

Reform in Myanmar: One Year On

I. OVERVIEW

One year into the new semi-civilian government, Myanmar has implemented a wide-ranging set of reforms as it embarks on a remarkable top-down transition from five decades of authoritarian rule. In an address to the nation on 1 March 2012 marking his first year in office, President Thein Sein made clear that the goal was to introduce “genuine democracy” and that there was still much more to be done. This ambitious agenda includes further democratic reform, healing bitter wounds of the past, rebuilding the economy and ensuring the rule of law, as well as respecting ethnic diversity and equality. The changes are real, but the challenges are complex and numerous. To consolidate and build on what has been achieved and increase the likelihood that benefits flow to all its citizens, Myanmar needs the international community to come closer, seeking opportunities for greater engagement rather than more reasons why sanctions should be sustained.

The by-elections held on 1 April represent a political watershed. Opposition leader Aung San Suu Kyi and her National League for Democracy returned to the formal political process and secured a landslide victory. Forty-three NLD representatives, including Aung San Suu Kyi herself, will now take up their seats in the national legislature. The NLD has become the largest opposition party. This does not alter the balance of power, given that only a small percentage of seats were contested, but it is of major symbolic importance, as it has the potential to inject greater dynamism into political life. The extent of the NLD victory may have alarmed some in the political establishment.

The speed and extent of these reforms has raised questions about how sustainable the process is. Any such program of major political change must inevitably face serious tests, but the broad consensus among the political elite on the need for fundamental change means that the risk of a reversal appears low; there is no coherent group of disaffected individuals with the power to undo the process.

Yet, there are other serious challenges. There is limited institutional and technical capacity to carry out detailed policy formulations and to implement some of the reform measures being adopted. This is acting as a brake on the process and means that citizens are slow to see the full impact of some of the changes. The pressures on the system are only likely to increase in the next two years as Myan-

mar hosts the South East Asia Games in 2013 and takes over the chairmanship of the Association of South East Asian Nations (ASEAN) in 2014.

Reforming the economy is another major issue. While vital and long overdue, there is a risk that making major policy changes in a context of unreliable data and weak economic institutions could create unintended economic shocks. Given the high levels of impoverishment and vulnerability, even a relatively minor shock has the potential to have a major impact on livelihoods. At a time when expectations are running high, and authoritarian controls on the population have been loosened, there would be a potential for unrest.

A third challenge is consolidating peace in ethnic areas. All but one of the ethnic armed groups have signed preliminary ceasefires with the government, a major achievement. Nevertheless, a sustainable peace will require a lot more work. No deal has yet been reached with one of the largest groups, the Kachin Independence Organisation, and serious clashes continue. The ceasefire agreements with the other groups remain fragile and could unravel unless progress is made in addressing the underlying political grievances. These are hugely difficult tasks, but a return to war in the borderlands has the potential to do great damage to the reform process and would be an enormous impediment to rebuilding the economy.

The reforms that have taken place appear not to have been driven primarily by external pressure, but rather by internal considerations. Now that major steps of the kind long called for by the West are being taken, it is incumbent on the international community and multilateral institutions to help ensure their success. There is much that the West, in particular, can do to provide political support, as well as much-needed advice and technical assistance. As the European Union (EU) approaches a key decision point in late April on whether to renew sanctions on Myanmar, the value of the coercive measures must be reconsidered.

The Myanmar government has gone extraordinarily far in putting aside old prejudices and reaching out to even the most strident of its critics domestically and internationally. The West should now make a commensurate effort to forge a new partnership. With the long-awaited reforms underway, there is no valid rationale for keeping sanctions in place. To do so would likely damage the process: under-

mining reformers and emboldening more conservative elements, rather than keeping up the pressure for further change.

II. REFORMS TO DATE

The past twelve months has seen remarkably rapid changes. They should not be seen as a series of individual steps, but rather as part of a concerted effort by the president, government and legislatures to put Myanmar on a new path towards democracy, peace and greater prosperity.

1. Political reconciliation

In his inaugural address in March 2011, the president reached out to long-time critics of the former military regime, urging that differences be put aside in order to work together for the good of the country. He followed up with a series of concrete steps. In August 2011, he met with opposition leader Aung San Suu Kyi and convinced her of his genuine desire to bring positive change to Myanmar.¹ In order to facilitate her return to the formal political process, along with her National League for Democracy (NLD), electoral legislation was amended to remove certain provisions, including the prohibition on prison inmates from being members of political parties.² On 5 January 2012, the NLD became a legally registered political party, with Suu Kyi as its chairperson. She and other members took part in the by-elections on 1 April, winning 43 out of 45 seats (see Section IV below).

The president also extended an invitation for exiles to return home. In recent months, a series of high-profile activists living abroad have returned – mostly for visits, but some permanently. These have included Harn Yawngnwe, son of Myanmar's first president and head of the Euro-Burma Office; members of the Thailand-based Vahu Development Institute, several of whom had been senior members of an armed student rebel group; the editors of the three most prominent exiled media organisations (Democratic Voice of Burma, Mizzima and Irrawaddy), who were able to discuss with government the possibility of operating legally in the country; representatives of international Myanmar-language radio stations (broadcast by the BBC, Voice of America and Radio Free Asia) have also had dis-

cussions with government and been able to report from the country for the first time.

In a series of amnesties over the course of the year, the majority of political prisoners have been released.³ The largest release, of some 300 including all remaining high-profile dissidents, took place on 13 January 2012. The timing of this release was intended in part to allow imprisoned dissidents to be involved in the political process leading up to the by-elections.⁴ Some competed for seats on 1 April under an NLD banner.⁵

Unlike in the past when released political prisoners were subjected to intense scrutiny of their activities and faced social ostracism, those released over the last year have been able to resume political activities, travel abroad, and lead relatively normal lives. The most prominent dissidents released in this period, the '88-generation student leaders, were struck by the contrast with their last release eight years ago: this time, unlike then, they were mobbed by domestic journalists on arrival in Yangon after their release, and they have been able to open an office and conduct political activities, including speaking tours and public speeches, without harassment. One of the student leaders recounted how, within a few weeks of being released from prison, he was among five prominent individuals invited by a leading Myanmar news journal to present prizes at an award ceremony; one of his fellow presenters was the son of one of the most powerful retired generals in the country.⁶

The most visible example of political reconciliation is the image of Aung San Suu Kyi that is now ubiquitous – on the streets of Yangon, in newspapers and magazines, in shops, on taxis and attached to private vehicles. People in Myanmar were struck by her recent broadcasts on national television: there was the most potent voice of opposition to military rule, seated in a government studio in front of the iconic “fighting peacock” flag of the NLD, calling for

¹ See Crisis Group Asia Briefing N°127, *Myanmar: Major Reform Underway*, 22 September 2011. For background on the transition, also see Crisis Group Asia Report N°177, *Myanmar: Towards the Elections*, 20 August 2009; and Crisis Group Asia Briefings; N°118, *Myanmar's Post-Election Landscape*, 7 March 2011, and N°112, *The Myanmar Elections*, 27 May 2010.

² This was important because prior to the major release of political prisoners on 13 January 2012, a number of NLD members were serving prison sentences.

³ There could be up to 300 political prisoners remaining in detention, although the number is uncertain: informal lists maintained by activists are not fully reliable, and some included on such lists may have actually been guilty of a criminal offence – or in the case of ethnic prisoners, of violent offences in the context of the armed insurgency. Resolving this issue will require a transparent process for credibly reviewing cases on an individual basis.

⁴ Crisis Group interview, adviser to the Myanmar president, Yangon, March 2012. The period for registration of candidates for the by-election ran from 16 to 31 January.

⁵ For example, the NLD candidates in the Naypyitaw constituencies of Zabuthiri and Ottarathiri, Sandar Min and Min Thu, were both political prisoners released in the 13 January amnesty. Both were elected.

⁶ Toe Naing Mann, son of lower house Speaker and General (ret.) Shwe Mann, was the co-presenter. Crisis Group interview, Ko Ko Gyi, '88-generation student leader, Yangon, 8 March 2011.

further democratisation, rule of law, social justice and economic reform. This fifteen-minute party election broadcast, a right of all parties contesting the by-elections, was aired across the country on state television and radio on 14 and 22 March. A full transcript was then published in the official press the following day.⁷

One paragraph was cut from her speech by the Election Commission, on the basis of a provision prohibiting candidates from “giving public talks and distributing publications with intent to break up or tarnish the image of the Tatmadaw [armed forces]”.⁸ Her speech still contained fairly strident criticism of previous governments: when “public fear reigned”; the “various pressures and oppression” of the NLD over the last twenty years; and the 2008 constitution, which “is not in conformity with democratic norms and standards”.

2. The legislatures

Far from being merely the rubber-stamp parliament that many observers feared, the legislatures have emerged as key drivers of change.⁹ This is due in part to the strong influence of the speakers – particularly lower house speaker Shwe Mann, who has consolidated his reputation as a leading reformer. The priorities to date have been legislating democratic rights and economic reforms. One of the first acts of the lower house under the new government was to pass an opposition motion, with the support of the military bloc, calling on the president to grant amnesty to political prisoners.¹⁰ Key pieces of legislation that have been adopted include:

- ❑ the “Law Amending the Political Parties Registration Law”, enacted on 4 November 2011, which facilitated the NLD’s return to the formal political process;
- ❑ the “Law Relating to Peaceful Gathering and Peaceful Procession”, signed on 2 December 2011, not yet in force pending the adoption of implementing regula-

tions. It puts in place a degree of freedom of assembly in a context where previously there had been none. Demonstrations require advance permission from the police, and holding of unauthorised demonstrations attracts criminal penalties. These restrictions have drawn some criticism from human rights groups;¹¹

- ❑ the “Labour Organisation Law”, brought into force on 9 March 2012. It provides the right to strike and to form independent trades unions and employers’ organisations, putting in place international-standard freedom of association. Previously, all independent trades unions were banned. A Labour Dispute Settlement Bill was also approved by the legislature on 21 March;¹² and
- ❑ several amendments to commercial and tax laws have also been adopted by the legislatures, as have bills relating to land management and environmental conservation.

Other legislation under discussion includes:

- ❑ the “Ward of Village Tract Administration Bill” that would reform old colonial laws on local administration, including by introducing local democracy through the election of local representatives and officials by secret ballot; and
- ❑ bills on microfinance and foreign investment.

Debates in the legislatures on draft laws and motions have in general been remarkably open and dynamic. Although the opposition parties have only a small proportion of the seats in both houses, their motions have often been supported by members of the military bloc and the dominant Union Solidarity and Development Party (USDP). Motions introduced by the USDP have often also been supported by opposition legislators. Under strong leadership of the speakers, legislators have been encouraged to vote on the issues as they deem appropriate, rather than along party lines. On some issues the votes of the military bloc and the USDP have been split, with no party discipline imposed.

The legislatures also seem to be taking seriously their role as a check-and-balance on the executive. Government ministers are being robustly questioned; bills submitted by the executive are subject to scrutiny and considerable amendment; and changes recommended by the president to bills he returns unsigned are not always adopted. For example, the Union Assembly (the combined upper and lower houses) recently reinstated provisions for the election of local

⁷ “National League for Democracy presents its policy, stance and work programmes”, *New Light of Myanmar*, 15 March 2012.

⁸ See “Central Supervisory Committee for Printers and Publishers Registration and Press Scrutiny and Publishing”, Directive no. 42, 17 March 2010. In an interview with Radio Free Asia, Aung San Suu Kyi stated that “the part about how there wasn’t rule of law and the military government had repeatedly used the law to repress the people, that is censored”. “Suu Kyi’s campaign speech censored”, Radio Free Asia, 9 March 2012.

⁹ Under the constitution that came into force in 2011, Myanmar has a bicameral national legislature: an upper house (“Amyotha Hluttaw”) and lower house (“Pyithu Hluttaw”) which can also sit in joint session as the Union Assembly (“Pyidaungsu Hluttaw”). There are also fourteen regional assemblies.

¹⁰ See Crisis Group Briefing, *Myanmar: Major Reform Under Way*, op. cit., p. 10.

¹¹ For example, Human Rights Watch stated that “the government shouldn’t be given credit for allowing some freedom just because none existed before. Instead, it should be pressed to make sure its laws meet international standards”. “Burma: New law on demonstrations falls short”, news release, 15 March 2012.

¹² “Pyidaungsu Hluttaw session continues for 24th day”, *New Light of Myanmar*, 22 March 2012.

officials by secret ballot, despite a recommendation by the president that a more informal “straw poll” system be used. Justifying this decision, a lawmaker stated that “the secret ballot is the only free and fair way for people to elect their leaders. This is the essence of democracy”.¹³ The main task of the third legislative session, debating the government budget for the coming financial year, has brought both scrutiny and greater transparency to government spending for the first time in many years.

Nevertheless, the lack of experience and knowledge of most legislators, inefficient procedural rules, the very ambitious legislative agenda that is being pursued and the speed with which legislative decisions are being taken all raise profound questions about the effectiveness of law-making going forward, as discussed in Section V below.

3. Expanding basic freedoms

In addition to the enactment of new laws on freedom of association and assembly, the government has taken a number of steps to expand freedom of expression over the last year. In September 2011, restrictions on 30,000 blocked internet sites were lifted, allowing internet users in Myanmar unrestricted access to political content for the first time. This included the lifting of blocks on international and exiled media and exiled opposition and advocacy groups, as well as sites such as Facebook, Twitter, YouTube and many others. Access to virtual private networks, essential for secure business communications, was also opened. The only sites that remain banned are those with pornographic content.¹⁴

Censorship of the print media has likewise been eased. In December 2011, some 54 publications, many of them business magazines, were permitted to publish without submitting their articles to the censor board in advance.¹⁵ This followed a similar move for nearly 200 entertainment and sport publications in June 2011. News publications remain subject to pre-publication approval of all content by the censor board, a serious restriction on the freedom of the press. In practice, news journal editors report that articles are still censored, but less than in the past, and that they are now able to write freely on many subjects.¹⁶ As one editor put it, “before we couldn’t write about anything – about political prisoners or human rights. Now we simply

write what we want, and then the censors can decide what to cut out”.¹⁷

The government has given strong indications that before the end of 2012 it plans to scrap the censor board and replace it with a self-regulatory Press Council, as part of a new media law that is being drafted.¹⁸ Concern has been expressed, however, that the first drafts of the new law were drawn up without consultation with media organisations and journalists.¹⁹ After initial criticism of this closed process, the government asked for the assistance of UNESCO and the information minister, Kyaw Hsan, said a new draft was being prepared for release later in the year.²⁰

A Myanmar National Human Rights Commission has also been established by the president. Its aim is to meet the Paris Principles on national human rights institutions, although some steps are still required.²¹ The commission has moved quickly to carry out its functions, receiving more than 1,000 complaints in its first three months of operations, to the end of 2011. A majority of these cases have been investigated; a number of prosecutions of those responsible for abuses have occurred, and a much larger number of non-judicial remedies have been applied.²² The commission still faces questions about its independence from government and about the extent to which it can deal with abuses by the military. It also has some resource and staff limitations.

4. The peace process

Over the course of the past year, rapid progress has been made in reaching preliminary ceasefire agreements with nearly all the ethnic armed groups in the country.²³ This

¹⁷ Deputy editor of *The Voice* journal, quoted in Udo Schmidt, “Myanmar’s journalists breathe more freely but it’s a long haul”, *Deutsche Welle*, 6 March 2012.

¹⁸ Crisis Group interview, adviser to the Myanmar president, Yangon, March 2012.

¹⁹ Crisis Group interview, Myanmar news journal editor, Yangon, March 2012.

²⁰ “Media law to give ‘100 Percent Freedom’”, *The Irrawaddy*, 21 March 2012.

²¹ In particular, it was established under executive (ie, presidential) authority; it will, inter alia, have to be governed by a legislative act in order to meet the Paris Principles. The Commission has acknowledged this in its Statement No. 2/2012, published in *New Light of Myanmar*, 28 March 2012, p. 16. The Principles relating to the Status of National Institutions (The Paris Principles) were adopted by UN General Assembly Resolution 48/134 of 20 December 1993 and set out a number of responsibilities for national human rights organisations.

²² Crisis Group interview, Myanmar National Human Rights Commission, Yangon, 5 March 2012.

²³ For a detailed examination of the peace process, see Crisis Group Asia Report N°214, *Myanmar: A New Peace Initiative*, 30 November 2011.

¹³ See Soe Than Lynn, “Secret ballot retained in ward, village admin bill”, *Myanmar Times*, vol. 31, no. 617, 5-11 March 2012.

¹⁴ Chief engineer of Myanmar Posts and Telecommunications, quoted in the *Weekly Eleven News Journal*, 20 September 2011.

¹⁵ Yadana Htun, “Censorship body eases grip on business, crime genres”, *Myanmar Times*, vol. 31, no. 605, 12-18 December 2011.

¹⁶ Crisis Group interviews, local editors and journalists, Yangon, March 2012.

has been spearheaded by two peace groups: one from the legislature (headed by USDP members Aung Thaung and Thein Zaw) and one appointed by the president (headed by the rail transportation minister, Aung Min). Ceasefire agreements have been signed with eleven armed groups (see list in Appendix B). The only major group with which a ceasefire has not yet been agreed is the Kachin Independence Organisation (KIO). Progress was made at a meeting on 8-10 March at the Chinese border town of Ruili, with one of the KIO's top leaders saying, "we are very pleased with this weekend's meeting. Unlike past negotiations, this time we had a more open discussion".²⁴ However, armed clashes between the two sides continue, and there remain serious obstacles to achieving sustainable peace – including vested economic interests on both sides and bitterness resulting from the fairly intense, and sometimes bloody, conflict.

In the context of over six decades of civil war, reaching ceasefire deals with eleven armed groups in the space of a year is a remarkable achievement. The government appears to recognise that further steps will be needed in order to secure lasting peace. In addition to redoubling efforts to agree a ceasefire with the KIO, it is essential that a broader political dialogue get underway in order to begin addressing the grievances and aspirations of ethnic communities across the country. The government has indicated that it is pursuing a three-step process.²⁵ The first step is to agree a ceasefire between each armed group and the respective state or region government, which is seen as essential for building trust and confidence. Next, broader discussions between each group and the national government can begin to address other issues of concern, including socio-economic, cultural and political issues.

These second-stage discussions have already started with most groups. Of particular importance are the recent discussions in Naypyitaw between the Karen National Union (KNU) and the national government. Agreement was reached on a code of conduct for the implementation of the ceasefire. On 7 April, the KNU delegation met with President Thein Sein, the first ever meeting between the KNU and a Myanmar head of state. The president stated his intention to have the KNU removed from the list of illegal organisations. The KNU delegation also met with Aung San Suu Kyi in Yangon.²⁶

The third stage, which has not yet commenced, is intended to bring together representatives of all armed groups and other stakeholders to discuss the shape of a lasting political agreement on ethnic issues. This would include issues such as constitutional change to give greater autonomy, provisions for greater resource sharing with ethnic communities, and the future integration/demobilisation of members of armed groups.²⁷ The government has expressed openness to constitutional change and to allowing armed groups to establish political parties without the requirement that they first disarm.²⁸ It has indicated that any agreement for a lasting political solution will be signed "at the legislature", since this is the only route for constitutional change – but this does not imply that other stakeholders would not be able to participate in the discussions.

There has been willingness from the government to consider unprecedented steps – for example, an agreement in principle with the Karen National Union for independent (and possibly international) monitors of the ceasefire.²⁹ The government also has ambitious plans to begin resettling internally displaced people (IDPs) in former conflict areas and to facilitate the return of refugees from Thailand as well as the large number of migrants in Thailand and other countries in the region.³⁰

5. Economic and governance reform

Reforming and reinvigorating a moribund economy is one of the most pressing, and challenging, of the tasks now facing the country. Economic reform has proceeded much more slowly than political reform. There appears to be strong political commitment from the president and the

Level Peace Delegation", 7 April 2012; "Karen National Union (KNU) and Myanmar President U Thein Sein Meeting", KNU press release, 7 April 2012; "KNU press release on meeting with Daw Aung San Suu Kyi", 8 April 2012.

²⁷ Crisis Group interviews, Border Affairs Minister Lt. General Thein Htay and Rail Transportation Minister Aung Min, Naypyitaw, 28 February 2012.

²⁸ It is unlikely that most ethnic armed groups would agree to disarm unless they were already part of a political process that they had confidence in, but the prospect of "armed political parties" is unsettling to many existing ethnic political parties that do not have direct links to armed groups. Crisis Group interviews, ethnic political parties representatives, Yangon, March 2012.

²⁹ The Union government agreed in principle to an eleven-point proposal from the KNU, including as regards independent monitors and several other important issues, which will form the basis for further discussions between the two sides. Crisis Group interviews, individuals present at the negotiations from both sides, Naypyitaw, February 2012 and Thailand, January 2012. See also "KNU wants a transparent peace process", Karen news.org, 14 January 2012.

³⁰ Crisis Group interview, Rail Transportation Minister Aung Min, Naypyitaw, 28 February 2012.

²⁴ KIO General Gun Maw, quoted in "Kachin peace talks fail again", *The Irrawaddy*, 12 March 2012.

²⁵ Crisis Group interviews, government ministers, Naypyitaw, February 2012. This three-step process was set out publicly in the president's 1 March 2012 address to the legislatures (Section III below).

²⁶ "KNU holds peace talks with Union level peace-making group", *New Light of Myanmar*, 7 April 2012, p. 6; "KNU Press Release on 1st Meeting between KNU Delegation and Union-

legislatures to make the necessary changes in this area. The enormity of the task, the lack of accurate data in key areas and weak institutional and technical capacity have slowed the process. This was perhaps no bad thing, as there are serious potential risks to moving too quickly on economic reform (see Section V.C below).³¹

Key early steps included a sizeable increase in state pensions, a series of tax reforms and certain ad hoc measures to address a rapid strengthening of the kyat, which had negatively impacted manufacturing and agriculture.³² Now, the government has taken steps to address fundamental issues, including currency reform and the regulatory framework for foreign investment.

As of 1 April 2012, the start of the Myanmar fiscal year, the authorities began a managed float of the kyat, with some technical advice from the International Monetary Fund (IMF).³³ This involves daily sealed bids from certain domestic banks to the Myanmar central bank for specific quantities of foreign currency.³⁴ Some trial foreign exchange auctions took place in March, ahead of the float. An interbank exchange market is in the process of being established, which will allow the central bank to intervene and influence the exchange rate. The trading band has been set at 820 to the U.S. dollar, plus or minus 2 per cent.³⁵ At some point in the future, perhaps at the beginning of the next fiscal year, the aim is to allow the kyat to float freely.³⁶

At the same time, the government has shifted its accounts to a rate of 800 kyat to the U.S. dollar, approximately the black-market rate. Previously, the official rate of approximately six kyat to the U.S. dollar was used.³⁷ The budget

for the 2012-2013 fiscal year, approved by the legislature in March, calculated foreign exchange revenues and expenditures at the 800-kyat rate. This means that the country's sizeable foreign currency revenues from the sale of natural gas and other resources will be accurately reflected in the national accounts for the first time. It also means that state-owned enterprises will no longer have access to imports calculated at the six-kyat rate, which encouraged huge inefficiencies and a lack of transparency over losses, as well as corruption, and made some of these enterprises a burden on public sector finances.³⁸

Myanmar is also in the process of introducing a new foreign investment law. The legislation should make the country more attractive for foreign investors, although much will depend on the detailed implementing regulations. The law will update the existing foreign investment law dating from 1988. It would permit fully foreign-owned businesses (also permitted under the existing law); create new tax incentives; allow foreigners to lease land for business purposes; and protect investments against nationalisation (a provision also contained in the existing law). A new requirement would be introduced that all unskilled workers must be from Myanmar, as must a minimum proportion of skilled workers that increases over time (from 25 per cent after five years to 75 per cent after fifteen years).³⁹

These economic reforms are part of a broader fundamental shift in the way the country is governed. For the first time in decades, the government is putting a priority on the views of the public and is focusing efforts on the well-being of the population as a whole. Major energy projects that faced public opposition and could have had a negative impact on the environment have been cancelled by the government: the massive Myitstone hydropower dam in Kachin State being constructed by a Chinese company, and a large coal-fired power station near Dawei planned by a Thai developer. In both cases, the vast majority of the electricity generated would have been for export.

The government has also put a focus on equitable growth, in particular through efforts to address poverty and promote rural development, including through land reform.⁴⁰ It has stated that it is planning to adopt a universal health insurance system in cooperation with the private sector.⁴¹

³¹ Crisis Group interview, Myanmar economist, Yangon, March 2012.

³² See Crisis Group Briefing, *Myanmar: Major Reform Under Way*, op. cit., Section III.A.

³³ "Changes to Myanmar's exchange arrangements", Central Bank of Myanmar notification, *New Light of Myanmar*, 28 March 2012.

³⁴ Eleven domestic banks are licensed to conduct foreign exchange operations.

³⁵ On 2 April, the central bank's "reference rate", based on the sealed-bid auctions, was set at 818 to the U.S. dollar, with a note that: "The reference foreign exchange rate is published for reference purpose only. The value of the kyat is determined by market demand and supply conditions and will vary accordingly". "Reference Foreign Exchange Rates", Central Bank of Myanmar, 2 April 2012.

³⁶ Crisis Group interview, Myanmar economist, Yangon, March 2012. See also "Myanmar to float currency in 2012/13, unify FX rates", Reuters, 6 March 2012; and "Myanmar plans to set kyat at 820 per dollar – sources", Reuters, 20 March 2012.

³⁷ Previously, several different exchange rates were in use for different purposes, including for the calculation of import duties, for the conversion of foreign exchange income to kyat and so on. The official six kyat rate was derived from a peg to the IMF's

Special Drawing Rights, a weighted basket of four international currencies.

³⁸ Crisis Group interview, Myanmar economist, Yangon, March 2012; see also IMF article IV mission reports over the last decade.

³⁹ "1988 Union of Myanmar Foreign Investment Law"; and "Myanmar drafts new foreign investment rules", Reuters, 16 March 2012.

⁴⁰ Crisis Group interviews, political and economic advisers to the president, Yangon, March 2012.

⁴¹ This was mentioned in the president's address to the legislatures on 1 March 2012.

In a March speech in the Delta region where he was born, the president explained that “I grew up in a rural area where life is tough Because of those experiences, I have prioritised rural development and poverty alleviation in my presidency. It is my wish to help the poor of our country walk out of poverty. I am vowed to fight tooth and nail to realise this wish”.⁴²

III. THE PRESIDENT’S ANNIVERSARY ADDRESS

In a 1 March 2012 address to the Union assembly, carried live on state television, the president gave his assessment of the “state of the Union” on the first anniversary of his government’s inauguration.⁴³ He outlined its achievements to date, as well as its plans and priorities. The speech was striking not only in the strength of the commitment expressed to continue pursuing fundamental political, social and economic reform, but also for its candour, tone and language.

The president acknowledged that many in the country and internationally had been sceptical of his government but said that “our vigorous constitutional democratic transition . . . is gaining more and more international recognition”. “Have we already completed building a new nation”, he asked, “where genuine democracy and eternal principles flourish? No, we still have much more to do. We will have to make more strides”. He also acknowledged that words were not enough, noting that “our people have suffered under various governments and different systems, and the people will judge our government based on its actual achievements”.

The speech appeared to make a conscious effort at inclusiveness, aiming to give everyone inside and outside of government the sense that they had a stake in the reform process. First, the president stated that credit for the changes should go to not only the government, “but also all the stakeholders including political parties, civil society, members of the Hluttaws [legislatures], the judicial pillar, the fourth estate media, national race leaders, and the Tatmadaw [armed forces]”. He noted that the reconciliation with the opposition, the release of prisoners and the welcoming home of exiles was part of an “all-inclusive political process” required to build “a strong new political generation for a mature democracy”.

Secondly, he conveyed a sense of unity within his administration, saying that:

All the dignitaries including me, the two vice-presidents, Tatmadaw leaders, union ministers, state/region chief ministers, state/region government members and those responsible for legislative and judicial pillars have a sense of oneness to serve the best interests of the nation and the people Our government is not divided into a hard-line camp and soft-line camp.

Despite these words, it is well-known that divisions do exist.⁴⁴ The reasons may have more to do with different allegiances and competing interests, rather than a broader endorsement or rejection of the reform process – particularly as it is gaining increased momentum. There seems to be a general recognition within that the changes are irreversible, and members of government see that it is not in their interests to be labelled as hardliners.⁴⁵ This gives the president an opportunity to forge broader support behind the process and keep spoilers in check: “Our democracy will become firmer and firmer if we walk on this path with the resolve that there is no turning back while setting aside differences and working together on common ground”.⁴⁶

On the question of ethnic peace, he went further than any previous post-independence leader by stating that:

As we are a Union, the participation of all national races in this process on equal terms is a must The aspiration of the national races to share the rights among all and [to] enjoy equality is also the desire of our government We have the duty to heal the bitter wounds and sufferings and fulfil the lost dreams. It is the historic duty for all of us. We understand that it is a demanding task We will do the job with trust based on Panglong spirit.

This reference to the pre-independence Panglong agreement between ethnic Burmese nationalists and representatives of some of the ethnic people was important, as the sense of shared destiny and equal rights that many ethnic leaders feel was embodied in the 1947 pact was lost in the subsequent decades.⁴⁷ Every post-independence leader has focused on imposing a single national identity rather than

⁴² *New Light of Myanmar*, 26 March 2012, p. 4.

⁴³ For the full text of the speech in English translation, see *New Light of Myanmar*, 2 March 2012, p. 1. While the one-year anniversary fell on 30 March 2012, the speech was given earlier in the month, presumably because the present legislative session came to a close before the 1 April by-elections.

⁴⁴ This has been confirmed to Crisis Group over the course of the last twelve months by several well-placed individuals inside and outside of government.

⁴⁵ Crisis Group interview, Myanmar individual with detailed knowledge of the inner workings of government, Yangon, March 2012.

⁴⁶ Anniversary address by the president, op. cit.

⁴⁷ At the 1947 Panglong Conference, Shan, Kachin and Chin representatives from the Frontier Areas agreed to the formation of a Union of Burma in return for promises of full autonomy in internal administration and an equal share in the country’s wealth.

fostering respect for diversity. This speech outlined the adoption of a different approach: “Our Union, home to over one hundred national races, must promote the characteristics of diversity with honour in line with the equality which is the standpoint of our government”.

As to the ongoing conflict with the Kachin Independence Organisation, the president acknowledged very frankly the concerns that have been expressed about “why the cease-fire cannot be in force even though I myself have ordered the armed forces to terminate all military offensives or attacks other than [for] self-defence purposes. The commander-in-chief of the defence services has already relayed my order to all the troops under his command”. In what may have been a message directed at the military, he went on to stress that “orders and directives are the lifeblood of the armed forces”. But he further pointed out that “the remaining skirmishes will not end just by pointing a finger at one another. First both sides should cease all hostilities to start a political dialogue It is the duty of our government and the Kachin leaders to fulfil the aspirations and hopes of the people”.

The president noted the importance of promoting national development “which must be environmentally, socially and economically sustainable”. He highlighted the role of civil society organisations as “the most important thing in the process of democratic transition and nation building”. He also spoke of the need to strengthen rule of law, which “is at the core for [the] emergence of a glorious democratic society Rule of law is a must for our administrative mechanism, businesses, social welfare, political processes, international relations and judicial system. If rule of law prevails in our society, human rights, liberty and democracy would flourish automatically”.

In closing, the president reaffirmed the commitment of his government to addressing the challenges ahead:

Our historic transition process is so enormous and difficult. In addition to the challenges that the countries in transition like our country have to face, we need to root out the evil legacies deeply entrenched in our society Our government will continue to try harder till a Myanmar society where the rule of law is firm and people living with peace of mind and dignity [has] emerged in our democratic country enjoying increased per capita income and well-rounded development in addition to economic growth, which are the wants and wishes of people.

The progressive language, and several of the specific themes highlighted in the speech – including the importance of rule of law and the need to resolve ethnic conflict through political dialogue in the “spirit of Panglong” – are very similar to the views espoused by Aung San Suu Kyi. In her own televised address on 14 March, she spoke of the importance of rule of law in order for democracy to flourish

and stated that to resolve the ethnic conflict “we must find common ground in order to build a genuine Union based on equality which is the basis of Panglong as aspired by the national races”.⁴⁸ It is a measure of how much the situation in Myanmar has changed that an ex-military president who was a senior figure in the former regime gives a speech to the nation that focuses on many of the same themes, and uses the same progressive language, as that of Aung San Suu Kyi.

The president’s speech was very well received across the political spectrum. A former student leader, Ko Ko Gyi, who was recently released from prison, said “his whole speech covered all the essential issues, from the political process and ethnic issue to even daily matters on the ground. That showed that he is aware of the day-to-day life of the people”.⁴⁹ Many ethnic leaders were encouraged by the way that the president framed their aspirations in terms of equality and diversity.⁵⁰ U.S. Special Envoy Derek Mitchell characterised it as “a tremendously visionary speech” and expressed the hope that Myanmar “continues to be a beacon of promise in a world that is otherwise undergoing many challenges”.⁵¹

IV. THE BY-ELECTIONS

On 1 April, by-elections were held for 45 vacant seats: 37 in the lower house, six in the upper house, and two in regional legislatures.⁵² These seats were vacated by USDP legislators who were appointed to executive positions (mostly ministers and deputy ministers), which under the constitution required them to resign their legislative seats.⁵³ A total of seventeen political parties contested the by-

⁴⁸ “National League for Democracy presents its policy, stance and work programmes”, *New Light of Myanmar*, 15 March 2012.

⁴⁹ Kyaw Zwa Moe, “Burmese pleased with president’s speech, but doubts linger”, *The Irrawaddy*, 2 March 2012.

⁵⁰ Crisis Group interviews, senior members of ethnic nationality organisations and political parties, Yangon, February-March 2012.

⁵¹ “Remarks to the Media at U.S. Embassy Rangoon by Ambassador Derek Mitchell, Special Representative and Policy Coordinator”, 15 March 2012.

⁵² Originally, 48 vacant seats were to be contested, but in an announcement on 23 March, the Election Commission postponed the by-elections in three lower house constituencies in Kachin state, saying that the security situation on the ground did not allow for the holding of free and fair elections. Union Election Commission, announcement no. 16/2012, 23 March 2012.

⁵³ 2008 constitution, Section 232(i). One of the vacant seats resulted from the death of the elected legislator, and two others from the removal of elected representatives from their seats when it was ruled that they did not meet citizenship requirements.

elections, as well as seven independent candidates.⁵⁴ The parties that contested the largest numbers were the USDP (all 45), the NLD (44),⁵⁵ the National Unity Party (22) and the National Democratic Force (eleven). All other parties contested four or less (see Appendix C below).

Given that the number of seats at stake was a small proportion of the total, these by-elections did not have the potential to shift the balance of power in the legislatures, which will continue to be dominated by the USDP.⁵⁶ Nevertheless, the polls were very important for two reasons. First, they were seen as a concrete test of the new government's willingness and ability to conduct free and fair elections – the 2010 elections, held under the military government, were deeply flawed. Secondly, the by-elections represented a moment of political reconciliation, with opposition leader Aung San Suu Kyi and her NLD taking part after having boycotted the 2010 elections.

In general, the campaign was freer than in 2010, in part because the major reforms over the last year have created an environment in which people feel they have the freedom to engage in politics and speak their minds. Also, there are far less constraints on the ability of the media to cover news. Nevertheless, in the lead-up to the vote, a number of parties complained of irregularities. The NLD was on several occasions denied the use of its preferred public venues, such as football stadiums, for holding rallies; some USDP candidates were alleged to have made improper promises that they would build roads or schools if elected; and many errors were found in voter rolls, such as the inclusion of people who had died, failure to include some voters and inclusion of some people more than once.⁵⁷ None of these appeared to indicate widespread foul play.

Shortly before the vote, the government invited electoral teams and media representatives to observe the by-elections – including from ASEAN and its member states, the EU, the U.S., Australia, India and the UN. While this was an unprecedented move, the invitation came too late in the pro-

cess to ensure fully effective independent monitoring.⁵⁸ These teams noted many minor irregularities but nothing that would have had a major bearing on the results.⁵⁹ Similar conclusions were reached by domestic observation efforts, including one led by the '88 generation student leaders, who were “generally ... satisfied with the whole electoral process”, although some deficiencies were identified.⁶⁰

The result was a landslide victory for the NLD, which won 43 seats. This makes it the largest opposition party in the national legislature.⁶¹ Aung San Suu Kyi took her constituency of Kawhmu with more than 85 per cent of the vote, according to an unofficial breakdown.⁶² The USDP secured only one seat, for which there was no NLD candidate. The Shan Nationalities Democratic Party also took one seat, defeating the NLD candidate in an upper house constituency in Shan State.

These results are a clear demonstration of the widespread popular support for Aung San Suu Kyi and the NLD. Despite the small number of seats that were contested, the extent of the party's victory gives it a powerful mandate as the voice of the people in the legislature. Aung San Suu Kyi herself described the results as “a triumph of the people”.⁶³ Yet, the scale of the NLD's victory could alarm many in the political establishment, who will take it as a signal of what may be expected at the next general elections, scheduled for 2015. The USDP hierarchy will have particular cause for concern, which may lead to greater polarisation of politics in the medium term. The NLD's vic-

⁵⁴ A further two newly registered parties were deregistered for failing to contest a minimum of three constituencies (the Democratic Alliance Party and the 88 Forces of People Party).

⁵⁵ The NLD put up candidates for all 45 seats, but one candidate was barred for not meeting citizenship requirements.

⁵⁶ The 37 seats being contested in the lower house represent 11 per cent of the elected seats in that chamber and less than 9 per cent of the total seats (including the bloc reserved for the military). In the upper house, the six seats being contested represent less than 4 per cent of the elected seats, and less than 3 per cent of the total seats.

⁵⁷ NLD press conference, Yangon, 20 February 2012; and comments by Aung San Suu Kyi at the end of her meeting with the Canadian foreign minister, reported in “Dead people on Myanmar voter rolls: Suu Kyi”, Agence France-Presse, 8 March 2012.

⁵⁸ Observers were invited to arrive in Yangon for an initial briefing on 28 March, four days before the vote.

⁵⁹ For example, the ASEAN Secretariat stated that it had consulted with EU, UN and ASEAN member-state monitors and was “encouraged by the orderly, fair, transparent and peaceful manner [in] which Myanmar has conducted its by-elections”, (ASEAN press release, 3 April 2012). The UN Secretary-General noted that “a UN team has been on the ground since last week, and was able to witness the voting in a number of constituencies. Despite some complaints of irregularities during the voting, key stakeholders in Myanmar, including political parties, have stressed to the UN team their strong belief that these by-elections are a boost for the ongoing reforms and a very important step towards a more peaceful and democratic future in Myanmar” (“Statement Attributable to the Spokesperson for the Secretary-General on Myanmar by-elections”, 2 April 2012).

⁶⁰ “The by-election goes well in Burma”, preliminary report on observation by 400 trained domestic observers in 21 constituencies, Yangon School of Political Science, 2 April 2012; and “Election Monitoring Report No. 1”, '88 Generation Students Election Monitoring Network, 7 April 2012.

⁶¹ The second-largest opposition party is the Shan Nationalities Democratic Party, with 22 seats in the Union Assembly.

⁶² “Aung San Suu Kyi welcomes all parties to join Myanmar's national reconsolidation”, Xinhua, 2 April 2012.

⁶³ Aung San Suu Kyi, speech to supporters, 2 April 2012 (video available at www.networkmyanmar.org).

tory in several seats with large ethnic minority populations may also alarm the ethnic parties. They face the prospect of reduced representation in 2015 and may feel uneasy, as they regard the NLD as a party of the Burman elite.⁶⁴

International reaction to the by-elections has been positive. UN Secretary-General Ban Ki-moon congratulated “the people, Government and political parties of Myanmar for the peaceful and largely orderly” polls, and “acknowledge[d], in particular, the courage and vision of President Thein Sein, which has made such progress possible”. The U.S. government called the elections an “important step” in Myanmar’s “democratic transformation”. British Foreign Secretary William Hague welcomed “these remarkable results and the progress they represent” and pledged the UK’s support for the reforms.⁶⁵

EU High Representative Catherine Ashton congratulated “the Government and people of Myanmar on the conduct of the by-elections” and noted that the EU “will continue to support the ongoing reforms in Myanmar and look[s] forward to developing a new and cooperative relationship as these go forward”. ASEAN welcomed “the fair and orderly manner [in] which the polls were conducted” and went on to “urge the international community to consider lifting economic sanctions on Myanmar so that the people ... can enjoy better opportunities in realising their aspirations for peace, national reconciliation, democracy and national development”.⁶⁶

It is crucial that these words of support be translated into concrete actions in support of the changes. U.S. Secretary of State Hillary Clinton has announced the imminent naming of an ambassador, establishment of an aid mission, encouraging engagement by private organisations, allowing Myanmar officials to travel more freely to the U.S. and some easing of financial sanctions.⁶⁷ Australian Foreign Minister Bob Carr said, “President Thein Sein has shown personal courage in leading Burma down its reform path. He should be congratulated and given every encouragement to continue”. He foreshadowed providing a “tangible

reward” in the form of the “proportionate” easing of Australia’s modest sanctions targeted at individuals’ travel and financial transactions.⁶⁸

To truly reciprocate Thein Sein’s brave move, a less cautious and incremental approach needs to be taken. Bold steps are required to encourage more change. If not, the president and other reformers could find themselves exposed. The most important step is for the West to quickly lift sanctions and demonstrate in a concrete way that Myanmar stands to benefit through a normalisation of its international relations.

V. CHALLENGES AHEAD

The speed and extent of reforms in Myanmar have raised questions about the sustainability of the process. Key factors that could affect the viability of these reforms are reviewed below.

A. THE THREAT FROM “HARDLINERS”

In any such reform process there are losers as well as winners, and it is natural to wonder whether those who do not benefit might decide to push back against the changes. However, this threat of a reversal has probably been overstated, for three reasons.

First, although the president has been a key architect, the reforms are not being driven by a single individual. There is a consensus among the key power holders in the country – including the president, the speaker of the lower house and the commander-in-chief of the armed forces – that major political and economic changes are needed. There is a “pent-up desire for reform” among a majority of the ruling elite.⁶⁹ Such broad buy-in to the reform process makes any reversal much more unlikely. The military as an institution is supportive. There are several indicators of this: military members of the legislatures have backed reform measures, including by joining calls for the release of political prisoners, voting in favour of progressive legislation and sometimes supporting opposition motions; and those cabinet ministers who are appointed by the commander-in-chief (defence, home affairs, border affairs) have been among the more proactive in pushing forward the reforms.

Secondly, the reform process has now moved so far, and developed such a strong momentum, that reversing it seems

⁶⁴ These seats include Mawlamyine (capital of Mon State), Toungoo (which has a large Karen population) and Kalaw (which has a complex ethnic mix).

⁶⁵ “Statement Attributable to the Spokesperson for the Secretary-General on Myanmar by-elections”, UN; “Statement by the Press Secretary on the Elections in Burma”, Office of the White House Press Secretary; “Foreign Secretary statement on Burma by-elections”, UK Foreign and Commonwealth Office (all dated 2 April 2012).

⁶⁶ “Statement by High Representative Catherine Ashton on by-elections in Myanmar”, EU, 2 April 2012; “ASEAN Welcomes Myanmar’s Fair and Orderly Elections, and Calls for Lifting of Sanctions”, ASEAN press release, 3 April 2012.

⁶⁷ “Recognizing and Supporting Burma’s Democratic Reforms”, remarks, U.S. Secretary of State, 4 April 2012.

⁶⁸ “Burma’s By-elections”, media release, Australian foreign minister, 4 April 2012.

⁶⁹ Crisis Group interviews in Myanmar over the previous twelve months.

unfeasible. Myanmar's population has not been unaware of the rapid changes taking place in neighbouring countries, and there is a strong desire to join the region's phenomenal economic progress. Now that the population has tasted reform, and the country as a whole has been infused with a powerful new sense of optimism and expectation, it seems unlikely that any reactionary faction would have the ability, or the desire, to turn back the clock.

Thirdly, while it is clear there are powerful individuals who stand to lose politically or economically from the changes, there is no evidence any cohesive group of "hardliners" has emerged that could alter the country's direction. Rather than any clearly defined group, there are individuals who may have personal or political concerns about various aspects of the reform process. For example, some USDP members now likely have concerns about their fate or their party's in a more free and fair electoral environment; some politicians and crony businessmen may have concerns that some reforms will threaten their economic interests; those with a strong nationalistic disposition may feel uncomfortable with what they might classify as concessions to the West; others may object to reconciliation with Aung San Suu Kyi and the NLD, particularly in the wake of the by-elections. Not all "hardliners" will have the same view on each issue. These individuals may have the capacity to be spoilers on certain specific matters, but it is unlikely that they could or would want to challenge the broader process.

Although there is no evidence of a neat division into "reformer" and "hardline" camps, there are certainly strong personal rivalries within the power structure. This is in no way unusual, but if not managed carefully, such rivalries have the potential to be problematic in the early stages of a transition. The most significant seems to be between President Thein Sein and lower house Speaker Shwe Mann. The tension is not over the direction of the reform process – they are the two strongest proponents of change. Rather, there appears to be competition over who is seen as the key decision maker on individual reforms and who can claim credit for being the key driver of the process. On some occasions, tensions have become intense. In February-March they became public in disagreement over a proposal by Shwe Mann to significantly increase public sector salaries.⁷⁰ The 2015 elections may be a factor, with Shwe Mann a strong contender for the presidency. Thein Sein has signalled privately that he is not interested in a second term, in part due to poor health, but there is no guarantee he would not change his mind.

In a situation where a push-back to the reforms seems unlikely, and the main tension is between reformers, the threat of a reversal is low. But there are certainly other serious challenges to a major reform process.

B. INSTITUTIONAL CAPACITY

There is a serious lack of institutional and technical capacity in Myanmar. Reversing the political direction of the country while simultaneously reforming the economy and pursuing a peace process with over a dozen separate armed groups is an enormous challenge. As a senior government adviser said, "you name it, we have to reform it".⁷¹ The public administration has very few people with the skills and vision to lead the process, with the result that a small number of individuals are faced with an enormous workload. Inevitably, much decision-making is ad hoc and rushed, informed not by reference to any master plan – policymakers have had no time to prepare such a blueprint – but rather by the exigencies of the moment.

The demands on the time of senior policymakers and advisers have been exacerbated by the huge international interest in recent months. A senior individual involved noted that "so many offers of assistance are coming, we have no time and capacity to handle them. The risk of burn-out is real, and in some ways, things are moving too fast".⁷² Key ministers are reportedly having ten to twenty meetings per day. Yet, after decades of isolation, this attention and good-will is being welcomed as a validation of the efforts underway and as a potential source of much-needed technical assistance going forward.

The lack of capacity at the mid-level and working-level to implement the policy decisions being taken is also a major impediment: "It is necessary to overcome more than 30 years of inertia".⁷³ New economic policies are often implemented slowly or imperfectly. Obtaining visas can still be a frustrating and time-consuming experience even for those organisations that the new government is supportive of. In general, the political will to institute reforms is moving far ahead of the capacity to implement them, which acts as a brake on the process and means that ordinary people are slow to see the full impact of some of the changes.

These pressures are unlikely to ease in the near term. In addition to the reform process, Myanmar is committed to two major regional events in the next two years: hosting the South East Asia Games in 2013 and taking on the chairmanship of the Association of South East Asian Nations

⁷⁰ Crisis Group interviews, individuals with direct knowledge of discussions between Thein Sein and Shwe Mann, Yangon, March 2012. See also Nyein Nyein, "Is Shwe Mann trying to steal Thein Sein's reform mantle?", *The Irrawaddy*, 16 March 2012.

⁷¹ Crisis Group interview, Ko Ko Hlaing, chief political adviser to the president, Yangon, 2 March 2012.

⁷² Crisis Group interview, Yangon, February 2012.

⁷³ Ibid.

(ASEAN) in 2014. These will impose an organisational burden on the administration at all levels; in addition to the organisational tasks, most of the required infrastructure will have to be developed from scratch. The country is willing to take this on because these events are seen as having political importance domestically and internationally, symbolising Myanmar's return to the world stage.⁷⁴ Accession to the Economic Community that ASEAN aims to bring into existence by 2015 will also require considerable economic, financial and commercial restructuring.

C. THE ECONOMY

Reforming the economy is a huge and pressing task. For the first time in half a century, the political reforms have engendered a real sense of hope among the population that there can be tangible improvements in their standard of living. Daily life for most is characterised by deep poverty, high levels of indebtedness, lack of employment opportunities and a dearth of social services. In order to bolster the broader reform effort, it is vital to provide quick wins to the population in these areas. Delivering on the expectations of the public can ultimately only be achieved through fundamental economic reform.

Introducing such dramatic changes carries the risk of creating inadvertent economic shocks, given the absence of reliable economic data, the lack of transparency in the functioning of the economy (much of which is in the informal sector) and weak technical capacity in key economic institutions. This was demonstrated by the rapid appreciation in the kyat in 2011, which had a major negative impact on export industries, manufacturing, and agriculture. The gravity of the situation was not initially appreciated by the finance ministry, which had neither the economic early warning mechanisms to anticipate its impact, nor the macroeconomic tools to effectively address it.⁷⁵

In any reform process, there is a risk that expectations rise faster than the ability of the government to deliver. This is especially so on the economic front. It can have obvious political consequences, particularly when longstanding authoritarian controls on the population are being simultaneously removed, allowing frustrations to be more freely expressed in public. But it is not just that the expectations of a better life may fail to materialise. If economic modernisation intended to meet those expectations causes unanticipated economic shocks, there is the potential for a serious impact on standards of living.⁷⁶ Given that a sub-

stantial proportion of the population is living below the poverty line, and many more are surviving precariously just above it, it would not take much of a shock to have a large negative impact on livelihoods.⁷⁷

A vital question for Myanmar's economic policymakers is how to find the right balance between the imperative for quick reform and taking enough time to ensure that the right policies are put in place. With regard to economic laws, the crowded legislative agenda as well as the rivalry within the executive makes this particularly challenging: there is a sense that some laws are being rushed through without sufficient advice to ensure that they are well-formulated. The legislature, for example, had been pushing to pass a new foreign exchange regulation bill and a new central bank bill before the IMF had had the opportunity to provide technical advice on the drafts.⁷⁸

D. ETHNIC PEACE

A third issue that has the potential to undermine the reform process is the ethnic conflict. There are two aspects to this.

First, renewed conflict could have important political impacts, as the failure of the government and the KIO to agree a ceasefire has cast a shadow over the other peace efforts. Pursuing a political process to address ethnic grievances without the KIO at the table would be risky, as it is hard to see any lasting solutions without including the Kachin. Delaying broader political discussions until a deal is reached with the KIO is also problematic. The ceasefires are inherently fragile military-security agreements, and there is a risk of one or more breaking down if they are not consolidated through political deals that address the underlying grievances. A return to war in the ethnic borderlands would be a major blow to the reform agenda. It could also put the military back at the centre of much policymaking, as well as shift the focus away from social and economic reform back to national security issues.

Secondly, a return to fighting could have harmful economic impacts. Throughout much of the 60-year history of the conflicts, the border areas that felt the greatest impact of war were remote from the economic centres of the country. Myanmar paid a high economic price through the cost

⁷⁴ Crisis Group interviews, government advisers, Yangon, February-March 2012.

⁷⁵ Crisis Group interviews, Myanmar economists in the course of 2011.

⁷⁶ For example, floating the kyat involves a risks of currency speculation that could drive up its value, damaging manufactur-

ing and agriculture. Unifying exchange rates and thereby ending implicit subsidies on imports of some raw materials by state-owned enterprises may lead to price increases, fuelling inflation.

⁷⁷ A 2011 poverty assessment conducted in Myanmar by the UN Development Programme (UNDP) found poverty rates of around 25 per cent, with a relatively large percentage living just above the poverty line. "Myanmar Integrated Household Living Conditions Assessment-II, Poverty Profile", UNDP, Myanmar, 2011.

⁷⁸ Crisis Group interviews, persons having first-hand knowledge of the situation, February-March 2012.

of maintaining a large army conducting constant operations and the lack of development in areas of insecurity. But for most Burmans in the centre of the country, the conflicts were out of sight and out of mind. The borderlands are no longer remote: they are adjacent to some of the areas of fastest economic growth in the world. As a new era of regional connectivity begins, their stability is vital for the economic future of the country.⁷⁹

Major projects in or passing through potentially volatile border areas include:

- ❑ Chinese commercial and strategic investments in Myanmar, including twin oil and natural gas pipelines from a new Indian Ocean deep-sea port at Kyaukpyu to Kunming, a network of high-speed rail links and a number of hydroelectric dams located in areas of Myanmar near to the Chinese border;
- ❑ the Dawei Development Project in the south of the country, being implemented by a Thai construction company. This multi-billion dollar project includes a major industrial estate with a petro-chemical hub, a modern deep-sea port and road and rail links to Thailand.⁸⁰ Products manufactured in the Dawei industrial estate, located on the Indian Ocean seaboard close to Thailand, could be easily exported west and east; and transshipment of goods through the Dawei port would cut several days off the existing sea route through the Straits of Malacca; and
- ❑ the Kaladan Multi-Modal Project, developed by India to improve connectivity between the two countries and to provide an alternate route to link landlocked north-east India with India's eastern seaboard and the Indian ocean. The project involves the development of three transport corridors: an inland water route along the Kaladan River, a road corridor to north-east India and a sea route from Kolkata to an upgraded deep-sea port at Sittwe in Myanmar.⁸¹

Given these major developments, renewed conflict would have severe economic consequences.

⁷⁹ "ASEAN is situated at the heart of an economically vibrant and growing region Enhanced connectivity can potentially place ASEAN at the centre of growth and development. For this to happen, ASEAN needs to seize the opportunities offered by its geographical and comparative advantages", from a paper on ASEAN connectivity presented by the organisation's deputy secretary general at the 24th Asia-Pacific Roundtable, Kuala Lumpur, 7-9 June 2010.

⁸⁰ The first phase of the project will cost about \$8 billion and cover an area of around 100 sq km. "Thai-Burma deep sea port project", *The Bangkok Post*, 11 December 2010.

⁸¹ "Kaladan Multi-Modal Project in Myanmar", Manipur Online, 19 December 2010.

VI. ROLE OF THE INTERNATIONAL COMMUNITY

It appears that internal considerations were primarily behind the rapid changes in Myanmar, with the international community less central to the process. All indications are that the reform process is being driven by internal considerations – the need to rebuild the economy and reverse years of isolation, as well as rebalance external political and economic relations in a context of unhealthy overreliance on China.⁸² A consensus had emerged among a majority of the political elite that Myanmar's economic malaise and its skewed external relations were threatening the country's security and sovereignty.⁸³ The transition to a new political order and the safe withdrawal from the scene that Senior General Than Shwe succeeded in orchestrating allowed for a shift in direction to meet this pent-up desire for change.

Now that major change of the kind long called for is underway, it is incumbent on the international community to help ensure success by lending its full support.

A. THE WEST

For many years, most Western countries have imposed economic sanctions against Myanmar in response to serious concerns over human rights abuses and lack of democracy. The speed and extent of the reforms initially caught most policymakers by surprise. It was inevitable that perceptions that had built up over decades could not be altered overnight. By late 2011, however, there was a general recognition in most Western capitals that major reform was underway; the landmark visit of U.S. Secretary of State Hillary Clinton on 30 November made this clear.

There is much that the West can do to support the reform process in different areas:

- ❑ Provide political support. This can help bolster the position of those driving the reforms. In this regard, it is important that the political support be to the authorities in Myanmar as a whole. Attempting to conduct a triage of reformists and hardliners is likely to be counterproductive, tending to increase divisions at a time when it is critical to build the broadest possible consensus behind the reform process.
- ❑ Provide technical assistance and build capacity. This can be done both bilaterally and through multilateral

⁸² While some of these could be seen as unintended by-products of years of Western sanctions, they were at least as much the result of poor economic management and self-imposed isolation.

⁸³ This is the strong sense to emerge from numerous Crisis Group interviews with key individuals in Myanmar over the past year.

institutions. There is no shortage of offers of assistance from organisations and institutions around the world. The key concern of the government is to ensure the quality and coherence of technical advice. Two key government priorities are rebuilding the economy and democratisation, and Western institutions remain the pre-eminent source of advice on global best practice in these areas.

- Engage with the Myanmar military. It remains a very powerful institution. So far, it has been generally supportive of the reform process (see Section V.A above). To ensure that this support for reform continues and puts an end to ethnic conflict, it is important that the military sees that it has something to gain from the new context. A resumption of appropriate forms of military-to-military engagement would be a powerful signal in this regard. These would have to be carefully defined, but could include various forms of training (such as in human rights law, international humanitarian law, disaster response, international peacekeeping and officer training), exchange visits and participation in regional military exercises. Such interactions could also help facilitate the modernisation of the armed forces and its adaptation to a role in a civilian government, and could play a role in practical efforts to promote peacebuilding in ethnic areas. Until the reforms are much more advanced and the ethnic conflict is regarded as being resolved, the arms embargo should be maintained.
- Remove sanctions. The pace of change and the extent of the reforms already implemented have removed any valid rationale for keeping sanctions in place – even if, in the case of the U.S., it may take some time for those enshrined in legislation to be repealed. (The only measure that probably continues to be justified, as noted, is the arms embargo imposed by the U.S., EU and some other countries, although existing regulations governing arms exports by these countries could be applied to the same practical effect without setting Myanmar apart.)

While there is a general consensus in Western capitals that the bulk of the measures should now be lifted, some are arguing that a limited number should be kept in place or lifted piece by piece. But to do either would likely damage the reform process rather than keep up the pressure for further change – by weakening the position of reformers within the power structure and undermining international political engagement that could bolster the reforms and potentially by complicating the process of economic rebuilding that is clearly in the interests of the population. Shifting the goalposts by insisting on new steps before all the measures are removed would not only mean holding Myanmar to far higher standards than are applied to other

countries⁸⁴ but also weaken the credibility of sanctions more broadly, thus undermining their credibility as a political tool in other situations.

The Myanmar authorities have gone extraordinarily far in putting aside old prejudices and reaching out to even the most strident of their critics domestically and internationally. It is important for the West to make a commensurate effort to forge a new partnership with Myanmar.

B. THE REGION

As Myanmar emerges from a long inward-looking period and recalibrates its external relations, its geostrategic location is assuming greater importance.⁸⁵ Inevitably, given its extremely close political and economic links to China in recent years, there will be some greater distance in that relationship. India and Japan are both moving to strengthen relations. An over-reliance on China has been of growing concern to many in the Myanmar political establishment, particularly given the country's traditional foreign policy posture, which prioritised non-alignment and multilateralism as a way to avoid what it saw as the risk of being overwhelmed by giant neighbours.⁸⁶

China has mixed feelings about Myanmar's strategic shift. While relations will inevitably not be so close as in the past, there is recognition in parts of China's foreign policy establishment that the current shift is best seen as a return to a more traditional foreign policy stance by Myanmar and that China will remain a very important ally. It is also acknowledged that it is in the interests of both countries that Myanmar develops politically and economically and has a more diversified set of external economic relations.⁸⁷ At the same time, there are other policymakers who are concerned about U.S. intentions in the country and about the implications for China of a close strategic relationship between the U.S. and Myanmar.⁸⁸

Myanmar's relations with ASEAN, which it joined in 1997, are also evolving. The country was in the past often seen

⁸⁴ Myanmar is now more democratic on most measures than several other members of ASEAN and already has greater press freedoms and more significant opposition representation than some, even as its reform process continues.

⁸⁵ For a detailed examination of the changing geography of the region and the significance of Myanmar's opening, see Thant Myint-U, *Where China Meets India: Burma and the New Crossroads of Asia* (London, 2011).

⁸⁶ For detailed earlier reporting on China-Myanmar relations, see Crisis Group Asia Report N°177, *China's Myanmar Dilemma*, 14 September 2009; and Asia Briefing N°112, *China's Myanmar Strategy: Elections, Ethnic Politics and Economics*, 21 September 2010.

⁸⁷ Crisis Group interview, Kunming, October 2011.

⁸⁸ Crisis Group interviews, Beijing, January 2012.

by the group as a source of political problems that had to be managed and as a member that damaged the reputation of the whole organisation. That has changed. Myanmar's assumption of the chairmanship in 2014 – a role that it was pushed to forego in 2006 – will be symbolic of its new status in the region. It has also committed to the ASEAN economic integration process that is expected to lead to the establishment of an ASEAN Economic Community in 2015.⁸⁹ ASEAN has the opportunity to play an important role in shaping the transition underway in Myanmar through political support and the provision of technical advice, particularly given the experience that a number of its members have in managing political transition and economic reform.

C. THE UNITED NATIONS

The UN should not stay on the sidelines during the transition. Relations with the UN had been a cornerstone of Myanmar diplomacy, and the country is proud that it produced the first Asian Secretary General, U Thant (1961-1971). In more recent years, relations have not always been smooth, as parts of the institution – particularly the Security Council and the Human Rights Council – came to be regarded by the government as tools of Western political scrutiny. But as Myanmar reforms and begins to address key human rights and political concerns, relations with the world body will assume a greater priority, and the new government has committed itself to working closely with it.

Now is the moment for the UN to refine its role in Myanmar going forward, in order that it can leverage its long engagement in a way that will help support the government and people to address the many new challenges brought on by the reform process. A planned visit in late April by Secretary-General Ban Ki-moon, who is well-respected by the Myanmar leadership for the constructive role and personal engagement that he has shown in the past, will be a key opportunity in this regard.

UN assistance and advice in this transitional period could be of great value. There are at least two obstacles to making the most of this opportunity. First is that for many years the UN system's mandate in the country has been restricted to humanitarian and "humanitarian-plus"⁹⁰ activities as a result of the political concerns of key donor countries.⁹¹ This means that the in-country system has not been well-

geared to pursuing wider issues such as peacebuilding, governance reform or even sustainable development activities in partnership with government.⁹² Secondly, the UN's more political engagement track with Myanmar – the Secretary-General's "good offices" function, conducted by Special Adviser Vijay Nambiar – is mandated under an annual General Assembly resolution that Myanmar has long regarded as an unwarranted instrument of political pressure and is now adamant should be ended.⁹³ This means the good offices function risks being seen by the government as time-limited and politically intrusive rather than a potentially useful source of support in meeting the transitional environment's challenges.

If these obstacles can be overcome, Myanmar has much to gain from the active support of the UN during this transition process, and the UN has much to offer. Developing a new understanding should be the focus of the Secretary-General's visit and Nambiar's engagement. The scope of such support should be defined jointly with government, but possible areas could include political aid coordination efforts,⁹⁴ perhaps building on existing platforms such as the Secretary-General's Group of Friends on Myanmar or the UN's "track 1.5" consultations;⁹⁵ support for peacebuilding in border areas; electoral assistance in the lead-up to the next general elections in 2015; and – critically – the coherent mobilisation of international resources to address the priority needs in the context of the transition. The language of the present good offices mandate is certainly broad enough to allow for this.⁹⁶

⁸⁹ See "ASEAN urged to implement AEC Blueprint 2015 on time", *Xinhua*, 8 October 2011.

⁹⁰ "Humanitarian-plus" is normally donor assistance that supports some activities, such as education and primary health care, that go beyond pure humanitarian activities, in contexts where normal development programs are not yet in place or deemed appropriate.

⁹¹ *Ibid.*

⁹² According to senior U.S. officials, the policy changes announced by the secretary of state on 4 April should now "permit UNDP to pursue what we would call a normal country program". "Background Briefing on Burma", U.S. State Department, 4 April 2012.

⁹³ Crisis Group interviews, senior government officials and advisers, New York and Yangon, September 2011 and March 2012.

⁹⁴ This should be distinguished from technical aid coordination, for which there are existing in-country mechanisms.

⁹⁵ The Group of Friends of the Secretary-General on Myanmar is made up of Australia, China, the EU, France, India, Indonesia, Japan, Norway, Russia, Singapore, Thailand, UK, U.S. and Vietnam. The track 1.5 consultations have brought Myanmar diplomats together with representatives of UN member states and senior UN officials, as well as independent experts, to promote closer mutual understanding outside the confines of formal diplomacy.

⁹⁶ See operative paragraph 33 of General Assembly Resolution A/C.3/66/L.55, 28 October 2011.

VII. CONCLUSION

One year after the new Myanmar government took office, a remarkably rapid transition is underway. The president has made clear that he intends to do much more to accelerate democratic reform, rebuild the economy, promote ethnic peace, improve rule of law and heal the bitter wounds of the past. By-elections held on 1 April were relatively free and fair, and the opposition National League for Democracy won a landslide victory, taking 43 of the 45 seats being contested. Aung San Suu Kyi won her seat with a large majority. Although these results will not alter the balance of power in the legislature, they make the NLD the largest opposition party and give it a powerful mandate as the voice of popular opinion within the legislatures.

There is a broad consensus among the political elite on the need for fundamental reform. This makes the risk of a reversal relatively low. However, the reform process faces several challenges, including a lack of technical and institutional capacity to formulate policy and implement decisions; rebuilding a moribund economy and meeting rising expectations for tangible improvements in living standards; and consolidating peace in ethnic areas. The NLD electoral landslide, which came at the expense of the government-backed USDP, can add further momentum to the reforms but may also alarm many in the political establishment. This could expose the president to greater internal criticism and stiffen resistance to further democratic reform.

The international community has an important role to play in supporting reform. In addition to providing technical advice and assistance, political support for the reform effort is also crucial. Myanmar has turned away from five decades of authoritarianism and has embarked on a bold process of political, social and economic reform. Those in the West who have long called for such changes must now do all they can to support them. The most important step is to lift the sanctions on Myanmar without delay. Failing to do so would strengthen the hand of more conservative elements in the country and undermine those who are driving the process of change.

Jakarta/Brussels, 11 April 2012

APPENDIX A

MAP OF MYANMAR



APPENDIX B

LIST OF CEASEFIRE AGREEMENTS

	Armed Group	Date initial agreement signed
1.	United Wa State Army (UWSA)	6 September 2011
2.	National Democratic Alliance Army (NDAA, "Mongla Group")	7 September 2011
3.	Kloh Htoo Baw ("Golden Drum" Group; ex-Democratic Kayin Buddhist Army Brigade 5)	3 November 2011
4.	Shan State Army-South (SSA-South)	2 December 2011
5.	Chin National Front (CNF)	6 January 2012
6.	Karen National Union (KNU)	12 January 2012
7.	Shan State Army-North (SSA-North)	28 January 2012
8.	New Mon State Party (NMSP)	1 February 2012
9.	Karen National Liberation Army Peace Council	7 February 2012
10.	Karenni National Progressive Party (KNPP)	7 March 2012
11.	Arakan Liberation Party (ALP)	6 April 2012

APPENDIX C

PARTIES THAT CONTESTED THE BY-ELECTIONS

Party	Seats contested	Seats won
1. Union Solidarity and Democratic Party (USDP)	45 (all seats)	1
2. National League for Democracy (NLD)	44	43
3. National Unity Party (NUP)	22	–
4. National Democratic Force (NDF)	11	–
5. Unity and Peace Party	4	–
6. People's Democracy Party	3	–
7. Myanmar New Society Democratic Party	3	–
8. Myanmar National Congress Party	3	–
9. New National Democracy Party	3	–
10. Shan Nationalities Democratic Party	3	1
11. National Political Alliance	2	–
12. All Mon Regions Democracy Party	1	–
13. Democratic Party (Myanmar)	1	–
14. Kokang Democracy and Unity Party	1	–
15. Lahu National Development Party	1	–
16. Modern People's Party	1	–
17. Pao National Organisation	1	–
Independent candidates	7	–

Note that the figures for seats contested are based on informal reports, since no official consolidated list has yet been publicly released.

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