



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

NEWSLETTER 54 - 6th October 2018

Dear Readers,

Welcome to a new edition of our newsletter.

1. Draft of a “Law Relating to Petroleum Exploration, Drilling and Production” published

In anticipation of a new bidding round, expected to be held in the first half of 2019 (<https://tinyurl.com/y8rhrzgg>), the Ministry of Electricity and Energy published the draft of a “Law Relating to Petroleum Exploration, Drilling and Production” in the Myanmar Gazette on 2 October 2018.

An English translation of the draft is available to our premium subscribers; a summary can be found here: <https://tinyurl.com/y86qy7ya>

If enacted, the law will govern exploration, drilling and production in addition to the production sharing contract or improved petroleum recovery contract that successful bidders will have to conclude with Myanma Oil and Gas Enterprise (“**MOGE**”). Currently, there is not much of a legal framework for such activities; they are almost exclusively governed by the contract with MOGE.

The government encourages local companies to register with the Ministry of Electricity and Energy and find a foreign partner for a joint investment (<https://tinyurl.com/ybd68rku>). Differently from the 2013 bidding round, however, foreign investors will not be required to form a joint venture in order to be able to bid.

2. Union Tax Law 2018/2019

The Union Tax Law 2018/2019 (Pyidaungsu Hluttaw Law No. 32/2018) was enacted on 25 September 2018. It took effect for state-owned enterprises on 1 October 2018 and will take effect for private enterprises on 1 April 2019. An English translation is available to our premium subscribers. The main changes are as follows:

- Private enterprises may have to adopt a new financial year (from 1 October to 30 September) on 1 October 2019;
- cigarettes, cheroots and liquor (except beer and wine) will become more expensive due to a hefty increase of the special goods tax;
- raw and processed diamonds and emeralds and jewellery made thereof will be exempt from special goods tax;



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- New exemptions from commercial tax: Small-scale, off-grid electricity generation and distribution; raw materials for making detergent, raw materials for making soap, raw soap; search and rescue vehicles; gum karaya;
- clarification that 1% commercial tax is levied on the landed costs of imported jewellery.

3. **Electricity and energy news**

Government hopes to draw more oil and gas investments after south Rakhine basin discovery:

<https://tinyurl.com/ybzfx9t9>

4. **Market access and other news**

(a) **China-Myanmar Economic Corridor one step closer; potential of tens of billions USD in investment:** <https://tinyurl.com/y8vap4wd> - and, non-Chinese companies will be allowed to bid: <https://tinyurl.com/yb3j9dlf>

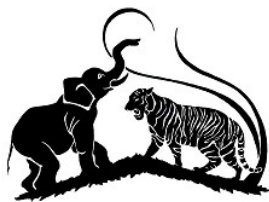
(b) **Confederation of Trade Unions calls on Yangon Region government to form committee to resolve labour disputes:** <https://tinyurl.com/yaa6gfjf>

The background is that - apparently following a Supreme Court judgment - individual labour disputes are no longer heard by the nationwide arbitration system composed of a township-level conciliation body, an arbitration body in each Region and State and a Union-level arbitration council. Reportedly, collective labour cases are no longer accepted as well.

This means that labour disputes have to be resolved by the ordinary courts which, in practice, puts employees at a disadvantage as employers would usually be better equipped to deal with lengthy procedures.

At least in Yangon Region, however, it is also possible for aggrieved employees to file a complaint with the Regional government (in both individual and collective cases) - which we have recently done on behalf of a foreign employee. We are not sure of the legal basis, though, as the Settlement of Labour Dispute Law does not provide for such an alternative system.

(c) **Government prohibits multi-level marketing businesses:** <https://tinyurl.com/ya56v4le> (based on the 1947 Essential Supplies and Services Act which allows the government to regulate or prohibit “the production, treatment, keeping, storage, movement, transport, distribution, disposal, acquisition, use or consumption of things of any description”)



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- (d) **Sale of imported liquor banned (again...):** <https://tinyurl.com/y77v7tes>
- (e) **EU considering the removal of Myanmar's (and Cambodia's) tariff-free market access:** <https://tinyurl.com/ycsewnc2> (This would re-introduce a 12% tariff on in particular garments imported into the EU from Myanmar.)
- (f) **Myanmar successfully renegotiates debt, ownership terms for Kyaukphyu SEZ:** <https://tinyurl.com/ycwnfctx>
- (g) **Visitors from Japan, South Korea, Hong Kong and Macao can now travel to Myanmar without a visa; 21 Western countries to follow:** <https://tinyurl.com/yc33j28c>
- (h) **MTSH's share price falls in the wake of boardroom row:** <https://tinyurl.com/ya7cg9mf>
- (i) **Telecommunications sector a bright spot for the economy:** <https://tinyurl.com/ycb5q2yz>
- (j) **Military terminates USD 500 million Chinese-backed Yangon development:** <https://tinyurl.com/ya4yvfo6>
- (k) **USD 80 million raised to create subsea data centre corridor between Singapore and Myanmar:** <https://tinyurl.com/y8z8x2pu>

5. Tenders

- (a) **Ministry of Electricity and Energy:** Installation of distribution lines and transformers in Bago (West) and Ayeyarwady: <https://tinyurl.com/yazckscn>
- (b) **Department of Medical Services:** Purchase of medical equipment: <https://tinyurl.com/y9u489yu>
- (c) **Department of Rural Development:** Consulting firm for the audit of the Italian contribution to the National Community-Driven Development Project: <https://tinyurl.com/y79w4sbw>
- (d) **Ministry of Electricity and Energy:** Installation of distribution lines and transformers in Sagaing, Magway, Chin, Magway, Rakhine, Bago (West), Bago (East), Kayin and Mon: <https://tinyurl.com/y8ruagp7>



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- (e) **Department of Highways:** Construction of 18.1 km, 17.798 km and 16.86 km of concrete pavement road, drainage structures and other miscellaneous structures in Ayeyarwady Region and Bago Region: <https://tinyurl.com/y8t4ar2b>

We hope that you have enjoyed reading our newsletter and found it useful.

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