

The new Foreign Investment Law has taken effect, and infrastructure improvements are underway.

By David DuByne

When an article on Myanmar as a new frontier for potential investment for both Taiwanese and U.S. companies was published in the October 2012 issue of Taiwan Business TOPICS, Myanmar's new Foreign Investment Law (FIL) had just been enacted. Since then, business conditions have been solidified with the implementation of the FIL's investment safeguards, the removal of media censorship, and the launching of construction projects for new rail lines and highways. (The fate of a proposed Thai-Myanmar deep-sea port at Dawei is less certain).

The easing of sanctions by Western countries against Myanmar's military regime has also brought about a loosening of the financial system. Investors can now repatriate earnings, and businesses may utilize letters of credit and wire transfers. The Myanmar Payment Union, comprised of 17 banks, has introduced debit card service and a nationwide ATM network.

There are currently 19 private domestic banks operating in Myanmar. In addition, 23 foreign banks maintain representative offices permitting them to engage in liaison activities and monitor loans and offshore transactions.

Foreign companies are allowed to lease – but not to own – land and other immovable property. For land, the lease may cover an initial 50 years, plus two ten-year extensions.

Improved land-use rights are one consideration for foreign investors in entering into joint ventures with a local company. Cooperation in a joint venture also brings some other advantages under the FIL, including exemptions from income tax for up to five consecutive years (and thereafter on profits re-invested within one year), up to 50% income tax relief on earnings from exported products, and lower customs duties for imported machinery, equipment, and materials needed for the first three years' commercial operation. The corporate income tax rate has been reduced from 30% to 25%.

The Myanmar Company Act stipulates a minimum capital requirement for a joint venture of US\$50,000 for a branch office, representative office, or service company, and US\$150,000 for a manufacturer. For a 100% wholly owned subsidiary, the FIL requires minimum capital of US\$300,000 for the service sector and US\$500,000 for manufacturing. In the case of joint ventures, the amount of foreign capital and foreign equity ratio can be defined by the contract between the foreign and domestic entities. Land use

for joint ventures located in industrial or special economic zones is subject to an initial term of up to 30 years.

Restricted business activities include marine fishing, agricultural enterprises, industries harmful to the ecosystem, those involving hazardous waste and chemicals, and unapproved medical technologies.

Employment of local personnel is now governed by the Settlement of Labor Dispute Law of 2012 and Social Security Act of 2012. Before employees may be terminated for cause, they need to be formally warned three times. Typical reasons for termination for cause are theft, carrying weapons in the workplace, absence without leave for more than five days, and drunkenness on the job.

There is no minimum wage in the private sector except for specified industries such as cheroot rolling. Normal working hours are eight hours a day, six days a week.

The aviation industry is booming because of the increase in foreign visitors, both for tourism and business. Seven domestic airlines serve the market. The 6,650 kilometers of navigable inland waterways are another important channel of transportation. The country also has 148,700 kilometers of roadways, but only 33,000 kilometers are paved. Upgrading and resurfacing of an additional 4,500 kilometers is due to be completed by 2015. Also under construction on the same schedule are 127.4 kilometers of rail connections between Kalay and Tamu and 141.8 kilometers connecting Lashio and Ruili.

In this fast-changing market, the Directorate of Investment and Company Administration stresses that it welcomes businesses that provide “inclusive development of the entire people, providing necessary vocational training to Myanmar citizens.”

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