



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

NEWSLETTER 13 - 28 November 2016

Dear Readers,

Welcome to a new edition of our newsletter.

1. **New Myanmar Investment Rules: Request for suggestions**

DICA has uploaded a **briefing paper on the draft of the new Myanmar Investment Rules** (<http://tinyurl.com/jy4l6kx>). As part of the reform and Rules drafting process, **the MIC invites interested parties to submit their comments on:**

- Matters which need to be addressed during the transition period from where the new MIL has been enacted but the rules and regulations under the Myanmar Citizens Investment and Foreign Investment Rules are still in force pending adoption of the new Rules;
- feedback on issues affecting investors and stakeholders under the previous Myanmar Citizen Investment Law and Foreign Investment Law, including examples of practical difficulties faced by investors and suggestions of procedural improvements in relation to applications; and
- feedback on the priority areas which the new Rules will focus on as explained above.

Written submission in Myanmar or English may be made at any time, however, may not be considered if received **after 4pm on 16 December 2016**.

In this context, you may also wish to read this article in the Myanmar Times: <http://tinyurl.com/joe6fj6>. The MIC seems to try to avoid involving line ministries by drawing up an equivalent to present notification 26 - if an investment is not on this list, then the MIC will not have to seek approval of the ministry in charge before permitting or approving the investment. This article also states that investments below USD 5 million will in practice be approved by the state and regional governments instead of the MIC, and that the MIC is drafting “operating procedures” for the state and regional governments in an attempt to ensure uniform application of the new Myanmar Investment Law.

2. **Crackdown on undocumented foreigners**

As most readers are aware by now, **the authorities are cracking down on undocumented foreigners**. If you are a foreign national in Myanmar, are not staying at a hotel and have not obtained “form C” (this thing here: <http://tinyurl.com/zhzxt2j>), **you should act immediately as you - seriously, this time - otherwise risk being arrested**.



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Press reports (<http://tinyurl.com/zpbokv6>) suggest that Chinese and Vietnamese at “known places” are particularly at risk, but the authorities have knocked at the doors of upscale apartment buildings as well.

Real estate developers are apparently being asked to furnish employee rosters for construction sites.

3. **Ministry of Commerce stops second-guessing prices in import/export license applications**

By notification no. 74/2016 dated 22 November 2016, the Ministry of Commerce has announced that it will from now on **accept the prices quoted in invoices and sales contracts that are submitted as part of the application file for an import/export license**. Please find an English translation of the notification inside the newsletter.

It is to be hoped that the Ministry of Planning and Finance will follow suit and assess customs duty and commercial tax on the basis of the submitted prices instead of estimated prices. Importers and exporters are presently facing considerable uncertainty as it these estimates make it hard for them to calculate the amounts they have to pay at customs.

4. **Market access and tenders**

(aa) **Next spectrum auction scheduled for March 2017:** <http://tinyurl.com/jj5tg96>

Apparently, the 1800MHz band is to be allocated to all three - by then, four? - operators in March.

(bb) Tenders soon to be held for the **construction of hotels, petrol stations, banks and condos in a residential area of the Thilawa SEZ:** <http://tinyurl.com/jsv7wku>

(cc) **Yangon Region Transport Authority (YRTA) expects international and local firms to bid for a tender to build a water taxi system:** <http://tinyurl.com/gvn45ox>

The tender applications and regulations seem to be available during office hours at the Office of the Yangon Region Government, room 216, between 21 November and 20 December 2016.

(dd) **Privatization of a factory for the production of PVC wires, transformers and machine tools, and of a factory for the production of turbines and generators:** <http://tinyurl.com/j5mu4xn>

(ee) **MEHL hopes for more joint ventures:** <http://tinyurl.com/jzclga7>



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Following the lifting of the American sanctions, military conglomerate MEHL hopes for new joint venture partners. This is very interesting article is certainly worth reading as it describes the background and present situation of MEHL in detail. Readers will certainly note the price at which the Ministry of Defence allowed itself to be bought out for the company to be now 100% privately owned by present and former military personnel.

5. **Seminar: Myanmar's legal and tax framework**

There are still places available for our seminar on **Myanmar's legal and tax framework on 15th December 2016**. You are cordially invited. Please find the seminar announcement inside the newsletter.

We trust that you will find this newsletter useful and hope that you will enjoy reading it.

Sebastian Pawlita
Managing Director

Nyein Chan Zaw
Director



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Press review (18 - 28 November 2016)

- Traders face teething problems using new automated customs system: <http://tinyurl.com/gngxdob>
- Mongolian (more or less - the company seems to be owned by an American and his Mongolian wife) property firm sets sights on Myanmar: <http://tinyurl.com/hdq4y9y>
- Crackdown on foreigners in Yangon: <http://tinyurl.com/zpbokv6>
- Jade and gems auction in Nay Pyi Taw less attended; less good-quality pieces on sale: <http://tinyurl.com/jydrteu>. Trade at the “emporium” is presently conducted in EUR, but to switch to USD next year: <http://tinyurl.com/jvdrdo8>
- Next spectrum auction in March 2017: <http://tinyurl.com/ji5tg96>
- Tentative green light given for the development of Yangon’s Southwest New City: <http://tinyurl.com/h6tf2rr>
- JICA to publish an amended version of its Yangon 2040 master plan by the end of this year: <http://tinyurl.com/jazq7sr>
- Public company Myanmar Construction and Development to finance and build low-cost government housing project in Yangon: <http://tinyurl.com/zln3lyg>
- Yangon Region Transport Authority (YRTA) expecting international and local firms to bid for a tender to build a water taxi system: <http://tinyurl.com/gvn45ox> (The tender applications and regulations seem to be available during office hours at the Office of the Yangon Region Government, room 216, between 21 November and 20 December 2016.)
- MIC working to avoid line ministry approval for investments: <http://tinyurl.com/joe6fj6>
- Construction and Housing Development Bank seeking low-interest loans from Japanese and Korean banks in order to fund low-interest financing schemes for Myanmar homebuyers: <http://tinyurl.com/zvhg6tz>
- “Exchange rate volatility committee” to inform public on counter-measures: <http://tinyurl.com/hktugcb>



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- Mandalay publishes “property tax” brackets: <http://tinyurl.com/zgardlu> (Not really “property tax,” but the tax base for stamp duty and “income tax on income that has escaped assessment.”)
- Tenders to be held soon for the construction of hotels, petrol stations, banks and condos in a residential area of the Thilawa SEZ: <http://tinyurl.com/jsv7wku>
- MEHL hopes for more joint ventures: <http://tinyurl.com/jzclga7>
- Never-ending story? New car-import rules for Yangon to be discussed: <http://tinyurl.com/h2ntkpi>
- Myeik Public Corporation and Korea-based KMPI Company to build a gas-fired power plant in Kyunzu Township, Taninthayi Region, for USD 565 million: <http://tinyurl.com/j52n46c>



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Ministry of Commerce Notification No. 74/2016

- CONVENIENCE TRANSLATION - ACCURACY NOT GUARANTEED -

Ministry of Commerce and Trade

Minister's Office

Notification No. 74/2016

8th Waning Day of Thazaung Mone 1378

(22 November 2016)

The Ministry of Commerce and Trade issues, with the consent of the Union Government, this notification according to the authority conferred upon it by section 13, sub-section (b) Import/Export Law.

Notification relating to the approval and issuance of import/export licenses

- (1) In order to enable fast and smooth trade and trading business that complies with the law, the Ministry of Commerce and Trade will, with regard to an import/export license, not scrutinize the price, and approve the license based on the price and values in the invoice and the sales contract submitted by companies in good faith together with an undertaking stating that the price and the value are true.
- (2) The following items have to be submitted when applying for an import/export license.
 - (a) Online import/export license application (revenue-stamped with Ks. 600) [*Translator's note: It says "online" and "revenue-stamped" in the original.*]
 - (b) Original invoice
 - (c) Original sales contract
 - (d) Undertaking that the description, price and values contained in the invoice and sales contract are true
 - (e) Recommendation from the relevant departments (for goods that are to be imported/exported where a recommendation is required)
- (3) The scrutinizing, value assessment and collection of tax for the import/export license/permit approved in this way on the basis of the value in the invoice shall be done according to the law, rule, order, procedure, principles and directives of the Ministry of Planning and Finance.



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- (4) Action shall be taken, according to the law, rule, order, procedure and directives of the relevant department in force, against companies which fake the invoice or sales contract or illegally falsify the description in the invoice or sales contract or alter the price or values in the invoice or sales contract in order to avoid tax.
- (5) If necessary, the relevant departments may re-scrutinize, according to international procedures, the prices in the approved licenses after approval and issuance of the licenses on the basis of the prices in the invoice or sales contract together with the undertaking.

(Signature) Dr. Than Myint
Union Minister
Ministry of Commerce and Trade

Distribution list: *[omitted]*



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SEMINAR INVITATION:

MYANMAR'S LEGAL AND TAX FRAMEWORK

This seminar will provide participants with an overview of the most important legal and tax aspects of doing business in Myanmar. It is ideal for anyone having to familiarize themselves with this topic in a short period of time, and for anyone wishing to obtain an update on the most recent developments.

Date and time	Thursday, 15 th December 2016, 1:30pm - 5:00pm
Place	Sule Shangri-La, 223 Sule Pagoda Road, Yangon
Topics	<ul style="list-style-type: none">▪ The new Myanmar Investment Law and the draft of the new Companies Law▪ Corporate compliance▪ Labour law▪ Land law▪ Protection of intellectual property▪ Litigation▪ Taxation and customs▪ Dealing with corruption
Speakers	<ul style="list-style-type: none">▪ Sebastian Pawlita▪ U Nyein Chan Zaw
Language	English
Fee	Ks. 10,000 per person. Please pay on the day of the event at the reception. We will provide a receipt.
Registration	Please register by sending an e-mail to sebastian@lincolnmyanmar.com or nyeinchanzaw@lincolnmyanmar.com , stating the name of your company and the names of the participants.