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Center for Preventive Action

Council Special Report No. 75
March 2016

Priscilla A. Clapp

Securing a Democratic Future for Myanmar



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Foreword

Myanmar is undergoing a historic transition, ushering in a new civilian government after decades of military rule. November 2015 elections resulted in a decisive victory for the National League for Democracy (NLD) party, led by Aung San Suu Kyi. In a country long characterized by human rights abuses, authoritarian rule, and Chinese domination, Myanmar now has a chance to chart a new course, one of its own making. While the electoral process and transition period thus far have been lauded for their transparency and cooperative nature, the country has a long road ahead in securing its burgeoning democracy and sustaining a path of political and economic development.

In this Council Special Report, Priscilla A. Clapp, senior advisor to the United States Institute of Peace and former chief of mission for the U.S. Embassy in Myanmar, recounts the major challenges ahead for Myanmar and outlines how the United States and other countries, international institutions, and international donors can and should support Myanmar's transition. In order to succeed on its course of democratization, she writes, the country must address its vast economic inequality; reach agreement between the NLD and military on when and how to reduce ongoing, pervasive military influence within the government and society; and do all it can to prevent rampant violence against the Rohingya minority group as well as between armed ethnic groups in the country's east. To do so, Myanmar will need to rely on the involvement of outsiders, including the United States, its Association of Southeast Asian Nations (ASEAN) neighbors, and other donors and actors such as Japan and India, all of whom should be prepared to provide political and economic assistance for both their own strategic interests and to counter pressure from China.

Clapp offers several steps that the United States should take both in the short and medium term to revise its current policy toward Myanmar and help improve governance. Over the next year, she recommends that

the United States work closely with both political and military leaders in Myanmar on their political transition, and expand assistance programs to support the Rohingya Muslim minority in Rakhine state. Perhaps most important, she suggests that the United States revise and reduce its sanctions policy in Myanmar—long in place to punish authoritative rule and abuses of human rights—in order to increase economic ties and aid availability and encourage good business practices.

For the next five years—the length of newly elected NLD President Htin Kyaw’s term—she encourages the United States to continue to expand its assistance programs to help develop government institutions, work with the United Nations and other international organizations to address the stateless status of the Rohingya population, and assist Myanmar in building up its judicial system to root out corruption and establish the rule of law. She also urges Myanmar to promote economic development with participation from local and state actors and integrate itself fully into ASEAN, an important source of political and economic support and an alternative to dependence on China.

Securing a Democratic Future in Myanmar offers an important analysis of the coming opportunities and challenges for Myanmar. As with other tenuous democracies in the region, Myanmar’s fate will ultimately be determined by its own people and leadership. But Clapp makes a strong case that the United States should revise and increase its involvement and leverage its efforts with those of other donors and international institutions.

Richard N. Haass

President

Council on Foreign Relations

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Priscilla A. Clapp

Acronyms

ASEAN	Association of Southeast Asian Nations
BSR	Burmese Sanctions Regulations
CFR	Code of Federal Regulations
FY	fiscal year
GSP	Generalized System of Preferences
NGO	nongovernmental organization
NLD	National League for Democracy
OFAC	Office of Foreign Assets Control
SDN	Specially Designated Nationals
SFOAA	State Department Foreign Operations Appropriations Act
SPDC	State Peace and Development Council
USAID	U.S. Agency for International Development
USDA	Union Solidarity and Development Association
USDP	Union Solidarity and Development Party

Council Special Report

Introduction

A new chapter in Myanmar's political evolution opened on November 8, 2015, when voters in parliamentary elections delivered a resounding victory to the democratic opposition led by Aung San Suu Kyi and her National League for Democracy (NLD).¹ Holding a majority of the seats in the parliament, the NLD was able to choose the next president, one of two vice presidents, and top civilian leaders in both the legislative and executive branches of the next government. The party will thus control the policymaking and legislative processes, with the exception of security issues and other areas, such as local administration, which are still under military control. In the parliament, the army will retain veto power over changes to the constitution by virtue of the 25 percent of parliamentary seats allocated to it; in the executive branch, the army will control three ministries focused on security. Because the Union Solidarity and Development Party (USDP)—created by the former military government to provide a platform for retired generals to run the quasi-elected government—has failed to retain control of the parliament for more than a single five-year term, the configuration of political leadership in Myanmar has shifted dramatically from military to civilian in a single election cycle.

Aung San Suu Kyi is establishing what she calls a reconciliation government in which her party shares power with its former military repressors and with ethnic-minority political leaders. The constitution forbids her to be president, because her two sons hold foreign citizenship. Therefore, on March 15, 2016, the parliament elected Htin Kyaw—a close ally of Aung San Suu Kyi—to be the new president of Myanmar. The parliament also elected the two vice presidents: one is an ethnic-minority candidate and the other is a former general. The slate of cabinet ministers announced on March 22, 2016, includes a mix of political, ethnic, and technocratic representatives, with Aung San Suu Kyi to head four important ministries.

Of course, the NLD victory may cause the military to cling even more firmly to its current constitutional advantages as the transfer of power proceeds over the coming months, but at least the issue will be clearly joined and the real debate can begin.² The election of Htin Kyaw as president and the NLD's other choices for leadership in the next government—with Aung San Suu Kyi firmly positioned to control important areas of government—constitute a sharp realignment of Myanmar's political forces for the next five years and will ultimately determine where possibilities for compromise may emerge.

The reforms of the past five years under President Thein Sein's USDP and the potential for further reform under an NLD government are transforming Myanmar from a country of little strategic interest to the United States into one that promises substantial benefit to core U.S. interests in Southeast Asia and beyond. Myanmar is no longer a backwater in Southeast Asia but an increasingly consequential member of the Association of Southeast Asian Nations (ASEAN), situated strategically between the world's two most populous countries, China and India. As such, it can become an important source of strength for ASEAN.

Having steadfastly supported the democratic opposition in Myanmar for more than twenty-five years, the United States has a major stake in the success of the first NLD government. The new government faces formidable challenges to demonstrate that democratic governance can meet popular expectations. The United States should be prepared to help meet these challenges and ward off inherent instabilities. The development of democratic governance in Myanmar through stable, peaceful, negotiated transition can become a powerful example to others. A strong U.S. endorsement of the new government in Myanmar at this critical juncture would send a signal not just to people in Myanmar but to countries in the region where democratic progress may be languishing.

U.S. calculations of its interests in Myanmar cannot ignore the role of China. Myanmar's turn toward democracy and the opening of its economy to wide-scale foreign investment pose challenges to China, which enjoyed strong political and economic influence over previous military governments for more than two decades. Concerned about the growing Western presence in Myanmar, Beijing has pressured the Thein Sein government not to include the United States in peace negotiations with armed ethnic-minority groups and has reacted angrily to visits by U.S. officials and representatives of nongovernmental organizations (NGOs) to areas near the Myanmar-China border. The United

States can expect that China—perceiving these areas to be an essential part of its domain—will continue to keep a tight rein on the ethnic-minority groups on its border to provide a buffer with its democratizing neighbor. In fact, China will likely be a deciding factor in whether the Myanmar government can eventually reach a comprehensive peace agreement with its armed ethnic-minority groups.³

In Myanmar, U.S. concern for China is related not to strategic advantage but rather to China's role in supporting and encouraging years of oppressive military rule and willfully raiding the country's resources with no regard for the people displaced or the environment despoiled. Myanmar's new leadership will need to balance the inevitable pressure from China with popular anti-Chinese sentiment to find a happy medium for maintaining close, cordial relations with its giant neighbor. Myanmar does not want to be an arena for U.S.-Chinese competition and will resent efforts by either country to move in this direction. By the same token, Naypyidaw will welcome modest efforts by Washington and Beijing to contribute jointly to the country's peace and prosperity.

Since the Thein Sein government came to power in Myanmar in 2011, major foreign support has rallied behind Myanmar's effort to transform itself. This support will be redoubled with the NLD-led government. International organizations, including the United Nations and international financial institutions, and the world's leading governments are providing broad assistance to nation-building, restructuring both government and civilian institutions, building human capacity, supporting the peace process, developing a more robust agricultural sector, and investing in economic infrastructure. Foreign investment has grown rapidly, with Asian and European countries leading the way.

The United States, on the other hand, has tended to hold back until it can be certain that the military presence in government and business institutions has been expunged and the country's many political, economic, and social ills have been corrected. Because the 2015 elections and subsequent transfer of power to civilian leadership have provided unassailable evidence of sustained political progress, the United States should reexamine its relationship with Myanmar and determine how it can better support the country's stability and political development during a decisive period in the struggle between the country's democratic and authoritarian opponents. Lukewarm or disinterested U.S. support could doom the political transition to failure.

Ultimately, democratization in Myanmar will need strong U.S. support and encouragement. The new NLD government can be expected to rely heavily on international assistance, particularly from the countries that have sustained it through the long years of military repression. Normalization of U.S. relations with Myanmar has already created many new opportunities for the United States to focus on various elements of the government and society. The new transparency resulting from a more open and enterprising media—both print and electronic—as well as improved government processes has shed greater light on the nature of the problems confronting the country, making it now possible for the United States to respond to them more directly.

This is not to suggest that the United States alone can guarantee Myanmar a stable democratic future. The country's fate will be determined above all by its people and leadership. However, the strong regional relations and alliances that underpin the U.S. posture in Asia give the United States a valuable opportunity to leverage substantial international assistance and support through well-designed and coordinated programs, which can make a powerful contribution to the country's transformation. The foundation for donor coordination has already been laid in Myanmar, and U.S. policies should be designed purposely to strengthen it.

Now that the NLD is finally in power, the United States should reposition itself immediately to contribute meaningfully to the urgent task of developing the political, social, and economic institutions necessary to sustain a stable democracy.⁴ Myanmar's new political leaders will inevitably seek assistance from the United States that U.S. legal and policy restrictions currently prevent. It is time, therefore, for a serious policy review and revision. In particular, the United States should take the following steps to address challenges to stability over the coming year:

- Applaud and assist, where appropriate, the establishment of a reconciliation government.
- Provide assistance for economic development and conflict mediation in Rakhine State and work with various actors in Myanmar to facilitate internal policy changes by the new government to give legal status to the Rohingya minority.
- Revise the legal structure of remaining sanctions—particularly the Specially Designated Nationals (SDN) list, constraints on U.S. investment, and excessive restrictions on U.S. Agency for International

Development (USAID) programs—to streamline, more effectively target, and begin to sunset sanctions specific to Myanmar.

- In consultation with the NLD, develop a strategy for gradually expanding dialogue with Myanmar’s military, including on political governance issues, withdrawal from the political process, and regional disaster relief.

In concert with other donor governments and international institutions, the United States should also take the following steps in the interest of stability over the next five years:

- Expand the purview of U.S. assistance to include capacity-building for government institutions, especially those providing for health, education, and social services.
- Help rebuild the justice system to establish genuine rule of law and development of community policing appropriate to democracy.
- Promote economic development at the state level to consolidate peace with ethnic minorities.
- Lead a regional effort to find a humane solution to Rohingya statelessness and legal status in neighboring countries.
- Promote and assist Myanmar’s political and economic integration into ASEAN, accelerating programs already under way.

Challenges to Stability in Myanmar

The ultimate success of democratization in Myanmar will be judged by the country's ability to shed its authoritarian traditions, adopt pluralistic democracy, provide space for its diverse cultures and religions, and ensure a decent living standard for the entire population. The challenges to success are immense and contain the seeds of failure if they cannot be addressed in time. The NLD victory is in itself no guarantee of stability because the party inherits a huge burden of problems from its military predecessors.

More than five decades of military rule have left large parts of the country in a near feudal condition, beset by an overly large national army, a multitude of armed ethnic forces, and hundreds of militias. Rule of law is almost nonexistent, and the competition for resources and wealth is a virtual free-for-all. The past five years of political transition have had the perverse effect of exacerbating the competition for resources with the rapid influx of foreign investment and the promise of economic growth. The early years of the transition also gave rise to new threats to the civilian population in the form of economic displacement, religious tension and communal violence, and a rapid increase in narcotics trafficking and drug addiction, which add to the continued warfare between the army and armed ethnic groups along Myanmar's borders with China and Thailand.⁵

ECONOMIC INEQUITY AND OBSTRUCTION

One of the major obstacles to the country's democratic transition is the legacy of patrimonial governance created purposely to concentrate the country's wealth in the hands of a small military-oriented elite class. This process accelerated rapidly during the final decade of military government, with the result that the top generals from the former State Peace

and Development Council (SPDC)—which was dissolved by Thein Sein in 2011—and their families and friends still control the levers of economic power.⁶ Some of these former SPDC officials have encouraged Thein Sein’s economic reforms, but others have deliberately obstructed them by opposing the liberalization of foreign investment, equitable land distribution, transparent banking and revenue collection, and streamlining of government regulations and controls over economic activity.⁷ Although the NLD gain in the 2015 election has largely displaced the wealthy elite—both civilian and ex-military—from positions of power in the parliament and the upper echelons of the executive branch, the elite still maintain control of the economy and much of the country’s land and resources.

It will be difficult for the new government to confront this problem head-on without alienating some of its important sources of political support. Yet the unequal concentration of wealth in the hands of a few individuals and their hold on land and resources is central to the country’s social and economic problems, often erupting in public protest and local conflict. Despite efforts to legislate against corruption and misuse of wealth, the situation can be corrected only gradually by developing incentives for wealth to be repatriated from foreign banks and channeled more productively into national development, by creating more efficient business processes that drain the rampant corruption out of the economy, and by making government more transparent.

Both the U.S. government and U.S. businesses can help significantly with this task, but it will require substantially revising how U.S. financial controls are managed, especially the SDN list, and relaxing the stringent restrictions on U.S. business practices in Myanmar. Given that U.S. businesses are required to observe U.S. law when operating overseas, they could become a powerful vehicle for instilling modern business practices in their foreign partners. Fortunately, a few promising signs indicate that some of Myanmar’s “crony” businesses are beginning to adopt greater transparency and fiscal responsibility in their practices, so it is clear that some members of the elite understand the need for reform.⁸

EXCESSIVE MILITARY CONTROL

Myanmar is a highly militarized country at both the national and local levels and will remain so for years to come. Uniformed military leaders

believe that democratization in the country has not yet matured to a degree that civilian leaders can prevent society from descending into chaos and conflict. Military representatives made this argument vehemently when vetoing a majority vote in parliament in July 2015 that favored constitutional amendments to reduce the military's hold on political power.⁹ The military has indicated that it will be prepared to step back only when peace has been achieved with Myanmar's many armed ethnic groups and they have been disarmed, demobilized, and reintegrated.

In order to uphold the popular desire for civilian government evidenced in the 2015 elections, it is imperative that the NLD government and military leaders agree sooner rather than

*MAIN POLITICAL AND ECONOMIC POWERS
PROVIDED BY THE 2008 CONSTITUTION TO THE MILITARY*

- Twenty-five percent of the seats in parliament at both national and state levels are assigned to the military.
- Parliamentary approval for constitutional amendments requires a vote greater than 75 percent (giving the military a veto).
- The head of army (rather than the president) is commander in chief.
- Six of eleven members of the executive's National Defense and Security Council, which decides major security and foreign policy issues, are controlled by the military.
- The commander in chief, with the approval of the president and parliament, may institute martial law under conditions of instability or threats to security.
- Three ministerial positions—defense, home affairs, and border affairs—are reserved exclusively for the military, and control of the Ministry of Home Affairs assures military authority over all internal security and local administration.
- The military has authority to control important sectors of economic production through large military companies.
- The military has authority to appropriate and hold large tracts of land for both military and economic activity.

later on a timetable for reducing military control over the political system as enshrined in the 2008 constitution. As much as military leaders see this system as necessary to maintain stability during a long transition, it can easily become a source of instability and conflict if undemocratic restrictions and repression of the civilian population continue under an NLD government.

At a minimum, the NLD parliament should remove outdated laws, and the military and other security forces should exhibit greater tolerance of public criticism and protest to deal with the inevitable pressures that come with democratization.

Furthermore, now that military leaders have facilitated a smooth transfer of power to elected civilian leadership in Naypyidaw, the United States should, in consultation with the NLD, begin regular discussions with Myanmar's military about the role of the military in a democracy, reorganization of the military, disaster relief, and other forms of military assistance to the civilian population.¹⁰ The United States needs to maintain a regular dialogue with military leaders to encourage and underpin its commitment to reform.¹¹

PROMISED REFORMS SLOW TO MATERIALIZE

Relaxing government controls over the population during the past five years has seriously strained government capacity. Although civilian government institutions have attempted to transform from an authoritarian command structure that prioritizes military objectives to one more responsive to the people's needs, they are not keeping pace with popular expectations. Some policy analysts who have worked to reform government ministries over the past five years have concluded that efforts to retrain and build capacity of civil servants will fail until the government itself is fundamentally restructured. The current structure of government in Naypyidaw, for example, does not allow middle and lower levels of the bureaucracy to participate actively in policymaking and implementation.¹² In taking over the reins of government, the NLD has an enormous opportunity to begin reversing the authoritarian legacy and making the ministries more responsive and effective in implementing new policies.¹³ It is therefore encouraging that the NLD intends to consolidate and restructure the existing ministries at the outset of its government.¹⁴

Land management is one of the most critical sources of social conflict that the government has so far failed to address adequately. The Thein Sein government introduced a new land-management policy, but was unable to reach agreement on its implementation, given that land ownership and management was spread widely across several ministries headed by ex-generals who were unwilling to cooperate. Meanwhile, land grabbing has accelerated with the growth in economic activity stimulated by new investment and with the continuing conflict between the army and armed ethnic groups. This, in turn, has triggered widespread public protest, which is likely to become even more intense under the NLD government because of heightened public expectations.

COMMUNAL VIOLENCE

One of the most troubling fractures surfacing recently in Myanmar society has been the Buddhist-Muslim divide, giving rise to communal tension and violence in a number of urban areas. Most but not all of the country's Muslims arrived from what was then India during the British colonial years and are not considered by the Buddhist majority to be a native population.¹⁵

One Muslim minority group, the Rohingya, has resided for generations in Myanmar's western Rakhine State on the border with Bangladesh. Although there are also many Rohingya in Bangladesh, most do not have citizenship in either country and have been kept isolated in poverty by the local Rakhine Buddhists. The sources of communal tension between the Rakhine Buddhists and Rohingya are a combination of religious, demographic, ethnic, and economic factors, fueled by ignorance and falsehoods amplified by radical voices on both sides.

The Thein Sein government pandered to a group of radical Buddhist monks, agreeing to marriage laws and election restrictions designed to marginalize the Muslim population, and the USDP welcomed the monks' support against the NLD in their election campaigns. However, this strategy failed to diminish the NLD's popularity. Buddhist, Muslim, and Christian voters all turned out in large numbers to vote for the NLD. Thus the NLD may have an opportunity to translate its popular support into legal and policy measures to restore and protect the rights of the country's Muslim population. Given the level of poverty in Rakhine State, which is at the heart of the problem, substantial

international assistance will be required for a long-term solution to the sectarian division. The United States has a strong humanitarian concern for the plight of the Rohingya and should help the new government urgently address this situation so that it does not become a flashpoint for further social and religious destabilization.

ARMED REBELLIONS

Since the end of the colonial period in 1948, the eastern portion of Myanmar has been plagued by widespread armed warfare between the national army and various small armies representing ethnic groups seeking greater autonomy. This has mired the country in the world's longest-running civil war, seriously impeding economic development and providing the army's rationale for more than fifty years of military governance.

The Thein Sein government's effort to forge a viable peace negotiation with these armed ethnic groups has been one of its most significant achievements. It was the first time in the country's history that negotiations had been attempted on such a comprehensive scale. Negotiators produced a considerable base of agreement on both the terms of a national cease-fire and a framework for political dialogue, despite the fact that only eight of seventeen armed ethnic groups participating in the negotiation agreed to sign the national cease-fire document in October 2015. Despite the limitations of the cease-fire, the outgoing government proceeded with political dialogue before the end of its term in March 2016. Meanwhile, Aung San Suu Kyi made the achievement of peace with ethnic minorities an immediate priority for the NLD government and declared her intention to bring the remaining groups into the cease-fire agreement and to restructure the political dialogue.

Ethnic-minority leaders have welcomed the NLD victory and are urging the NLD to revitalize the peace process. Because the NLD itself now contains a large contingent of ethnic-minority political leaders, the conditions for new breakthroughs may exist; it would be a mistake to lose the momentum and progress already achieved.

Military cooperation will also be vital to the achievement of a peace agreement, but the NLD will have to bridge the gap between the armed groups' desire to maintain their identity as autonomous armies and the military's insistence that there can be only one national army, as enshrined in the constitution. Furthermore, fighting continues between

the army and large armed ethnic groups along the Chinese border, complicating peace negotiations and hardening the resolve of both sides to hold and gain territory. Another major driver of conflict is narcotics trafficking, which provides financing for both sides. Narcotics production and trafficking have increased rapidly over the past five years and will require serious attention to achieve sustainable peace.

PEACEFUL TRANSFER OF POWER

Thein Sein's term was plagued by tensions within the ex-military leadership, seriously complicating reforms and straining relations between the legislative and executive branches. The results of the elections have removed this problem by taking the ex-military party out of the equation and making it possible for the NLD to work directly with the army. Furthermore, the NLD is likely to be a more disciplined political party than the USDP, united behind a clear democratic ideology and not plagued by leadership rivalries. This should allow it to coordinate more smoothly between the legislative and executive branches in formulating policy and legislation.

It will undoubtedly take some time for this new reality to sink into the political mentality in Naypyidaw and beyond, but some efforts are already under way. The first step toward an orderly transfer of power took place in cordial and productive meetings between NLD leader Aung San Suu Kyi, President Thein Sein, Commander in Chief Min Aung Hlaing, Speaker of Parliament Shwe Mann, and Senior General Than Shwe (head of the former military government). The NLD and USDP set up a joint committee to manage the details of the transfer. Aung San Suu Kyi, for her part, pledged to form a reconciliation government, promising a role for both the ethnic-minority parties and members of the government party in the NLD government.

Nonetheless, the primary holders of power characterizing the next term will be the NLD and the army (personified by Aung San Suu Kyi and the commander in chief). Difficult issues concerning the role of the military in the political system will be at stake, and disagreement on these issues could easily destabilize the political system. The ability of both sides to negotiate these differences and find a way forward will be critical.

The United States should position itself to play a constructive role in this process, as needed, by developing channels of communication

with both the political and military leadership to encourage military acquiescence to an expanding role for civilian political governance and a gradual reduction in military instruments of political control and management of the country.

The United States and Myanmar

If a single feature of the post–Cold War world has replaced the East–West divide, it is the competition between authoritarian and democratic forms of governance. This is manifestly apparent in Asia, particularly Southeast Asia, where China is actively pressing new strategic claims and the virtues of authoritarian governance. As the ASEAN countries, including Myanmar, gradually democratize, they look increasingly to the United States to counter Chinese pressure.

Since the end of the Cold War, the world has seen many attempts at transition from dictatorship to democracy. In the developing world, most have failed to reach their destination, and this could also be Myanmar’s fate. It remains a patrimonial state—institutionally more authoritarian than democratic—with political and economic structures dominated by an elite class created by the military government of the past twenty years.

Myanmar’s transition has nonetheless benefited greatly from the existence of a strong democratic opposition with a charismatic leader in Aung San Suu Kyi, who was a beacon of hope during the dark days of repression and is a focal point for the country’s democratic future. As the November 2015 elections illustrate, the previous five years of transition have begun to create openings for political and economic change that over time will provide opportunities for developing the institutions of democracy and challenging the power of the crony elite. The transparency of the elections and the smooth transfer of the reins of government to the NLD can be interpreted as confirmation that the political elite are now prepared to begin sharing power with the country’s democratic forces and its ethnic minorities. Furthermore, the NLD election campaign was championed by important sectors of the elite business class.

For decades, the United States has been a major source of sustenance for the country’s democracy advocates and its embattled ethnic minorities, even when harsh military rule made it impossible to reach

them directly and it was necessary to resort to indirect methods, such as channeling assistance through third countries and punishing the military regime with wide-ranging sanctions. An NLD government will make it possible for the United States to continue this endeavor with direct support.

In addition to promoting its political development, the United States also has a strong imperative for advancing Myanmar's socioeconomic development. Myanmar sits at the crossroads between East and South Asia, squeezed between the world's two most populous countries, China and India. Yet it has not served as a crossroads for more than a century. Its isolation prevented the development of modern transport routes through its territory, stifling trade and political connections with its neighbors. The transition under way in Myanmar aims to turn that history around, connecting it to ASEAN, India, China, Japan, other Asian economies, and ultimately to the global economy.

So far, Asian investors have responded enthusiastically. Japan has spent more than \$3 billion to relieve Myanmar's debt to international financial institutions since 2011 so that they could resume working relations with the new government to overhaul the monetary system and assist with development infrastructure.¹⁶ Japan sees Myanmar as a critical link in its southwest trade corridor, stretching to the Middle East and Africa. South Korea, too, is investing heavily in a manufacturing base in Myanmar and in capacity-building for democratic governance.

Myanmar's giant neighbor to the west, India, is also heavily involved in its development, both politically and economically. India enjoys a special relationship with Myanmar, built on their common legacy of British colonial rule. India has become a major market for agricultural exports from Myanmar and provides important economic and capacity-building assistance. As the world's largest democracy, India has for decades been at the forefront of international efforts to support the rise of free market democracy in Myanmar.

China has led the investment pack for more than a decade, viewing Myanmar as a cache of energy and natural resources for its own economic growth. China's President Xi Jinping has now added his vision of a new "maritime silk road" to China's strategic plan for expanding its trade and economic reach overland to South Asia, the Middle East, and Africa, with Myanmar as the main link in this chain. The Beijing leadership views Myanmar as falling within its sphere of influence and perceives the U.S. presence in Myanmar as part of a larger strategy to

encircle and contain China. Beijing is undoubtedly concerned about the current direction of Myanmar's political and economic development. The "maritime silk road" can therefore be seen as the policy framework within which Beijing hopes to lure the new government into a binding economic relationship that will outweigh Western, particularly U.S., support. On the other hand, however, Chinese pressure on Myanmar—whether economic or political—is likely to be met with strong resistance from both the leadership in Naypyidaw and the general public, particularly now that the country is in a position to develop its external relations widely. The most effective defense against Chinese pressure on Myanmar will be to maximize the involvement of the United States and other international donors and investors.

It is not by chance that the flow of foreign investment into Myanmar in the past year exceeded expectations by more than twofold.¹⁷ The advent of the NLD government will undoubtedly stimulate another surge in investment if its economic policies are welcoming. As the world's leading economic power and architect of the structures underpinning the global economy, the United States should also play a major role in Myanmar's economic emergence, as it did with Japan, South Korea, China, Taiwan, Thailand, Indonesia, Hong Kong, and Singapore. Economic and trade interests are a major pillar of the U.S. presence in Asia. A solid relationship with Myanmar should be part and parcel of the U.S. strategy toward Asia.

Obstacles and Dilemmas for U.S. Policy

For more than twenty years of military rule, U.S. policy toward Myanmar was characterized by sanctions and hostility that encompassed almost every aspect of bilateral relations. This included official and diplomatic involvement, bilateral trade, the full range of financial transactions, humanitarian and development assistance, and U.S. relations with ASEAN, the United Nations, and international financial institutions. By 2011, when the Thein Sein government came to power in Naypyidaw, the sanctions regime had become so massive and legally intertwined that few in the U.S. government, let alone the general public, comprehended its full dimensions (see appendix).

As Naypyidaw began to tackle the various issues specified in Washington's September 2009 "engagement" policy—releasing political prisoners, ending forced labor, undertaking reconciliation with both the NLD and ethnic minorities, and removing restrictions on the civilian population—the U.S. government began to restore a high-level dialogue.¹⁸ This turnaround culminated in visits by then U.S. Secretary of State Hillary Clinton in December 2011 and President Barack Obama in November 2012 and the subsequent easing of some economic sanctions.

Since their visits, the ban on imports from Myanmar, with the exception of jade and rubies, has been removed. The ban on U.S. investment was modified to allow U.S. companies to participate in a narrow band of the Myanmar economy, provided that they do not partner with any crony or military businesses.¹⁹ The U.S. government requires that U.S. investors provide detailed annual reports on their business activity in Myanmar, including any evidence of corruption or human rights abuses.

The financial sanctions, which banned all U.S. banking and financial services in Myanmar, have been eased to allow American entities to use approved Myanmar banks for their assistance and business activities. However, U.S. banks have been reluctant to remove controls on banking services and the transfer of U.S. dollars directly to Myanmar, so most

dollar transfers must still be made in cash or through a third-country bank.²⁰ Meanwhile, Myanmar has opened its banking sector to foreign banks, and several Asian banks have established branches in Yangon.

Additionally, the U.S. Department of the Treasury's SDN list is composed of a wide range of individuals and companies associated with the former military regime in Myanmar by virtue of their military rank, family relations, or business connections, or because they are suspected of illegal activity or human rights abuses. Many of the senior officials in the outgoing government, such as members of parliament, are on the list, as are the owners of most large hotels and office buildings that cater to foreigners.²¹

A few individuals and entities have been removed from the list over the past two years after decisions by the U.S. government, but the reasoning behind these decisions sometimes appears arbitrary. Although the list is publicly available on the U.S. Treasury's website, it does not specify the particular transgressions causing inclusion on the list. The U.S. government offers a legal process for removal from the SDN list, but the process is opaque and requires expensive legal assistance, with no assurance of success.

The sanctions aside, restrictions on official U.S. assistance to Myanmar are severe. A USAID mission was inaugurated in Yangon in 2012, but its activity has been limited largely to humanitarian assistance and capacity-building for NGOs. Those in both the legislative and executive branches in Washington who believe that denial of assistance is an effective foreign policy tool have continued to add restrictions on the management of USAID programs in Myanmar in response to the country's many shortcomings.²² This practice has intensified even since the 2015 elections; the fiscal year 2016 U.S. assistance budget is more restrictive than in previous years. Currently, USAID staff and its contracting agencies are encouraged to vet every local partner and recipient of assistance to ensure that they are not associated with any individuals or organizations on the SDN list, human rights abusers, human or narcotics traffickers, money launderers, government employees, military personnel and their family members, police, or paramilitary forces.²³ To perform this vetting, a significant percentage of the funding for every USAID contract goes to organizations specializing in searching personal records. At a time when U.S. policy should be more agile to adjust to changing circumstances and needs, it is instead becoming more inflexible (see appendix).

Many other worldwide restrictions on U.S. assistance associated with various undesirable activities—such as abuse of human rights, curbs on religious freedom, human and narcotics trafficking, and money laundering—also come into play in Myanmar. However, because they provide guidelines for better performance and allow graduated U.S. government responses, these global restrictions tend to be more flexible instruments for encouraging better governance and respect for individual rights than the Myanmar-specific sanctions.

Finally, the United States maintains strict controls on arms transfers and training for military and other security forces in certain countries, including Myanmar. These prohibitions are aimed at avoiding U.S. complicity in human rights abuses and antidemocratic activity and can be expected to govern relations with Myanmar as long as the military retains its political role in the government.²⁴

During the long years of military rule, sanctions were a relatively cost-free policy for punishing bad governance: Myanmar was hostile to foreign activity, the U.S. interest in Myanmar was defined solely by concern for human rights and democracy, the military government was defiantly uninterested in democratic change, and other governments and international organizations also imposed sanctions to one degree or another.

Many in the U.S. policy and advocacy communities, however, have been reluctant to move away from sanctions as a linchpin in U.S. relations with Myanmar until the country becomes a model democracy with full protections against the abuse of human rights. Most of the previous sanctions have therefore been eased but not fully removed, and new sanctions have been added in efforts to influence antidemocratic trends in Myanmar's political transition. More important, those who favor the sanctions approach have guarded the legislative structures of the original sanctions, making them rigid policy tools in a highly fluid environment.

Because the 2015 elections have ensured that the current government will have a far more civilian and less military complexion, the United States will have an incentive to expand its relations with Myanmar. Continuing to rely on a sanctions regime—designed primarily to inhibit U.S. participation in and assistance to Myanmar's economy and government—no longer makes sense, particularly when Western allies and others observe no restrictions on their activities in Myanmar. Washington should therefore restructure the remaining financial sanctions and restrictions to carefully target individuals and entities to promote better behavior, rather than simply to punish bad behavior.

To influence good governance in Myanmar, the United States has many other “sticks” at its disposal that are more flexible and less binding than sanctions. In addition to the regular U.S. Department of State reports on human rights, religious freedom, narcotics and human trafficking, and other undesirable activity, the United States can exercise influence through international organizations and it can withhold certain privileges, such as trade benefits from the Generalized System of Preferences (GSP), in response to specific circumstances. For example, the U.S. Congress purposely withheld GSP for Myanmar pending the government’s handling of the 2015 elections.

Ultimately, the proclivity for sanctions has prevented Washington from thinking creatively about its powers to inspire and organize international efforts to address some of the conditions that underlie the major sources of tension and conflict in Myanmar. The tragic condition of the Rohingya minority in western Rakhine State is a case in point. Instead of turning automatically to sanctions, the United States should be leading an international effort to find a humane solution to their plight, not only in Myanmar but in other countries as well.

Recommendations

The current five-year term will be a critical phase in Myanmar's political development. Civilian and military political leaders will have to fulfill their respective responsibilities to govern while striving both to raise the living standard for the large percentage of the country's population living in extreme poverty and to maintain internal stability. Basic institutions—such as those overseeing education, health, and land tenure—will have to undergo fundamental reform and restructuring. Neighboring countries will be clamoring to exploit the country's storehouse of natural resources with only minimal regard for conservation and social stability. U.S. support for Myanmar in maneuvering through these difficulties will be vital to the country's future as an aspiring democracy.

Consequently, the United States should refocus its policy toward Myanmar to meet these rapidly changing circumstances, beginning with an honest assessment of longer-term U.S. interests in promoting the country's democratization and economic development, on the one hand, and, on the other, the declining utility of the sanctions that have been the basis of U.S. policy toward Myanmar for twenty-five years. U.S. policymakers should be more realistic in defining expectations for success and avoid raising the bar beyond what can reasonably be achieved in the next five years.

Within the reality of limited government resources, the United States should position itself to contribute meaningfully to democratic progress and stability in Myanmar.

RECOMMENDATIONS FOR THE COMING YEAR:

- *Applaud and support a negotiated coalition government.* As the reins of government are transferred to civilian leaders over the coming

months and years, the United States (that is, the U.S. Embassy in Yangon and political leadership in Washington) should maintain open channels of communication with both political and military leaders in Naypyidaw to seek their advice on how the United States can best contribute to a smooth transition. The transfer of power will not end with the inauguration of the new president and installation of new ministers. It will take place over a period of months, perhaps years, as civilians strive to gain command over both the ministries and the institutions of parliament. U.S. policymakers should exercise patience with the inevitable setbacks that will occur during this process and not overreact with preemptive punishment.

- *Develop specific assistance programs to improve conditions in Rakhine State for both Buddhists and Muslims, stabilize life for Rohingya Muslims, and encourage normalization of their citizenship status.*²⁵ Assistance efforts should be evenhanded, recognizing that both sides of this conflict need economic, social, and educational development. In particular, USAID should expand its efforts in Rakhine State by several million dollars. USAID should provide assistance to both local and international NGOs that have established effective relationships with Rakhine and Rohingya community organizations and whose programs aim to empower moderate community leaders, promote educational programs, and instill mediation skills. U.S. officials should also work with the government in Naypyidaw to seek better protection of Muslim communities by improving the administration of justice and security.
- *Revisit and revise sanctions policy.* The United States should undertake a joint executive-legislative effort to conduct a thorough review of the array of sanctions that currently govern U.S. policy and aim to streamline the legislation behind them, developing sunset provisions based on reasonable expectations for progress in Myanmar. Most important, the overbearing micromanagement of the activities of the U.S. government, businesses, and NGOs should be reduced to reasonable levels of oversight for compliance with U.S. government requirements. This effort should seek to reduce and reformulate the remaining financial sanctions to encourage better behavior instead of just punishing bad behavior. For example, sanctions should not altogether ban working with businesses and individuals on the SDN list, but rather provide benchmarks allowing U.S. businesses to work with them on projects where the transactions are transparent, based on good business

practices, and contribute to construction of critical economic infrastructure. Restrictions on USAID should not prevent assistance to government capacity-building or subject programs to levels of oversight that prevent interaction with groups in the society, such as radical monks, who are deemed to be troublemakers. The SDN list, in particular, should be reformulated to refine the criteria for placement of individuals or businesses on the list and to establish a more transparent set of requirements for graduating off the list. For example, people should not be kept on the list indefinitely simply by virtue of the position they occupied in the previous military government.

- *Develop a dialogue with the military.* The U.S. government's contact with Myanmar's military leaders has become confused in Washington's policy dialogue with the idea of military assistance. The Leahy Amendment restricts U.S. military assistance to countries, such as Myanmar, where abuse of human rights by the military has been common practice. But this does not rule out all military interaction. In fact, dialogue with mid- and senior-level military leaders should be on the U.S. agenda with Myanmar to discuss issues such as military-civilian relations in a democracy, alternative military structures in a federal system, and a variety of political issues that should be resolved in connection with the peace process and democratization. In consultation with the civilian leadership in Myanmar, U.S. officials—both military and civilian—should be expanding dialogue with the military leadership as an important vehicle for encouraging the transition to civilian rule. Working with its allies, the United States should also facilitate the integration of Myanmar's military forces into ASEAN joint operations for disaster relief and humanitarian assistance. The performance of the Tatmadaw (Myanmar's military armed forces) in providing relief to victims of the July 2015 cyclone in Myanmar is evidence that they are ready for this task.

RECOMMENDATIONS FOR THE NEXT FIVE YEARS:

- *Expand the purview of U.S. assistance.* USAID and other government assistance programs should be expanded to include capacity-building for government institutions, especially those providing health, education, and social services. Cooperation on counternarcotics should

move beyond the U.S. Drug Enforcement Agency's technical assistance for police to include discussions with senior government and military officials about taking serious measures to shut down narco-trafficking networks that reach into the government and launching a major health and public education program to prevent addiction and rehabilitate addicts.

- *Contribute to international efforts to rebuild the justice system.* The justice system is one of the most serious weaknesses in Myanmar, and the NLD has already prioritized its overhaul.²⁶ The United States should be positioned to respond appropriately. Aside from the constitution's undemocratic provisions for military control of political institutions, a corrupt justice system and its inadequate separation from political control are among the constitution's fundamental failings. In anticipation of requests for assistance from the NLD government, USAID and other U.S. government agencies, such as the U.S. departments of State and Justice, should develop a coordinated program with other donors for providing advice and assistance to develop Myanmar's justice system. Such an assistance program, coordinated widely among donors, would not involve large sums of money from any single donor. In recent years, Myanmar has seen several successful models of multidonor assistance for specific purposes, such as election administration and security, community policing, and Rakhine development aid.
- *Promote development of economic restructuring in Myanmar along internal regional lines.* Although the United States is no longer a source of major development assistance to Myanmar, it does have the power to marshal the resources of other countries and organizations. It also remains a more disinterested economic partner for Myanmar than its Asian neighbors, and should take the initiative to lead an international effort to design and fund an economic development plan based on regional and state economies in Myanmar. Local and national actors should be involved in the planning and execution to encourage local ownership and to channel domestic sources of private wealth into nation-building. Regional economic development plans should also incorporate political dialogue between the central government and ethnic minorities to create plans for sustainable resource exploitation that provide revenue equally to central and state government.

- *Lead an international effort to address the stateless status of the Rohingya.* The United States, in concert with the UN High Commissioner for Refugees and the International Organization for Migration, should lead a regional effort to seek a broad solution to the stateless condition of the Rohingya minority, not only in Myanmar but in neighboring countries as well. A regional working group is in place to develop measures for ameliorating the effects of the 2015 mass boat migration and to prevent another crisis. However, it should be expanded to develop a plan for extending legal status to the Rohingya in places where they currently reside.
- *Strengthen Myanmar's integration into ASEAN.* ASEAN is Myanmar's chief defense against Chinese efforts to dominate the region and the newly open Myanmar will increasingly become a vital asset to ASEAN, both politically and economically. Myanmar has ASEAN's longest mainland border with China, and it has stood firmly with the organization on matters concerning maritime claims. With a robust economic growth rate, it promises to add significant value to the ASEAN economy. Using the lessons of the Lower Mekong Initiative for integrating Myanmar into regional programs, the United States should develop a more robust policy for supporting Myanmar's integration into ASEAN. Currently, Myanmar's economic infrastructure and institutions lag considerably behind most of its ASEAN colleagues. As the largest mainland country in Southeast Asia and with a wealth of natural resources, Myanmar would benefit from closer integration into ASEAN, which would help Myanmar manage its economic and political relations with its other Asian neighbors and become less dependent on the Chinese economy. If coordinated effectively with other donors, U.S. government support and assistance to the development of Myanmar's basic monetary and fiscal institutions and their governance, along with expansion of private U.S. investment in Myanmar, can provide a significant boost to this process.

Conclusion

Myanmar will face many sources of conflict and instability during the course of its transition to democracy. The overwhelming NLD victory in the November 2015 elections means that the party is now responsible for coping with the country's problems and inherent instability, though its working relations with the military remain uncertain. This new dynamic also raises some important questions: Will the military have the incentive to work collaboratively with the NLD, or will it choose to encourage a certain degree of instability to promote its own indispensability? Will it stand in the way of needed reforms or allow the NLD to liberalize the country's political, economic, and security structures?

It is likely that, as it works with the NLD in addressing these problems, the United States will find its remaining sanctions and restrictions increasingly counterproductive. This is not to say that the United States should abandon sanctions and other punitive measures altogether, but rather that these should be more flexible instruments targeted at specific problems plaguing the country's political and economic development. Those sanctions designed especially for Myanmar should be reorganized and gradually abolished. Those that are legislated worldwide to address various problems should be applied more liberally. Myanmar will continue to suffer from persistent abuses of human rights, personal freedoms, and minority protection, as well as corrupt business practices and poor governance, all of which are unacceptable in a democratic society. In many cases, it may still be appropriate to address some of these issues with punitive measures, but they should not be enforced at the expense of U.S. programs seeking to address the underlying causes of these abuses in Myanmar.

Stabilizing Myanmar and building the institutions of democracy are not the responsibility of the United States alone, and the United States does not have the means or ability to solve the country's vast array of problems. However, if the U.S. government coordinates its efforts

effectively with other donors and international institutions, the combined contributions could make the difference between success and failure. The successful management of the 2015 elections exemplifies what can be accomplished with carefully coordinated outside assistance and willing local actors. Many other processes and mechanisms for international coordination have been established in Myanmar during the past four years. The United States should continue to tailor its assistance to strengthen and guide these efforts.

Regional organizations and alliances are particularly significant. Not only do they underpin the U.S. strategic posture in Asia as a whole, but they offer especially strong advantages in formulating U.S. policy toward Myanmar. ASEAN provides a solid regional foundation for sustaining Myanmar's political and economic development and integration into a regional democratic free market system. U.S. allies in Europe and Australia, India, Japan, Korea, and New Zealand are providing immeasurable contributions to Myanmar's economic and political development, far beyond the resources available to the United States. The existing structures of alliance cooperation greatly facilitate consultation and coordination among these countries. Although China remains to a large extent an outlier in this community, it will inevitably play a major role in Myanmar's future, and, to the extent possible, China should also be drawn into cooperative international efforts to address economic, environmental, and security problems in Myanmar.

Appendix: U.S. Sanctions and Restrictions on Myanmar

- **Prohibition on U.S. persons doing business or completing other transactions with individuals or entities on the SDN list.** *Executive Orders 13619 (2012), 13464 (2008), 13448 (2007), 13310 (2003), and the Burmese Sanctions Regulations (BSR) 31 Code of Federal Regulations (CFR) 537.201.* These executive orders are, in turn, authorized by the International Emergency Economic Powers Act of 1977, which requires a finding by the president of “any unusual and extraordinary threat” and a declaration of “a national emergency with respect to such threat” and must be renewed annually. One hundred fifteen individuals and entities in Myanmar are currently on the SDN list.
- **Ban on import of jadeite and rubies from Myanmar.** *Executive Order 13651 (2013) and BSR 31 CFR 537.203.*
- **Ban on import of products from known narcotics traffickers from Myanmar, the Union Solidarity and Development Association (USDA), or from the two military companies.** *Section 3(a)(2) of the Burma Freedom and Democracy Act of 2003.* This affects the Union of Myanmar Economic Holdings and Myanmar Economic Corporation.
- **Prohibition on new investment in Myanmar by U.S. persons.** *Executive Order 13047 (1997) and BSR 31 CFR 537.204.* These restrictions were largely curtailed in 2012 by an Office of Foreign Assets Control (OFAC) general license authorizing certain investment in Myanmar under compliance with State Department annual reporting requirements for investments over \$500,000. Investments with Myanmar’s Ministry of Defense, state and nonstate armed groups, and persons and entities on the SDN list are still prohibited.
- **Prohibition on the export of financial services to Myanmar by U.S. persons.** *Executive Order 13310 (2003) and BSR 31 CFR 537.202.* These restrictions were substantially curtailed by an OFAC general license in 2012. The export of financial services to Myanmar’s

Ministry of Defense, state and nonstate armed groups, and persons and entities on the SDN list are still prohibited.

- **Prohibition on U.S. financial institutions establishing banking accounts with Myanmar financial institutions.** *Section 311 of the USA PATRIOT Act of 2001; anti-money laundering restrictions.* An OFAC general license in 2013 authorized U.S. transactions with four specific SDN banks and with non-SDN banks.
- **Restrictions on visas.** *The Tom Lantos Block Burmese JADE Act of 2008 and Section 6 of the Burmese Freedom and Democracy Act of 2003.* This affects current or former leaders of the SPDC, the military, and the USDA; officials involved in the repression of peaceful political activity or gross violations of human rights; persons providing economic and political support to the SPDC, military, or USDA; and their immediate family members. The U.S. secretary of state may authorize exceptions. *Presidential Proclamation 8693 of 2011.* This puts visa restrictions on individuals under financial sanctions. *Section 570 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1997.* This prohibits entry visas for Myanmar government officials, subject to waiver.
- **Ban on U.S. assistance to the government of Myanmar.** *Section 570 (a)(1) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1997 and Section 7043 (b)(5) of the Fiscal Year (FY) 2015 State Department Foreign Operations Appropriations Act (SFOAA).* Exemptions include humanitarian assistance, assistance promoting human rights and democratic values, and counter-narcotics assistance.
- **Ban on economic support funds.** *Section 7043(b)(1) of the FY 2016 (and previous) SFOAA.* This ban affects any successor or affiliated organization of the SPDC that promotes repressive policies, or any Myanmar entity alleged to have committed gross violations of human rights, including against the Rohingya or other minorities.
- **Restrictions on funds.** *Section 7043(b)(1)(viii) of the FY 2016 SFOAA.* This restriction affects support to any Myanmar entity, including the Ma Ba Tha (an ultranationalist Buddhist group), determined to advocate violence against ethnic or religious groups and individuals in Myanmar. *FY 2016 (and previous) SFOAA Section 7043(b)(2).* This restriction affects U.S. government programs for international military education and training and foreign military financing.

- **Restrictions on assistance to any country engaging in a consistent pattern of human rights abuse, failing to protect children from exploitation, and forcing military conscription.** *Section 116(a)(b) of the Foreign Assistance Act of 1961.*
- **Ban on security assistance, including economic support funds, to any country abusing human rights.** *Section 502B of the Foreign Assistance Act of 1961.*
- **Restrictions on assistance to any country determined to be a major drug transit or producing country that has failed demonstrably to take counternarcotics measures.** *Section 706(1) of the Foreign Relations Authorization Act for FY 2003.* Myanmar was determined to meet these standards in 2016, but the restriction has been waived.
- **Restrictions on non-humanitarian, non-trade related assistance to a government not meeting minimum standards for eliminating trafficking in people and not making significant efforts to do so.** *Section 11(d)(1)(A) and (B) of the Trafficking Victims Protection Act of 2000.* The president may instruct the U.S. executive director of each multilateral development bank and the International Monetary Fund to vote against loans or other funds to such countries. Myanmar is on a watch list and may be subject to this restriction in FY 2017.
- **Limits on international financial institutions.** *Section 7043(b)(4) of the State Department, Foreign Operations, and Related Programs Appropriation Act of 2016.* The U.S. executive director of each international financial institution is instructed to vote only for projects in Myanmar that meet certain criteria for transparency, best practices, environmental conservation, social and cultural protection, empowerment of local populations, no forced migration, and no involvement of military enterprises.
- **Controls on import and export of defense articles and services, including designated items on the United States Munitions List.** *Arms Export Control Act of 1976 and Section 126.1 of the International Traffic in Arms Regulations.* All licenses for export of defense articles and services to Myanmar were suspended in 1993 and remain so, although the president may make exceptions that would strengthen the security of the United States and promote world peace.
- **Sanctions on countries determined to partake in severe violations of religious freedom.** *International Religious Freedom Act of*

1998. Myanmar has been designated a “country of particular concern” since 1999 and sanctioned with the existing arms embargo.

- **Controls on the export of items for national security, nonproliferation, foreign policy, or crime control reasons, among others.** *Section 744.22 of the Export Administration Regulations.* License requirements are imposed on certain items exported to SDN entities.

Endnotes

1. See Aung Din, "Elections in Myanmar: Winners, Losers, and the Future," Center for Strategic and International Studies, November 12, 2015, <http://cogitasia.com/elections-in-myanmar-winners-losers-and-the-future>.
2. See Aung Din, "Civil Military Relations in Myanmar," Center for Strategic and International Studies, August 20, 2015, <http://cogitasia.com/civil-military-relations-in-myanmar-at-a-low-point-but-hope-is-still-alive>.
3. For an excellent analysis of what the NLD government is likely to face in relations with China, see Thant Myint-U, "Why Burma Must Reset Its Relationship with China," *Foreign Policy*, January 12, 2016, <http://foreignpolicy.com/2016/01/12/why-burma-must-reset-its-relationship-with-china/>.
4. Removal of the original U.S. sanctions was premised on the requirement for the military government to recognize the NLD election victory of 1990 and seat a new NLD government.
5. For a telling critique of potentially destabilizing problems built up under previous military-led governments from a senior minister in the Thein Sein government and former head of the navy, see U Soe Thane, "Navigating the Choppy Waters of Myanmar's Post-election Era," *Nikkei Asian Review*, January 11, 2016, <http://asia.nikkei.com/Politics-Economy/Policy-Politics/Navigating-the-choppy-waters-of-Myanmar-s-post-election-era>.
6. See Global Witness, *JADE: Myanmar's "Big State Secret"*, October 23, 2015, <http://www.globalwitness.org/en-gb/campaigns/oil-gas-and-mining/myanmarjade>. This report exposes one of the main sources of crony wealth in Myanmar and the intricate family and business relationships within this elite class.
7. Sean Turnell, "Burma's Economy and Its Reform: A Reckoning at the Conclusion of the Thein Sein Administration," Economic Department Macquarie University, Sydney, Australia, September 3, 2015.
8. See Global Witness, *JADE*, pp. 15–17 and pp. 22–23, which details the assistance of government institutions and certain involved businesses in providing information and statistics for this study.
9. In parliamentary debate about a proposal to lower the threshold for constitutional amendment, a senior military member of parliament argued that such a move would be premature because it was necessary to "maintain the order and stability of the state and to protect the national interest in the democratic transition period." Myanmar still has "no mature democratic practice," according to Ei Ei Toe Lwin and Htoo Thant, "Expectations dip as army MP opposes loss of veto," *Myanmar Times*, June 24, 2015, <http://www.mmtimes.com/index.php/national-news/15189-expectations-dip-as-army-mp-opposes-loss-of-veto.html>.
10. For a thorough discussion of U.S.-Myanmar military relations, a reasoned argument in favor of military involvement to promote democracy in Myanmar, and suggestions

- for various useful discussions the United States could undertake with the military, see Erin Murphy, Matthew Turpin, and Peter Kucik, "Reforming Myanmar's Military," *Prism* 5, no. 3 (2014): 77–89, http://cco.ndu.edu/Portals/96/Documents/prism/prism_5-3/Reforming_Myanmar's_Military.pdf.
11. See Aung Din, "To Support Myanmar Democratic Transition, U.S. May Need to Soften Policy toward Military," Center for Strategic and International Studies, December 21, 2015, <http://cogitasia.com/to-support-myanmar-democratic-transition-u-s-may-need-to-soften-policy-toward-military>.
 12. See David Hook, Tin Maung Than, and Kim N.B. Ninh, "Conceptualizing Public Sector Reform in Myanmar," Asia Foundation, June 2015, <http://asiafoundation.org/resources/pdfs/PSRFullreportENG.pdf>.
 13. Education reform illustrates well the serious practical barriers to bringing about democratic change in an authoritarian system. Moving from rote education to critical thinking, for example, will require the reorientation of the entire teaching staff—from primary through secondary and higher education—because they are not equipped to deal with analytic and interactive methods of instruction. They can teach only by rote instruction, which restrains students from questioning and debating. The students, for their part, believe change can be accomplished rapidly if they are given a central role in managing the educational system. The parliament and the Ministry of Education disagree.
 14. "Suu Kyi to Pick Conciliatory Cabinet," *Reuters*, January 14, 2016, <http://www.dvb.no/news/suu-kyi-to-pick-conciliatory-cabinet/60295>.
 15. In fact, when these tensions flared in the past, during and immediately after the colonial period, Muslim deaths numbered in the thousands and expulsions in the hundreds of thousands.
 16. "The United States and Japan: Assisting Myanmar's Development," Sasakawa Peace Foundation USA, 2015, pp. 90–92, <http://spfusa.org/event/the-united-states-and-japan-assisting-myanmars-development>.
 17. Aung Hla Tun, "Myanmar 2014/15 FDI swells to \$8.1 bln - govt agency," *Reuters*, March 25, 2015, <http://www.reuters.com/article/2015/03/25/myanmar-investment-idUSL3NoWR25Q20150325>.
 18. Testimony by Assistant Secretary of State for East Asian and Pacific Affairs Kurt Campbell before the House Committee on Foreign Affairs, subcommittee on Asia and the Pacific, April 25, 2012, <http://www.state.gov/p/epa/rls/rm/2012/188446.htm>.
 19. The so-called cronies comprise a select group of individuals and businesses who gained their wealth through privileged position in or special relations with the former military government.
 20. This attitude on the part of U.S. banks is at least partially explained by the heavy fines levied on them by the U.S. government out of concern for money-laundering and terrorist financing in the post-9/11 era. They likely calculate Myanmar's banking system is not yet mature enough to guarantee controls on these activities, so the risk is not worth the reward.
 21. The legal consequences of associating with anyone on the SDN list have led U.S. companies operating in Myanmar to adopt extraordinary measures to avoid inadvertent missteps. Some, for example, must request personal details, such as date of birth and passport number, for all Myanmar lunch or dinner guests in order to perform a data search before confirming the invitation. All Americans residing in or visiting Myanmar are expected to scrupulously avoid association with persons or businesses on the SDN list.
 22. These restrictions are built into USAID appropriations bills. The fiscal year 2016 USAID budget, for example, includes a number of new restrictions, such as requirements for additional special reports and special waivers on various assistance

- programs, necessitating even more onerous bureaucratic procedures in both Yangon and Washington.
23. Funding for a program may also be withdrawn if a recipient is later accused of belonging to one of the offending categories.
 24. The president of the United States can issue waivers, as circumstances warrant.
 25. See Aung Din, "Rohingya Is More than a Human Rights Issue for Myanmar," Center for Strategic and International Studies, August 7, 2015, <http://cogitasia.com/rohingya-is-more-than-a-human-rights-issue-for-myanmar>.
 26. For analysis of the political significance of Myanmar's judicial weakness, see Aung Din, "Myanmar's Old Judiciary a Challenge to the New Era of Governance," Center for Strategic and International Studies, January 5, 2016, <http://cogitasia.com/myanmars-old-judiciary-a-challenge-to-the-new-era-of-governance>.

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