companies Act (MCA), the district court in Myanmar has absolute discretion to establish its own prioritization of claims when a company’s winding down process results in a deficit, unbounded by even the most basic limitations that exist in most contemporary legal systems. This situation grants little certainty to creditors, while granting few protections to insolvents.

The High Courts of Myanmar have primary jurisdiction for any action under the MCA. However, there is little capacity within the courts system to cover traditional bankruptcy proceedings. Debt recovery proceedings occur with some frequency in district courts, but findings of insolvency and petitions for protection under the bankruptcy code are virtually non-existent.

RECOMMENDATION

- *Conduct trainings and begin the process to develop and establish a modern bankruptcy regime in Myanmar*

GENDER AND SOCIAL CONSIDERATIONS

The role of women in present-day Myanmar differs little than their role 40 years ago. The dramatic governance change the country is undergoing, as it emerges from 40 years of military and socialist rule, may present opportunities to change the stasis and lack of power women have endured. Women are present in virtually all aspects of the economy, yet wield little power and have few leadership roles or opportunities. Many women are well-educated and competent, but often remain in secondary or tertiary positions in both the public and private sectors.

This dynamic plays out somewhat differently in the rural areas (where 70 percent of the population lives). The rural economy focuses on agriculture (including forestry and fisheries), where there is less education, greater isolation, and ongoing stagnation in agricultural productivity. In rural areas, women are even less visible than in urban areas, though they are estimated to perform approximately 80 percent of the agricultural labor. In addition, women's involvement and consultation in household decision-making was found to be limited in rural areas, with most women having to request their husband's permission to vary their daily routines.

RECOMMENDATIONS

- *Develop and Support a Women's Leadership Network in the Urban Areas*
- *Establish a Women's Business Development Skills Network*
- *Support the NGO Gender Group and the Gender Equality Network*
- *Link rural governance programs to leadership and women's empowerment*
- *Conduct value chain analyses in 4 commodities to understand women's roles*

PROTECTING INTELLECTUAL PROPERTY

Myanmar's intellectual property (IP) laws are outdated, fragmented, and below the standards of modern IP regimes. Currently, Myanmar is party to only one intellectual property treaty, the World Trade Organization's Trade Related Aspects of Intellectual Property Rights (TRIPS) agreement. However, it is not required to be TRIPS compliant until 2021, and there are currently no plans to join any of the standard intellectual property rights treaties. Myanmar is not a party to the International Union for the Protection of New Varieties of Plants (UPOV) and has not joined the Cartagena Protocol on Biosafety to the Convention on Biological Diversity.

Since 2005, the World Intellectual Property Organization (WIPO) has been assisting the government with drafting new IP legislation. That legislation has been redrafted 11 times to date and the process is currently stalled. Until the new laws are adopted, there is little protection for intellectual property rights relating to agricultural development.

RECOMMENDATIONS

- *Prioritize UPOV and other intellectual property rights treaties*
- *Raise awareness among key stakeholders and the general public on issues of counterfeit and adulterated goods*
- *Conduct trainings throughout the legal practice on IP laws and rules*
- *Conduct trainings to build capacity of the agency*

AgCLIR CHAPTER: EMPLOYING WORKERS

RECOMMENDATION: Support improved skills courses and improve linkages between agricultural training and industry needs.

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| Why is reform needed? | Little collaboration exists between the agricultural private sector and secondary, tertiary, and vocational education to meet the needs of the private sector. This misalignment makes it challenging for agricultural enterprises to find people trained with the skills necessary for a productive agricultural sector. |
| Impact of problem | Basic literacy rates in Myanmar are quite strong, yet students are simply not trained in basic vocational skills needed by the workforce, requiring companies to hire many employees with an expectation of training basic industry skills on the job. Further, some companies noted that this creates a chilling effect on new hires. |
| Benefits of reform | Companies in Myanmar will be able to raise capital by offering ownership stakes to non-state interests as “the best way to bring people with money to invest together with people who can put that investment to productive use.” (Keynes) |
| Constraints to reform | Few constraints to these reforms are perceived. Representatives from the agricultural private sector and universities have expressed interest in ideas about how to move forward to build improved linkages. |
| Time Frame for Reform | 6 months to conduct needs assessment; 12 months to develop a business-academic network; 36 months for expanded support to agricultural extension and research. |
| Feasibility (Low/Medium/High) | Medium |

AgCLIR CHAPTER: GETTING CREDIT

RECOMMENDATION: Support GOM’s development of the planned equity market.

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| Why is reform needed? | Launching the securities exchange will require considerable technical support including creating transparent listing processes that encourage efficient stock market operation, improving the quality of financial disclosures, conducting audits, preparing initial public offerings, and reporting by a responsible financial press. Legal reforms must also be enacted. Currently, securities change hands over the counter, although sources indicate that even this is not done frequently. |
| Impact of problem | There is considerable wealth in Myanmar in unlisted shares, property, gold, and other stores of wealth that does not have an investment outlet. A well-executed equity market can open up a highly productive investment channel for this wealth. |
| Benefits of reform | Companies in Myanmar will be able to raise capital by offering ownership stakes to non-state interests as “the best way to bring people with money to invest together with people who can put that investment to productive use.” (Keynes) |
| Constraints to reform | Equity markets are complex: legal and regulatory frameworks must balance private and public interests in their operation and oversight. These frameworks must clearly lay out the types of equity, the process for how it can be issued and traded, how reporting must be done, who will be allowed to participate, and how trades will be cleared and settled. Regulators must also be trained. |
| Time Frame for Reform | 18 months of institutional strengthening in the run up to the exchange’s opening; 24 to 36 months following start-up of regulatory strengthening, training in brokerage, and other necessary market functions. |
| Feasibility (Low/Medium/High) | Medium. Establishing a securities exchange is perfectly feasible if the complexities are well managed. Risks are very high. If the first public offerings are perceived as flawed, investors will rapidly lose interest and the market will become highly volatile and illiquid. |

AgCLIR Chapter: Getting Credit

RECOMMENDATION: Better integrate into global financial markets.

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| Why is reform needed? | Capital markets, derivatives markets, money markets, currency markets, futures markets, insurance markets can all provide financial instruments that allow investments by banks, firms, and individuals to have greater liquidity and risk diversification, but they do not currently have access to such instruments. |
| Impact of problem | Volatility and risk quantifiably influence asset prices. Global financial markets provide opportunities trade risks and manage volatility. The prices of loans, commodities and securities (in future) in Myanmar can be linked to international prices and markets for these assets. |
| Benefits of reform | Linking to international markets can quantifiably lower uncertainty and facilitate investment. |
| Constraints to reform | Central Bank of Myanmar, for banks, and the Microfinance Supervisory Enterprise, for MFIs, are unfamiliar with international financial markets and are fearful of the risks that might be imported from these markets. |
| Time Frame for Reform | 2-3 years |
| Feasibility (Low/Medium/High) | Low. The main costs will be training costs. |

RECOMMENDATION: Re-purpose the Myanmar Agriculture Development Bank.

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| Why is reform needed? | MADB has not been an effective lender to the agriculture sector: too few farmers have access to branches; credit often reaches farmers late; products and terms are structured inappropriately; transactions costs are very high for farmers; MADB employs or condones questionable lending practices. Conversely, with the possibility of mobile banking agricultural lending may become attractive to private banks and MFIs. |
| Impact of problem | Agricultural development banks as a source of cheap credit and directed lending have failed in almost all countries where they have been tried. Those that survive do so by competing on an even footing with other banks, which instills discipline in lending and allows diversification of risks. Until MADB no longer has exclusive authority for agricultural lending, rural areas will likely remain under-banked. |
| Benefits of reform | Competition in rural banking will eventually improve smallholders' access to financial services. Resources that are currently directed to farmers through MADB could be directed through other channels; for instance, subsidized credit programs could be auctioned competitively to private banks to manage. Or, subsidies could be used to improve farming productivity by underwriting crop or hazard insurance in conjunction with a loan facility. More technical support could be directed to value-chain finance. |
| Constraints to reform | MADB has been the main channel for subsidized credit to farmers and farmers are familiar with it. There is a draft amendment to the MADB law, which will increase its capital and reserves. MADB has thousands of staff that will need to be trained or hired (If reforms are too difficult, MADB could be repurposed to focus exclusively on rice, the target of most of its lending, and let other lenders provide loans for all other crops.) |
| Time Frame for Reform | Preparing MADB to compete with other banks would require an act of GOM, corporate restructuring, and extensive staff training. |
| Feasibility (Low/Medium/High) | Low to medium. |

AgCLIR Chapter: Getting Credit

RECOMMENDATION: Build capacities of regulatory agencies.

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| Why is reform needed? | Financial sector regulatory agencies need strengthening. Regulators would benefit from having temporary (expat) professionals to help jump-start and then build local capacity while carrying out their regulatory functions. |
| Impact of problem | Regulators are unfamiliar with international finance generally, and with specific tools to manage time, risk, and volatility. Excessive regulations stifle markets. |
| Benefits of reform | Well-regulated markets enforce legal and regulatory procedures, which makes markets more liquid, transparent, and reliable, with better-protected investors. |
| Constraints to reform | Banking and investment rules that limit the types of financial instruments available to lenders/ borrowers and investors. |
| Time Frame for Reform | Immediate to long term |
| Feasibility (Low/Medium/High) | High |

RECOMMENDATION: Improve availability of borrower and collateral information.

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| Why is reform needed? | Banks and other organizations that provide finance would benefit from information on borrower creditworthiness and on the status of collateral. |
| Impact of problem | Banks and financial institutions cannot readily and easily discover whether prior and superior claims exist on security interests. When conducting their due diligence on asset collateral, banks are most concerned about the level of perfection of the asset: they determine whether there are prior claims, if these claims are senior or subordinate, if there are documented records of any type confirming the status of the asset, etc. Perfecting asset collateral is difficult and time consuming as there are no title search companies or asset registries in Myanmar that could simplify these tasks. Most banks will only lend against perfected collateral. |
| Benefits of reform | Credit bureaus provide information to lenders on the creditworthiness of borrowers enabling them to price risk into their loans. |
| Constraints to reform | Credit bureau constraints include: (1) not sharing both positive and negative information, (2) patronage, (3) lacking the right of inspection (which now resides with bank examiners), and (4) bank cooperation. An asset registry for moveable collateral is not feasible if banks cannot lend against such assets. |
| Time Frame for Reform | 24–36 months |
| Feasibility (Low/Medium/High) | Medium |

AgCLIR Chapter: Getting Credit

RECOMMENDATION: Improve risk management capabilities of lenders in agriculture.

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| Why is reform needed? | Most banks and local MFIs lack risk management departments and need training on how to effectively manage financial risk, particularly in relation to agriculture, which is viewed as being highly risky as opposed relatively secure. |
| Impact of problem | There are few third-party support institutions in Myanmar that help lenders price risk. Lenders in Myanmar therefore rely on their own capacity to manage risk. By international standards, this risk management capacity is low. In practice, this situation results in substantial measures against perceived counterparty risks and renders deserving borrowers (many rural) unable to obtain credit. |
| Benefits of reform | Sophisticated commodity markets grew out of the agriculture sector including futures, options and derivatives. |
| Constraints to reform | Myriad overlapping laws and regulatory authorities complicate reforms governing third-party support institutions. |
| Time Frame for Reform | Legislation review less than 6 months, technical support for drafting new legislation a further 6 months. Capacity building can begin immediately but will take several years to reach critical mass. |
| Feasibility (Low/Medium/High) | Medium |

RECOMMENDATION: Support marketing opportunities that increase access to financial services in rural areas.

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| Why is reform needed? | Farmers typically lack a credit history and obtaining information about their creditworthiness is time-consuming and expensive. In countries where farmers have access to mobile phone technologies, these costs are coming down because financial institutions are able to employ phone company data to assess credit, payment and other risks. |
| Impact of problem | The costs of rural financial services are high relative to urban and peri-urban areas. Branch banking has high fixed costs and Myanmar's banks are just starting to share infrastructure for check clearing and credit card authorization. In the absence of marketing opportunities afforded by new technologies, financial services will continue to be too expensive to offer in rural areas without subsidies. |
| Benefits of reform | Passing appropriate legislation would open up many private opportunities, enabling banks and MFIs to improve their marketing channels in rural areas through improved technology. New products are available that enable financial institutions to use mobile subscriber data to develop credit scores, which can enable lenders provide credit and other financial services to farmers. Many banks and MFIs are not aware of the possibilities that passage of such legislation would provide; financial services providers, such as input suppliers, could more effectively tailor financial products to a broader spectrum of rural borrowers. |
| Constraints to reform | Legislation or regulation that will allow mobile banking is still in Parliament. Debit and other services have been slow to take off because payments are controlled by Myanmar Payments Union (MPU), an alliance and governing body for Myanmar's banks, some of which are on the sanctions blacklist. Paraphrasing a MasterCard representative, mobile and online banking are some way off; Myanmar's legal institutions and infrastructure need to be developed and people better trained. |
| Time Frame for Reform | 3–4 years |
| Feasibility (Low/Medium/High) | High |

AgCLIR Chapter: Getting Credit

RECOMMENDATION: Ease restraints on the banking sector, which will eventually increase opportunities for rural lending.

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| Why is reform needed? | Restrictive banking policies prevent banks from exercising flexibility in their use of financial instruments, adjusting their lending terms, and matching interest rates to borrower credit risks; banks cannot take guarantees against losses and companies are unable to insure against market risks. |
| Impact of problem | Credit does not flow to rural areas because restrictive policies drive up the costs of rural banking to a point beyond financially acceptable returns. Compounding the cost of restrictive policies, CBM lacks data on agricultural lending so lacks capacity to assess and rank risks. |
| Benefits of reform | Lifting banking restrictions will enable banks to more efficiently price their risks. By letting banks set their own interest rates, competition among banks should increase and stimulate lending to agribusinesses and more rural borrowers. Concurrently, prudential regulation and supervision should be improved to limit Myanmar's susceptibility to financial crisis. |
| Constraints to reform | Since CBM lacks financial sector data, its ability to fulfill its regulatory role is difficult; there is no easy way to find out what banks' exposures are to different counterparties. Because the financial sector lacks transparency, the public often overreacts to any negative news about banks, risking lost deposits. Losing deposits is a real risk for banks since they cannot issue equity to raise capital and are restricted from borrowing on capital markets. Finally, as in China, the official ceiling on deposit rates provides state-owned banks with a cheap source of funding that they can direct to favored SOEs and other arms of government (although people in Myanmar store much less of their wealth in banks than do Chinese). Regulators must balance the need to protect individual investors against the need for businesses to raise capital and make investments. |
| Time Frame for Reform | 24–36 months |
| Feasibility (Low/Medium/High) | Medium |

AgCLIR CHAPTER: PROTECTING INVESTORS

RECOMMENDATION: Support comprehensive governmental reforms and institutional capacity building for a more open, transparent, and predictable investment climate.

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| Why is reform needed? | <p>Although transparency has much improved in Myanmar, the government still retains too much discretion in its ministerial duties, including approvals processes for licensing and for permits. This retained power means that opportunities and incentives for corruption still exist. This remains one of the biggest deterrents to investment and a serious impediment to Myanmar’s hoped-for growth.</p> <p>Programmatic support to enhance investor protection in Myanmar should prioritize:</p> <ol style="list-style-type: none"> 1. Encouraging governmental process reforms to reduce Discretion and improve Transparency 2. Undertaking Technical and Legal Capacity Building in staff at all levels across line ministries that serve market regulation functions 3. Training and building capacity within the judiciary and broader legal sector on provisions of the New York Convention, and provide training in Arbitration. 4. Conducting Banking Sector Training to bolster financial regulation 5. Working with the General Public to build greater awareness of investment laws. |
| Impact of problem | <p>Unpredictability in public sector creates a chilling effect for investors, as uncertainty has direct impact on the probability of the return on the investment. And a lack of capacity within institutions, within the banking sector, and within the general public limit the ability to take advantage of the opportunities present in Myanmar’s agricultural sector.</p> |
| Benefits of reform | <p>The improved capacity and greater transparency required for a more investment-friendly business climate can help to encourage the necessary investment—both high-value foreign direct investment as well as domestic and on-farm investments.</p> |
| Constraints to reform | <p>The challenges affecting the investment climate in Myanmar are wide-ranging and deep-rooted. While there appears to be an appetite for reform within the government, private sector, and general public, the challenges listed in this recommendation will require sustained commitment to reform that is broadly embraced.</p> |
| Time Frame for Reform | <p>Immediate and ongoing.</p> |
| Feasibility (Low/Medium/High) | <p>Medium</p> |

AgCLIR CHAPTER: PAYING TAXES

RECOMMENDATION: Offer regulatory impact analysis as a supplemental skills training course for budget planning and tax policy reforms.

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| Why is reform needed? | Numerous donor organizations are slated to provide support for many aspects of tax policy, tax administration, and fiscal policy for the government of Myanmar. Indeed, many legal reforms and policy changes have already been initiated or proposed within a very short period of time. While many of these changes are necessary to continue transitioning Myanmar toward a more market-oriented economy, increased skills in impact analysis can help policymakers to better focus their reforms on changes with a higher likelihood for public benefit. |
| Impact of problem | Regulatory impact analysis is nonexistent in Myanmar, leading policymakers to undertake systemic policy changes with little access to good data and analysis of the impact of their decisions. |
| Benefits of reform | Evidence-based policymaking decisions are increasingly recognized as a key component of an effective reform agenda. Broad and deep analysis can help identify key winners and losers of policy change, and can help decide whether a sound public policy is predicated on a measurable public good, weighed against its social cost. |
| Constraints to reform | Although interest has been expressed in advancing an evidence-based agenda for policy reforms, Myanmar faces a severe lack of reliable data upon which to structure an effective regulatory impact analysis. |
| Time Frame for Reform | Short-term |
| Feasibility (Low/Medium/High) | Medium |

AgCLIR CHAPTER: COMPETING FAIRLY

RECOMMENDATION: Undertake a program to open markets in the agricultural sector to competition through deregulation, privatization, and creation of an independent agency empowered to enforce laws against cartels, abuse of market power, deceptive marketing practices.

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| Why is reform needed? | Inputs into, and channels of distribution for, food production are highly concentrated with little competitive pressure. The movement toward land consolidation poses a risk that food production will also become concentrated, and oligopolists and monopolists in the farm inputs and food distribution channels will vertically integrate into farming. Inefficiencies in the agricultural sector will persist without sufficient pressure from competition at all levels to increase productivity. |
| Impact of problem | Lack of competition results in farmers paying supra-competitive prices for inputs and lacking the information needed to make informed purchase decisions regarding what fertilizers, pesticides, fungicides, and seeds will yield the highest productivity at the lowest costs. Ultimate consumers pay supra-competitive prices and receive poor quality food products. |
| Benefits of reform | Increased food production and increased profits for farmers. Injecting competition into markets and creating a watchdog agency to protect markets from cartels and monopolistic practices is a foundation for the success of Myanmar's move toward a market economy. |
| Constraints to reform | There is doubt among government officials that competition in private markets is the best means to economic development, and incumbent private sector monopolists and oligopolists will not readily surrender their market power. No individuals or institutions within the government have the mandate or capacity to advocate on behalf of competition or to enforce laws to protect competition and consumers. |
| Time Frame for Reform | 6 years – based on experience in several other ASEAN member countries |
| Feasibility (Low/Medium/High) | Medium. Because entrenched public and private actors profit from lack of competition, it is not clear how committed the government is to opening its markets to competitive forces. Nevertheless, pressure from other ASEAN members will provide sufficient incentives for greater receptivity to opening markets to competition. The benefit that more efficient domestic production will have on exports will also be a lure. |

AgCLIR CHAPTER: ACCESSING MARKETING INFRASTRUCTURE

RECOMMENDATION: Undertake campaign to support the formation of rural action committees to expand access to market information and enhanced rural services.

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| Why is reform needed? | The state of genuine rural organization in Myanmar is exceedingly weak. Individualistic farming practices and a pervasive lack of information fundamentally block the development of a more dynamic smallholder sector. Most small farmers have little choice about the type of training and assistance programs developed in their name. Further, the structure of representation of their interests is conceived entirely in a top-down manner through the larger federated trade associations. A mechanism such as rural action committees that are conceived by rural farmers to articulate their own interests and to make requests of the agriculture extension service and through other bodies at the level of the Union of Myanmar Federation of Chambers of Commerce and Industry (UMFCCI), is a much needed counterweight to the way rural goods and services are currently provided to small farmers. |
| Impact of problem | The preponderance of anecdotal evidence obtained for this study indicated that the majority of farmers have a solid understanding of the types of crops and varieties that sell well. Yet, extension programs and the work of large input dealers are often conceived at cross-purposes with what farmers and select traders actually need. The impact is a drain on scarce resources for extension as well as poor quality market information flowing to the rural producer sector, all of which inhibits backward linkages from developing into larger agro-processing activity. |
| Benefits of reform | A greater proportion of demand-driven service provision and timely market information will result from serious efforts aimed at organizing the rural producer sector, which in turn will improve market coordination and integration up and down value chains. |
| Constraints to reform | Deep-seated attitudes about top-down planning and the state's dirigiste approach to organizing agricultural production are pervasive. This impedes the development of stronger and more confident relationships between farmers and other service providers (for example, extension agents, traders, and input dealers). A systemic lack of trust exists between government and the smallholder sector which continues to plague the design and delivery of support programs, and crucially, dissemination and adoption of the outputs from agriculture research. |
| Time Frame for Reform | 3 years |
| Feasibility (Low/Medium/High) | Medium. The principal obstacle to this kind of reform is the culture of state control over the rural population as well as the extremely political questions about access to land. Significant consciousness-raising and advocacy work must precede this reform with a view toward helping the Ministry of Agriculture, as well as important trade associations at the level of UMFCCI, see that there is a trade-off between depressed rural livelihoods and a lack of dynamism in smallholder agricultural production, on one hand, and continued top-down rural service provision and inadequate market access and information flow stemming from a statist social control perspective, on the other. |

AgCLIR Chapter: Accessing Marketing Infrastructure

RECOMMENDATION: Action planning for the creation of a centralized food safety and inspection body.

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| Why is reform needed? | Development of the agriculture sector and agri-business investment will continue to be adversely impacted by the lack of key institutional and regulatory infrastructure pertaining to food safety. This is not merely a question that impacts the export sector. Developing recognized capacity in food safety issues is part of a broader process focusing on professionalization and quality control in all aspects of farm-to-market activities, as well as importing, verifying, and re-selling on the input side. This kind of institutional development and regulatory and supervisory functions are what the Government of Myanmar can do well. |
| Impact of problem | Lack of confidence in market transactions and increased production and transaction costs as a result of having to pay risk premiums on certain transactions. The erosion of trust makes it difficult for stable and repeatable contracting opportunities to emerge out of informality. |
| Benefits of reform | Trade expansion and easier integration into broader regional trading patterns would be an immediate benefit from strong action toward developing a centralized and capable food safety oversight body. Capacity development in food safety also has many beneficial derived demand and spin-off effects for stronger agricultural research and technology-driven industries such as in micro-biology or other areas of food science. |
| Constraints to reform | The highly fragmented nature of government agencies and the way functional areas of responsibility are spread across too many different ministerial departments, and indeed too many ministries. Hard budget constraints and the disjointed nature of responsibilities related to food or agro-chemical inspection make such investments in individual laboratory capacity appear uneconomic. The current state of food safety inspection also depresses existing demand for services, so a fundamentally long-term view of the benefits from enhanced food safety regulation is required. |
| Time Frame for Reform | 3 years |
| Feasibility (Low/Medium/High) | High. The Ministry of Commerce is already convening on a near weekly basis an inter-ministerial meeting on how to improve trade, and a focal point of these meetings has been how to develop better food inspection and laboratory procedures. Consequently, the political will is already sufficiently present, particularly following a recent trade incident with Taiwan that rejected a sizable cargo of pulses on account of pesticide residue. According to the interviews conducted for this project, the Ministry of Science and Technology has been chosen to take the lead in developing an approach to improve inspection procedures and laboratory capacity. Whether this means the Ministry will also oversee a food safety regulatory body is unclear. |

AgCLIR CHAPTER: TRADING ACROSS BORDERS

RECOMMENDATION: Support the transition away from the use of historical, managed-trade practices administered by the Directorate of Trade and Consumer Protection Affairs (DOTCPA) of the Ministry of Commerce relating to the import, export, and transit permit scheme.

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| Why is reform needed? | Despite a reduction in the number of items covered by the current permit scheme, significant issues persist. All traders interviewed for this report commented negatively about the scheme and openly complained about the associated corruption its existence fostered. Although the extent of corrupt practices surrounding the issuance and amendment of such trade permits is problematic, greater concern exists over the price-fixing element within the scheme, whereby customs values are set by DOTCPA for each and every consignment. This approach is inconsistent with a modern open-market based economy where customs transaction values are more accurately aligned to the actual cost of trade. Despite a reduction in the number of items covered by the current permit scheme, significant issues persist. |
| Impact of problem | All traders interviewed for this report commented negatively about the scheme and openly complained about the associated corruption its existence fostered. Although the extent of corrupt practices surrounding the issuance and amendment of such trade permits is problematic, greater concern exists over the price-fixing element within the scheme, whereby customs values are set by DOTCPA for each and every consignment. This approach is inconsistent with a modern open-market based economy where customs transaction values are more accurately aligned to the actual cost of trade. |
| Benefits of reform | A streamlined approach will better ascribe costs based upon the actual cost of trade, leading to a more market-supportive trading system. |
| Constraints to reform | While Ministry of Commerce has a legitimate role in setting national trade policies, the daily interventions of DOTCPA in operational matters pertaining to international trade transactions is a significant impediment to economic development, and has become a catalyst for innovative unofficial practices. |
| Time Frame for Reform | Short-term |
| Feasibility (Low/Medium/High) | High |

AgCLIR Chapter: Trading Across Borders

RECOMMENDATION: Undertake a replacement of the current customs legislative framework with a new, modern Customs Act, with new implementing regulations and associated procedures.

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| Why is reform needed? | With existing Customs legislative framework based on antiquated British colonial legislation (1885 Customs Act with 1947 modifications), Myanmar's Customs legislative framework is no longer appropriate for a modern open-market based economy. |
| Impact of problem | <p>The current blurred lines of responsibility between Ministry of Commerce (DOTCPA) and the Customs Department over operational Customs matters have led to legislative conflict between the contents of the 2012 Import & Export Law (Ministry of Commerce/DOTCPA) and the Customs Act (Ministry of Finance / Customs Department).</p> <p>Furthermore, current Customs legislation restricts the Customs operational environment to national border crossing points. This is a common historical legacy from colonial days where the focus was simply on loading and unloading maritime vessels. Such a Customs role is no longer the case and a modern Customs Administration needs to have a legislative mandate which gives it authority to perform its duties across the entire national territory of the country concerned. With the constant pressure for greater trade facilitation initiatives to be applied at front line border crossing points, officials need to be able to access traders premises and audit their business records wherever the company may conduct its business in the country. Without such legislative mandate it is impossible to realistically implement a risk based approach to clearance of international trade, as such an approach relies heavily on implementation of a robust post-clearance audit regime to verify overall trader compliance.</p> |
| Benefits of reform | An updated Customs legislative framework offers the opportunity to rationalize the systems and processes and resolve conflicting legal provisions that create overlapping authority between the DOTCPA and the Customs Department. |
| Constraints to reform | n/a |
| Time Frame for Reform | 1 year + |
| Feasibility (Low/Medium/High) | High |

RECOMMENDATION: Urgent changes should be undertaken to the current transit regulator regime to bring it into line with international norms for transit trade to facilitate Myanmar's evolution as a regional transit hub.

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| Why is reform needed? | The current transit regime relating to the domestic transit of international goods across Myanmar territory is inconsistent with international norms and imposes a double taxation on such traffic when the goods being carried are not intended to enter the commerce of the country. |
| Impact of problem | Traders are required to pay a 2.5% transit duty to Customs, based on the CIF value of goods carried, plus a 2.5% transit fee to the Ministry of Commerce (DOTCPA), and obtain a transit permit from DOTCPA for each transit movement. The revenue collected is non-refundable upon completion of the transit movement. |
| Benefits of reform | Traders face double taxation, affecting the competitive position of firms involved in cross-border trade. Termination for the existing regime should help place traders and, by extension, the domestic agricultural sector in less competitive disadvantage with other countries within the region. |
| Constraints to reform | n/a |
| Time Frame for Reform | Short-term |
| Feasibility (Low/Medium/High) | Medium |

AgCLIR CHAPTER: ENFORCING CONTRACTS

RECOMMENDATION: An improved system for understanding contract commitments, protecting commitments, and defending against spurious claims, is a critical component of a comprehensive reform activity for the agricultural sector in Myanmar.

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| Why is reform needed? | As discussed, the lack of written contracts, and lack of understanding of them, means that many agricultural agreements are simply unenforceable. Where agreements are established, the success of a dispute resolution often hinges upon the power between the parties rather than an enforcement of the commitment between the two parties. |
| Impact of problem | High-cost enforcement of contracts limits the opportunity for agricultural sector actors to enter into meaningful commitments, effectively limiting opportunities for commercial activity to spot sales and trust-based transactions. This significantly commercial opportunities and, ultimately, income earning potential for producers, consumers, and other key stakeholders in the agricultural sector. |
| Benefits of reform | An improved contracts system will be necessary to aid in the transition toward a more efficient agricultural system. Improved contracts enforcement will expand market opportunities, enable improved cooperation between private sector participants, and if properly designed can begin to improve the playing field between parties to a transaction in the agricultural sector, providing greater protections for small and medium sized enterprises. |
| Constraints to reform | n/a |
| Time Frame for Reform | 6 – 12 months |
| Feasibility (Low/Medium/High) | High |

AgCLIR CHAPTER: RESOLVING INSOLVENCY

RECOMMENDATION: Conduct analysis and training on the introduction of a modern bankruptcy system for Myanmar.

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| Why is reform needed? | Currently there is no bankruptcy law in Myanmar, and uncertainty can be mitigated. |
| Impact of problem | Currently, the only process available to entrepreneurs who take on debt and fail is to go through the insolvency process, which is plagued with uncertainty and extraordinary judicial discretion. |
| Benefits of reform | Creditors, especially secured creditors, can have more confidence in the priority of their claims. The risk premium for capital associated with debt recovery from insolvents should be reduced. Society will send a signal that innovative risk taking is culturally acceptable. |
| Constraints to reform | Little is known about modern bankruptcy among policymakers, and this is likely not a top reform priority of any agencies, because no existing governmental constituency is promoting it. Further, there may be entrenched interests who desire to retain the current level of judicial discretion in insolvency matters. |
| Time Frame for Reform | Short-term |
| Feasibility (Low/Medium/High) | Medium |

AgCLIR CHAPTER: GENDER AND SOCIAL CONSIDERATIONS

RECOMMENDATION: Women's Leadership Programming Development

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| Why is reform needed? | Very few women are in leadership positions in either the public or private sectors. Within the government framework men in positions of authority and power come from the ranks of the military where most have received training in leadership and management. The military is not open to women. Culturally women do not take the lead in households (rural and urban) so there is little experience to be gained for girls/women. |
| Impact of problem | Women (and girls where relevant) are under represented in nearly all leadership positions in Myanmar. Women are part of the workforce but in positions of lesser status and little power. |
| Benefits of reform | Optimizing the workforce in Myanmar. |
| Constraints to reform | Resistance on the part of existing leadership. |
| Time Frame for Reform | Immediate and ongoing. |
| Feasibility (Low/Medium/High) | High. These activities can have high visibility for the US, and a lasting impact for women participating in the programs. |

RECOMMENDATION: Enhance and Develop the Capacity of the Agricultural Extension Service with a Focus with an emphasis on understanding and responding to the differences of men and women.

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| Why is reform needed? | <p>Improving Agricultural productivity can enhance the status, income, and role of women (as well as men) in Myanmar. Agriculture will be the engine of growth in the country when appropriate technologies are employed and market distortions are removed (in particular for rice).</p> <p>The face of agriculture in Myanmar is male, yet approximately 60% to 80% of the work in an agricultural household is done by women, excluding the additional childcare, cooking, and other household maintenance chores typically attended to by women.</p> <p>Yezan University trains the extension workers a multiple levels but recognizes the needed for updated curriculum as does the extension service itself specifically in the areas of marketing and communications</p> |
| Impact of problem | Underperformance of the agriculture sector. Low productivity and poor rates of return on household investment. Lower incomes. |
| Benefits of reform | Broad based increased income. |
| Constraints to reform | Not many likely. Nothing discernable. |
| Time Frame for Reform | Immediate and ongoing. |
| Feasibility (Low/Medium/High) | High |

AgCLIR Chapter: Gender and Social Considerations

RECOMMENDATION: Support to University of Yezan to enhance and development current day curricula for ag extension and distance and E-learning components with an overview and inclusion of gender mainstreaming.

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| Why is reform needed? | While women are the majority of faculty and students at the university there remains an unequal distribution of power and leadership at the university. By updating curricula, especially related to extension development, women and men will both benefit. The development of distance and E-learning programs will enhance the access of learning to more of the population in Myanmar. |
| Impact of problem | <p>Very out dated curriculum in extension services. Does not include marketing nor outreach techniques.</p> <p>There is no direct relationship between the university and the extension service—this shortcoming is recognized by both the university and the extension service but the impact of this dynamic produces educated but not particularly well trained students cum agents.</p> <p>E-learning and other forms of 21st century IT learning do not exist at the university though the university is ready to move forward with a small amount of technical assistance.</p> |
| Benefits of reform | Numerous. Difficult to quantify because students will benefit on campus and subsequently in extension work, but so will the university in its ability to attract additional students, and the biggest benefit will be to the improved productivity in agriculture. |
| Constraints to reform | Infrastructure |
| Time Frame for Reform | Short term; 3 – 6 months. |
| Feasibility (Low/Medium/High) | High |

AgCLIR CHAPTER: PROTECTING INTELLECTUAL PROPERTY

RECOMMENDATION: Undertake coordinated efforts to bolster intellectual property rights protection across legal strengthening, capacity

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| Why is reform needed? | <p>A robust agriculture sector ultimately requires innovation and a system that incentivizes innovation. Myanmar currently provides insufficient protection of innovation, requiring a multifaceted reform activity to come into line with international standards and commitments.</p> <p>Effective IP protection in Myanmar will require (1) a coherent system of IP administration with skilled regulators; (2) legislation compliant with current international norms and agreements; (3) skilled and knowledgeable judges and enforcement officials; and (4) a public aware of the harm posed by counterfeit and pirated goods.</p> |
| Impact of problem | <p>While some notable for-profit and not-for-profit innovation firms are developing extraordinary innovations tailored for Myanmar’s market, there is much greater room for growth in this area.</p> <p>An inability to enforce against counterfeit goods, to protect branding, and to protect an innovation can significantly increase the costs of doing business and can marginally dissuade firms from investment and market entry.</p> <p>Finally, certain types of business forms designed to apportion risk and to encourage scaling innovations which could be strengthened and useful for agriculture—including licensing and franchising—are largely ineffective where intellectual property rights remain unprotected.</p> |
| Benefits of reform | <p>The creation and enforcement of intellectual property rights will encourage greater investment into innovation. More importantly for Myanmar at present, improved intellectual property rights protection will also help encourage improved scaling of private sector-led innovation for more risk-averse firms to enter the market.</p> |
| Constraints to reform | <p>Stakeholders in the public sector indicated a recognition of the challenges of intellectual property rights protection. However, Myanmar’s capacity to implement and enforce IP rights is extremely low. There appears to be an interest on the part of the government of Myanmar to develop a more robust system for intellectual property rights, however there is much work required to build upon the very limited existing capacity.</p> |
| Time Frame for Reform | 5+ years |
| Feasibility (Low/Medium/High) | High |

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