



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

NEWSLETTER 11 - 6 November 2016

Dear Readers,

Welcome to a new edition of our newsletter.

1. New Myanmar Investment Law to go live on 1 April 2017

The **new Myanmar Investment Law was enacted on 18 October**, repealing the former Foreign Investment Law and the former Citizens Investment Law without as such providing for a transitional period. However, as implementing rules and regulations have not been issued yet, the MIC presently does not apply the new law. Press reports suggest that the new rules and regulations will be ready by January 2017 and **the MIC will start applying the new law on 1 April 2017** (<http://tinyurl.com/hchzmqb>).

Investors with a project **should not wait until 1 April 2017, but get in their MIC application now** as in this way **they may still manage to benefit from the mandatory five year corporate income tax exemption** provided for in the old Foreign Investment Law and the old Citizens Investment Law.

DICA has an unofficial English translation of the new Investment Law on its homepage: <http://tinyurl.com/zgbz3xp>.

2. Anti-corruption efforts

Western investors often think of Myanmar as a jurisdiction full of **corruption**. While the country is not Switzerland, corruption certainly was never higher than in neighbouring countries even during the darkest of times. It was **in decline already before the new government took over**, and **decline accelerated after the handover of power**: It is well-known that the de-facto leader of the country, **State Counsellor Daw Aung San Suu Kyi, hates corruption**. We think it is safe to say that at least the **Union Government is corruption-free**. However, it may not be possible to make the same statement about **lower-level state administration**.

All the more significant is therefore a **new avenue to report corruption cases**: Any individual may **file a complaint to the deputy minister of the Ministry of the State Counsellor's Office**, as the Ministry announced on 2 November 2016: <http://tinyurl.com/hepnvuf>. This **should really help reduce corruption incidences** as the Ministry, headed by Daw Aung San Suu Kyi herself, is perceived to command a high level of authority; possibly more than the existing anti-corruption commission which some accuse of being ineffective. Transparency International and FinCEN, please take note...



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3. Special Economic Zones

We would like to inform our readers that DICA has published an **English translation of the Special Economic Zones Rules** on its homepage: <http://tinyurl.com/hmkhobc>

4. Market access

(a) **Privatization of regional airports:** The Department of Civil Aviation (DCA) submitted a plan to privatize regional domestic airports to the Ministry of Transport and Communications. According to the plan, private firms would renovate and run regional domestic airports across Myanmar under public-private partnership (PPP) agreements. Once the DCA has obtained the required approvals, it intends to hold tenders.

Some domestic airports may be upgraded to handle international flights with JICA assistance.

The previous government sought to privatize domestic airports already, but these plans in the end never came off the ground.

(<http://tinyurl.com/zbhkc85>)

(b) **Spectrum auction:** Winners of the 2600 MHz spectrum auction (and the prices they offered to pay for the licenses) have been announced (<http://tinyurl.com/jz26i7k>). Telenor and MPT had dropped out of the auction to concentrate on a later auction for 1800MHz spectrum.

(c) Tenders:

Several tenders have come out during the last two weeks which might be of interest to some readers:

(aa) This one is basically an invitation to foreign traders to visit, and bid at, the **mid-year gems auction in Nay Pyi Taw from 20 to 29 November 2016:** <http://tinyurl.com/gpmusao>

(bb) **Renovation and upgrading of four substations at Ahlone, Hlagwa, Ywama and Tharkayta gas turbine power plants in Yangon Region** (JICA funded): <http://tinyurl.com/z77pvu5>

(cc) **Consulting services to develop a Hydro-Informatics Centre (NWRC) Decision Support System and an Ayeyarwady Basin Master Plan** (World Bank funded): <http://tinyurl.com/h8vawaf>



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- (dd) **International waterway engineering specialist for the Ayeyarwady Integrated River Basin Management Project** (World Bank funded): <http://tinyurl.com/h7j7teu>
- (ee) **Consultancy services to review IPP contracts:** <http://tinyurl.com/zj5othb>
- (ff) **Joint venture with the Ministry of Industry to upgrade and operate an existing solar panel factory and an LED factory:** <http://tinyurl.com/hyl2m2g>

(A client who looked at the facilities extensively actually said that one should stay away from the tender as the solar panel factory was in a really bad shape. However, he also said that it was on a **large plot of land** which would **do nicely for an investor interested in creating an industrial park.**)

5. **Lifting of American sanctions**

This is a **pretty insightful interview** with David Mortlock, a former Director for International Economic Affairs at the White House National Security Council, **on the implications of the recent lifting of the American sanctions** against Myanmar: <http://tinyurl.com/zhy9hhc>.

He stresses that the **vast majority of business in Myanmar is now permitted for U.S. persons**, although the country remains subject to an arms embargo, and companies operating in Myanmar should remain cautious about anti-bribery and anti-money laundering regulations.

He furthermore points out that the **Financial Action Task Force (FATF)** “upgraded” Myanmar (i.e. **removed the country from the organization’s blacklist of high-risk and non-compliant jurisdictions**) in June 2016, a fact that may even be a more important reason for the financial industry to take a look at expanding contacts in Myanmar than the lifting of the sanctions.

It should be noted, however, that the **Financial Crimes Enforcement Network (FinCEN)** still has not rescinded its designation of Myanmar as a jurisdiction of primary **money-laundering concern**. FinCEN **allows, however, American banks to maintain correspondent bank accounts** on the basis of an administrative exception subject to compliance with the due diligence requirements of 31 C.F.R. § 1010.610. So far, **no American bank seems to have entered into a correspondent relationship with a Myanmar bank**. This means that **American companies wishing to invest in the country in practice would still do so through a foreign (e.g. Singapore) subsidiary** as otherwise the transfer of funds in and out of the country will be difficult.



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6. Seminar: Investment in the power sector in Myanmar

There are still **places available at our seminar on investment in the power sector on 10 November**; you are cordially invited. Please find the seminar announcement inside the newsletter.

7. Job request in the hospitality sector

An acquaintance of ours, a foreign national with many years of experience as manager of large hotels and resorts, is looking to relocate to Myanmar. If you are presently recruiting in this sector and are interested, please contact us; we will be happy to make the connection.

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 (21 October - 6 November 2016)

- 50th Street Bar sold: <http://tinyurl.com/h7m3nqp>
- Singapore firm plans Thilawa galvanizing plant: <http://tinyurl.com/jujsmdo>
- Myanmar Finance International Limited to expand business on Maybank loan: <http://tinyurl.com/h8kl4to>
- Yangon labour department launched 60 lawsuits against errant factories: <http://tinyurl.com/zvzdmg5>
- USD 47.5 million collected in taxes (presumably: individual income tax) from foreigners living in Yangon Region: <http://tinyurl.com/zyvr6s6> (also contains bits on “work permits” and related information which are inaccurate)
- Thilawa worker dormitory beds to go for USD 25/month: <http://tinyurl.com/jkjeear>
- Gems Emporium intends to switch from EUR to USD: <http://tinyurl.com/jt77boq>
- Ooredoo reduces Myanmar losses: <http://tinyurl.com/jzaywrg>, while Telenor posts higher revenues: <http://tinyurl.com/zy6kqpr>
- Urban development plans for Patheingyi, Mawlamyine and Mandalay to be completed within this month: <http://tinyurl.com/zj86sdv>
- Customs department’s automated cargo clearance system to go live on 11 November 2016: <http://tinyurl.com/j6jzlp>
- New Investment Law to be implemented on 1 April 2017: <http://tinyurl.com/hchzmqb>
- Department of Civil Aviation submitted plans to privatize regional airports: <http://tinyurl.com/zbhkc85>
- World Bank sees progress and problems for businesses in Myanmar: <http://tinyurl.com/hypcf2j>
- Authorised Automobile Distributors’ Association wants government to clarify car import rules: <http://tinyurl.com/jy36ab9>
- Yoma plans reversed takeover to establish a Singapore-listed tourism-focused company: <http://tinyurl.com/jjpfggd>



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- Winners of the 2600 MHZ spectrum auction (and the prices they offered to pay for the licenses) announced: <http://tinyurl.com/jz26j7k>



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SEMINAR INVITATION:

INVESTING IN MYANMAR'S POWER SECTOR

Date and time	Thursday, 10 November 2016, 2:30pm - 4:00pm ★NEW DATE★
Place	Sule Shangri-La, 223 Sule Pagoda Road, Yangon
Topics	<ul style="list-style-type: none">▪ Institutional and legal framework of the power sector▪ Opportunities for foreign investors in power generation: selling turnkey facilities; construction and operation of coal-fired, gas-fired and hydro power plants; power generation with renewable energy▪ Opportunities for foreign investors in supply, engineering and distribution▪ Project documentation: MoA, BOT contract, power purchase agreement, fuel supply agreement▪ Land issues▪ Project finance▪ Government guarantees
Speakers	<ul style="list-style-type: none">▪ Sebastian Pawlita▪ U Nyein Chan Zaw
Language	English
Fee	The event is free of charge.
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.



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Homepage: Coming soon...



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