ADB ASIAN DEVELOPMENT BANK

Myanmar: Enhancing the Power Sector's Legal and Regulatory Framework

Project Name	Enhancing the Power Sector's Legal and Regulatory Framework
Project Number	46486-001
Country	Myanmar
Project Status	Approved
Project Type / Modality of Assistance	Technical Assistance
Source of Funding / Amount	**TA 8469-MYA: Enhancing the Power Sector's Legal and Regulatory Framework** Norwegian Grant (w/ LoA) US$ 850,000.00
Strategic Agendas	Inclusive economic growth
Drivers of Change	Partnerships
Sector / Subsector	**Energy** - Energy sector development and institutional reform
Gender Equity and Mainstreaming	
Description	The Government of the Republic of the Union of Myanmar requested the assistance of the Asian Development Bank (ADB) and the Government of Norway to assist the Ministry of Electric Power (MOEP) in updating the Myanmar Electricity Law (1984) and the Electricity Rules (1985) so that they reflect current international standards and create an enabling framework for introducing an electricity regulator and corresponding institutional arrangements. The revision and implementation of a new electricity law and electricity regulations will support the government's reform agenda for the power sector by (i) providing an improved regulatory framework for gradual future sector unbundling (generation, transmission, and distribution subsectors); (ii) encouraging greater private sector participation in generation projects and enabling third-party network access; (iii) establishing rules and regulations for small independent power producers to promote off-grid electrification; (iv) implementing rural electrification programs; and (v) introducing an electricity regulator consistent with internationally recognized good practices. Responding to the government's ongoing major reforms toward a democratic system and market-based economy, ADB adopted in early 2012 a phased approach to re-engagement with Myanmar, involving significant preparatory analytical work and country dialogue in the first half of 2012. ADB has prepared an initial energy sector assessment that calls for promoting energy efficiency and developing a pricing mechanism for electricity as part of the overall public sector reform program. The technical assistance (TA) is aligned with ADB's interim country partnership strategy, 2012 2014, with the objective of re-engaging in the country and improving access to reliable and sustainable utility services.

Project Rationale and Linkage to Country/Regional Strategy	Myanmar's energy policy framework centers on (i) maintaining energy independence, (ii) promoting wider use of new and renewable energy sources, (iii) promoting energy efficiency and conservation, and (iv) promoting the use of alternative fuels in households. Seven ministries are responsible for energy matters. The two main energy-related line ministries are the Ministry of Energy (overall energy policy and the oil and gas sector) and the MOEP (hydropower, coal-fired power generation, gas-fired power generation, mini-hydro, and power transmission and distribution). The government established the National Energy Management Committee and the Energy Development Committee in January 2013 to strengthen coordination among the seven ministries with a view to improving resource planning for and oversight of investment in energy sector development. The power sector in Myanmar is governed by the Electricity Act 1948 (as amended in 1967), the Myanmar Electricity Law (1984), and the Electricity Rules (1985). This legislation needs revision to reflect current international best practices in power sector governance. There is also a pressing need to develop grid codes and model power purchase agreements for small and large power generation projects. These rules and draft models do not exist in Myanmar and will have to be based on current international best practices with appropriate guidelines and requirements to allow private independent power producers to connect with the Myanmar national grid. The power sector in Myanmar is currently under the responsibility of MOEP, which, as well as being responsible for power sector policy, includes (i) development, implementation, and operation and maintenance (O&M) of all large hydropower plants and coal-fired thermal power plants; (ii) construction and O&M of transmission and distribution systems throughout the country; (iii) O&M of gas-fired thermal power generation plants; and (iv) planning, implementation, and O&M of mini-hydropower plants. The MOEP is responsible for policy and oversight as well as regulation of the power sector; and is vested with all planning, operating, and management responsibilities for the sector. In the absence of a distinct regulatory framework to support the functional unbundling that will need to take place soon, the MOEP will need clear directions on how this could be achieved through a revised electricity law. The MOEP has a draft concept note on power sector policy that outlines a reform strategy to (i) rationalize power sector institutions and functions, (ii) gradually commercialize the institutions, (iii) develop a regulatory framework through an electricity law, (iv) gradually adopt cost-based tariffs, (v) promote private sector participation, (vi) increase rural access to electricity, (vii) undertake demand-side management, and (viii) update the law and regulations on health and safety and sector-related offences. Policy has tended to be developed through the process of drafting the new law, rather than through wide consultation with concerned ministries and stakeholders whose inputs are then captured in law. The government recognizes that foreign direct investment will be required to achieve projected investments in the power sector. A framework to attract build operate transfer investments will need to be adopted. Notable features of such a framework include guaranteeing the convertibility of local currency into foreign currency, permitting the mortgaging of project assets, specifying tax levels, and allowing risk sharing by the government and private investors. However, various shortcomings continue to impede rapid development of build-operate transfer projects in the power sector, principally the (i) lack of a comprehensive and transparent regulatory framework, (ii) need to modernize the legal and financial system and legislation, (iii) lack of a modern law governing private sector investment, and (iv) lack of experience in and capability to facilitate long-term foreign investment in infrastructure. The government recognizes the importance of these issues and is taking the first steps to strengthen power sector legislation by introducing an updated electricity law. The updated electricity law is expected to serve as the foundation for the regulatory framework. At the same time, its usefulness will be limited until it is operationalized by drawing up supporting secondary legislation and setting up the Electricity Regulatory Authority (ERA) as envisaged under the updated law. The ERA is expected to play a central role in the strategic development of the power sector (least-cost system expansion; investment planning and financing; fuel and electricity pricing; retailing of electricity in rural areas; and cross subsidization among others) and overseeing implementation of the strategy with its regulatory powers. The government sought ADB's assistance in drafting and operationalizing the proposed electricity law, including initial capacity building on the principles of electricity regulation. To increase the rural electrification ratio and the supply of electricity to rural areas, the MOEP also requested ADB's assistance in preparing a new rural electrification law and implementing regulations to streamline the role and function of the ministries, including the state government, and to prioritize the necessary investment and government budget allocation.
Impact	Power sector reforms initiated

Project Outcome

Description of Outcome	Legal and regulatory framework accepted by the government
Progress Toward Outcome	An updated Electricity Law, which includes creation of an ERA, was approved by the Parliament in October 2014.
Implementation Progress	
Description of Project Outputs	Draft legal and regulatory framework and institutional arrangements developed Institutional arrangements for the establishment of ERA finalized
Status of Implementation Progress (Outputs, Activities, and Issues)	Rules to implement the 2014 Law have been prepared and are under consideration by the government. Electricity regulations and a rural electrification law have been drafted. The consultant is preparing final report
Geographical Location	

Summary of Environmental and Social Aspects

Environmental Aspects	
Involuntary Resettlement	
Indigenous Peoples	
Stakeholder Communication, Participation, and Consultation	
During Project Design	
During Project Implementation	Consultations with line ministries and donor partners were conducted on draft rules and regulations. A workshop on the 2014 Electricity Law, the proposed rules and regulations to implement the law, and draft Rural Electrification Law will be conducted with several civil society and private sector organizations in Q2 2016.

Business Opportunities

Consulting Services	The firm DFDL of Thailand has been recruited. The consulting contract will be due for completion on 30 September 2015.
Procurement	Office equipment and computer softwares were procured in accordance with ADB's Procurement Guidelines (2013, as amended from time to time). On completion of the TA, all equipment will be turned over to the executing agency. Disbursements under the TA will be done in accordance with ADB's Technical Assistance Disbursement Handbook (2010, as amended from time to time).

Responsible Staff

Responsible ADB Officer	Jim Liston
Responsible ADB Department	Southeast Asia Department
Responsible ADB Division	Energy Division, SERD
Executing Agencies	*Ministry of Electric Power* *No. B-07, Yadana Shwe Pyi St.,* *Zaya Theidi Ward, Nay Pyi Taw*

Timetable

Concept Clearance	17 Jan 2013
Fact Finding	07 Jun 2012 to 07 Jun 2013
MRM	-
Approval	01 Oct 2013
Last Review Mission	-
Last PDS Update	23 Mar 2016

TA 8469-MYA

Milestones					
Approval	Signing Date	Effectivity Date	Closing		
			Original	Revised	Actual
01 Oct 2013	12 Nov 2013	12 Nov 2013	31 Dec 2014	30 Jun 2016	-

Financing Plan/TA Utilization							Cumulative Disbursements	
ADB	Cofinancing	Counterpart				Total	Date	Amount
		Gov	Beneficiaries	Project Sponsor	Others			
0.00	850,000.00	0.00	0.00	0.00	0.00	850,000.00	01 Oct 2013	588,729.08

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Request for Information	http://www.adb.org/forms/request-information-form?subject=46486-001

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