

# Public Consultation on the future investment relationship between the EU and Myanmar

The recent political and economic developments in Myanmar have prompted the EU to normalise its overall relations and open a new chapter in its relations with the country. The EU Council Conclusions of 23 April 2012 on Myanmar/Burma set up the principles under which the Council plans to continue its engagement with Myanmar. The Council also recognised the vital contribution the private sector has to make to the development of Myanmar and welcomed European companies exploring trade and investment opportunities, by promoting the practice of the highest standards of integrity and corporate social responsibility and working with the authorities, the private sector and the people of Myanmar to create the best possible regulatory environment. On 22 April 2013, the Council lifted all restrictive measures imposed on Myanmar, with the exception of the arms embargo, and reiterated its commitment to collaborate with Myanmar in assisting the reform process and contributing to economic, political and social development. It further encouraged responsible trade and investment.

The legislative procedure for the reinstatement of the Generalised System of Preferences (GSP) is ongoing. Once adopted, Myanmar, due to its economic status as a Least Developed Country (LDC), will be allowed to benefit from duty-free quota-free access to the EU market. At present there is no Bilateral Investment Treaty between Myanmar and any EU Member State and no full-fledged free trade agreement negotiations are foreseen in the near future. Against this background, negotiations of an investment agreement with the EU could both help Myanmar in its development strategy and its integration into the world economy and ensure that all EU investors are treated on an equal footing in Myanmar. At the occasion of the visit of Myanmar's President U Thein Sein in Brussels on 5 March 2013, the EU and Myanmar agreed to explore the feasibility of an investment agreement.

In this context, the European Commission is launching a broad public consultation to gather views from relevant stakeholders regarding the future EU-Myanmar investment relationship. The consultation is open to all stakeholders within the EU and in third countries.

The Commission services will prepare a report on the consultation, which will be published on the Directorate General for Trade website. All contributions will be published in a document attached to the report, to the exception of those from respondents who indicate that they do not wish their contribution to be made public or as indicated in the questionnaire wish to keep certain information confidential.

We welcome your input and comments on the questionnaire, by Monday, 15 July 2013 at the latest. If you have any questions or are in need of assistance, please do not hesitate to contact us at: [trade-eu-myanmar-inv-consultation@ec.europa.eu](mailto:trade-eu-myanmar-inv-consultation@ec.europa.eu)

U s e f u l d o c u m e n t s  
\* **Council conclusions on Myanmar/Burma**  
\* **PDF version of the questionnaire**  
\* **Privacy Policy Statement on the handling of your personal data**

Questions marked with an asterisk \* require an answer to be given.

## 1. INFORMATION ON RESPONDENTS

### 1.1. What is your profile? \*

- Business
- Trade association representing businesses
- Trade union/organisation representing trade unions
- Government institution/regulatory authority
- Non-governmental organisation
- Other



If you chose "other", please specify:

(maximum 200 characters)



What is your company size? \*

- Large company (more than 250 employees)
- Medium company (between 50 and 250 employees)
- Micro or small company (less than 50 employees)



In which country are the headquarters of your business located? \*

- In one of the EU27 Member States
- Myanmar
- Other



**Which one? \*** (maximum 200 characters)



**If you chose "other", please specify:**

(maximum 200 characters)



**If you are a trade association representing business, please provide information on your members (numbers, names)**



**Has this contribution been approved by all your members? If not, could you identify those that have approved this contribution?**

**1.2. Please state the name of your business/organisation/association etc: \***

**1.3. What is your main area/sector of activities/interest? \*** (maximum 300 characters)

#### **TRANSPARENCY and CONFIDENTIALITY**

To ensure that our public consultation is open and transparent, the report of the consultation, published on the European Commission's website, will include a list of the names of all the organisations from whom we have received contributions to this process.

In addition, we will also publish the contributions of those organisations that have agreed to this publication. If you agree in general for publication of your contribution, you may nevertheless indicate some information that you would like to be treated as business confidential and not be published.

For organisations which do not agree to the publication including for reasons of business confidential information, their contribution will be treated as confidential and will not be made public.

Please indicate your preference:

\*

- I agree to the publication of my contribution to this public consultation
- I do NOT agree to the publication of my contribution to this public consultation

If you agree in general to publication but would like part of your contribution to be treated as confidential, please indicate (also in the questionnaire) what information you consider confidential and do not wish to be made public and why:

(maximum 3000 characters)

## 2. INVESTMENT ENVIRONMENT IN MYANMAR

### 2.1. Are you either a business, or a trade association representing business?

\*



*For trade associations representing business interests, if the question refers to "you" please read as "your members"; if the question refers to "your", please read as "your members' "; and if the question refers to "your company" or "your business", please read as "the businesses of your members".*

*Please note that as a trade association, you might find some questions difficult to answer, when they are targeted more specifically at individual companies/businesses. In this case, please tick the "not applicable" box.*

YES

NO

### Have you invested in Myanmar? \*

YES

NO

Not applicable

### When did you start investing in Myanmar? \*

Less than 2 years ago

Between 2 and 10 years ago

More than 10 years ago

### What kind of investment have you made in Myanmar? \*

Greenfield investment

Merger and acquisition / Investment into existing operations



**What is the status of your operation in Myanmar? \***

- Wholly foreign owned enterprise
- Joint venture with a Myanmar's partner, and you holding a minority share
- Joint venture with a Myanmar's partner, and you holding a majority share



**On a global basis, how would you rank Myanmar as a destination for investment in your firm/sector? \***

- Top destination
- Top 5 destination
- Top 10 destination
- Not top 10 destination



**On a global basis, where do you foresee Myanmar ranking as a destination for investment for your sector in 10 years time? \***

- Top destination
- Top 5 destination
- Top 10 destination
- Not top 10 destination



**Have you experienced difficulties when investing, or trying to invest, into Myanmar? \***

- YES
- NO
- Not applicable



### If yes, which difficulties have been the most significant?

\*

(between 1 and 5 answers)

- Land prices
- Financial services
- Infrastructure (telecoms, power networks, roads)
- Productivity
- Work ethos
- Ease of doing business
- Attitude of authorities
- Attitude of (local) partners
- Political system
- Costs of resources
- Judiciary system
- Length and effectiveness of procedures
- Research & development
- Other



### Please explain (maximum 3000 characters)



Please indicate if these difficulties arise mostly:

- Before investing in Myanmar (i.e. pre-establishment)?
- After having invested in Myanmar (i.e. post-establishment)?

\*

- Before investment
- After investment
- Both equally
- None of the above

**2.2. Overall, how do you evaluate the change of investment climate in Myanmar in the past 2 years? \***

Improved

Worsened

No opinion



**Please explain:** (maximum 2000 characters)

**2.3. Please rank the five investment barriers that you consider the most problematic in Myanmar**

**(From 1 - the most problematic; to 5 - the least problematic)**

a: 1

b: 2

c: 3

d: 4

e: 5

	a	b	c	d	e
Prohibition to invest / limited scope of business	<input type="radio"/>				
National security control	<input type="radio"/>				
Subsidies policy	<input type="radio"/>				
Merger review procedures	<input type="radio"/>				
Excessive capital requirements	<input type="radio"/>				
Foreign ownership (equity) limitations	<input type="radio"/>				
Joint venture requirement	<input type="radio"/>				
Local partner requirement	<input type="radio"/>				
Local incorporation requirements	<input type="radio"/>				
Burdensome regulatory approval	<input type="radio"/>				
Burdensome licensing requirements/procedures	<input type="radio"/>				
Registration / documentation requirements	<input type="radio"/>				
Local content requirements	<input type="radio"/>				
Problematic requirements for experience/qualification of personnel	<input type="radio"/>				
Economic needs tests (e.g; on number of foreign businesses permitted..)	<input type="radio"/>				
Nationality / residency requirements	<input type="radio"/>				
Standards, testing	<input type="radio"/>				
Technology transfer requirements	<input type="radio"/>				
Limitations on R&D possibilities	<input type="radio"/>				
Visa procedures	<input type="radio"/>				
Price controls	<input type="radio"/>				
Tax measures	<input type="radio"/>				
Other restrictions	<input type="radio"/>				
I did not encounter any barriers	<input type="radio"/>				
Not applicabe	<input type="radio"/>				

If you chose "other restrictions", please specify: (maximum 500 characters)

2.4. If you have directly experienced any of the barriers that you have identified, please explain which ones, and what happened. Please provide information on the level of impact which the barrier(s) had for your business; and if possible, on the cost of the barrier(s) for your business.

(maximum 3000 characters)

2.5. In light of recent political changes and EU normalisation of relations with Myanmar, do you plan to invest in Myanmar in the coming years? \*

Yes

No

Not applicable



If yes, please explain:

2.6. Do you see any barriers that would deter you from going through with plans to invest in Myanmar? \*

YES

NO

Not applicable



If yes, please explain: (maximum 2000 characters)

**2.7. Which aspects and factors of the Myanmar's market attract you the most and might make you decide to invest? \*** (between 1 and 5 answers)

- Natural resources
- Medium-term economic prospects
- Proximity to the clients/markets
- Size of Myanmar's market
- Infrastructure, distribution, logistics
- Proximity to talent/skilled labour force
- Productivity
- Work ethos
- Ease of doing business
- Attitude of authorities
- Attitude of (local) partners
- Political system
- Costs of resources
- Lower labour costs
- Lower regulatory standards (e.g. for social or environmental standards)
- Length and effectiveness of procedures
- Research & development
- Other:...
- Not interested in investing in Myanmar

Additional comments

(maximum 3000 characters)

**2.8. Have you (or your members) ever made an investment in Myanmar? \***

Yes

No

 **Have you experienced any unfair treatment in connection with your investment in Myanmar? \***

YES

No opinion

NO

 If yes, please explain (maximum 3000 characters)

 **Have you experienced any issues linked to the protection of your key technologies when investing in Myanmar? \***

YES

NO

No opinion

 **If yes, please explain:** (maximum 2000 characters)



**As an investor, how do you usually deal with business and legal problem in Myanmar? \***

- Amicable Settlement
- New contract
- End of contract/cooperation
- Mediation
- Local legal proceedings
- Political support
- Diplomatic support
- International Arbitration
- No opinion



**Do you have confidence in Myanmar's legal system to protect your rights as an investor? \***

- YES  NO  No opinion



**If no, please explain:** (maximum 2000 characters)



**Would you consider starting international arbitration proceedings against Myanmar on the basis of an investment treaty in the case of unfair and discriminatory treatment, or expropriation without compensation, of your investment? \***

- YES  NO  No opinion



**If no, please explain:** (maximum 2000 characters)

### 3. INVESTMENT ENVIRONMENT IN THE EU

**3.1. In the current post-sanction context, Myanmar's outward foreign investment (i.e. Myanmar's companies investing abroad) in your specific sector of operation in the EU is: \***

- Increasing
- Decreasing
- Steady, i.e. neither increasing nor decreasing
- No opinion

**3.2. Do you see Myanmar's companies investing in your sector in the EU and competing with you in the coming years? \***

- YES
- NO
- Not applicable

**3.3. Do you see specific issues linked to investment into the EU by Myanmar state owned companies? \***

- YES
- NO
- No opinion

 **If yes, please explain:** (maximum 2000 characters)

### 4. POTENTIAL IMPACTS OF AN EU-MYANMAR INVESTMENT AGREEMENT

#### A. Impacts on the investment climate

**4.1. Do you consider that there is a need for the EU to contribute to facilitate EU investment in Myanmar, possibly through a bilateral agreement? \***

\*

- YES
- NO
- No opinion



If yes, please explain, including priorities or specified issues to be addressed (maximum 4000 characters)

**4.2. Are there any specific issues that EU-Myanmar investment should focus on for facilitating EU small and medium enterprises' (SMEs') investment in Myanmar? \***

YES

NO

No opinion



Please explain

(maximum 3000 characters)

## B. Sustainable development aspects

**4.3. How could the EU and Myanmar seek to better integrate sustainable development (economic development, social development and environmental protection) considerations in their discussions and issues that concern their investment relations?**

\*

(maximum 5000 characters)

**4.4. How, in your view, corporate social responsibility practices and international guidelines and principles in this area (such as OECD Guidelines for Multinational Enterprises and UN guiding principles on business and human rights) can best be promoted in the context of EU-Myanmar investment relations and in particular in the framework of an investment agreement? \*** (maximum 5000 characters)

### C. Social and labour aspects

**4.5. Do you think that employment (both the number and the quality of jobs) could be affected as a result of an EU-Myanmar investment agreement?**

	Yes, positively	Yes, negatively	No	No opinion
In the EU *	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
In Myanmar *	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

 Please explain (maximum 3000 characters)

**4.6. In your view, which issues linked to social and labour standards would require specific attention, in the context of an EU-Myanmar investment agreement? \*** (maximum 3000 characters)

## D. Environmental aspects

### 4.7. Do you believe that an investment agreement with Myanmar could affect the environment?

	Yes, positively	Yes, negatively	No	No opinion
In the EU *	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
In Myanmar *	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

 Please explain (maximum 3000 characters)

### 4.8. In your view, which issues linked to the environment would require specific attention, in the context of an EU-Myanmar investment agreement? (maximum 3000 characters)

## E. Human rights aspects

### 4.9. Do you think that human rights could be affected in the context of an EU-Myanmar investment agreement?

	Yes, positively	Yes, negatively	No	No opinion
In the EU *	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
In Myanmar *	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>



Please explain (maximum 3000 characters)

**4.10. In your opinion, which issues relating to human rights might require specific attention in the context of an EU-Myanmar investment agreement?** (maximum 3000 characters)

## 5. OTHER ISSUES

**5.1. If there are any other issues that are not mentioned in this questionnaire that you would like to address, please use the space below to set them out.** (maximum 3000 characters)