



Dear Readers,

Welcome to a new edition of our newsletter.

1. Trademark Law and Industrial Design Law passed

Parliament finally passed the Trademark Law (Pyidaungsu Hluttaw Law No. 3/2019) and the Industrial Design Law (Pyidaungsu Hluttaw Law No. 2/2019) on 30 January 2019.

There is no need for immediate action as the two laws will only enter into effect on a date specified by presidential notification. It is unknown yet when this will be, but it is expected that it will take a while as a new infrastructure (creation of an Intellectual Property Rights Committee and a modern registration system) still has to be set up.

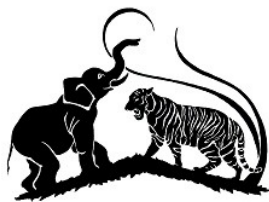
Until this all is in place, trademarks (and industrial designs and patents) can be protected by filing a declaration of ownership with the Registration of Deeds Office in Yangon and the publication of a cautionary notice. Since 1 October 2018, the Registration of Deeds Office requests filings in English to be accompanied by a Myanmar translation certified by a notary (in line with section 18(b) Registration of Deeds Law 2018) and evidence of use (e.g., the submission of a declaration of ownership for a pharmaceutical brand has to be accompanied by a sample of the pharmaceutical packaging).

The new Trademark Law protects trademarks with a prior filing date over conflicting trademarks filed at a later date. In order to be protected in the future, trademarks currently registered with the Registration of Deeds Office have to be registered under the new system once it is in place. The new Trademark Law does not provide for a transition period or for the old filing date being grandfathered in, but we more or less expect some sort of transitional rules, maybe by notification, as the new system would otherwise be clogged on its very first day with thousands of applications from existing trademark owners.

Industrial designs (and, presumably, patents, but the new Patent Law is not out yet) would also have to be registered anew.

We will hold a seminar on Tuesday, 5 March 2019, from 2:30pm to 4:00pm about the Trademark Law and the Industrial Design Law (and, if they are out by then, the Patent Law and the Copyright Law). We will still send out a separate invitation.

Translations of the laws are available to our premium subscribers.



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2. Central Bank allows foreign equity investment in local banks

With a letter dated 29 January 2019, the Central Bank announced that domestic private banks may accept an equity investment of up to 35% from foreign banks or financial institutions. An English translation of the letter can be found here: <https://tinyurl.com/y9ooukpt>.

3. Condominium Law and Rules now operational

The Condominium Law and Rules are now operational with condominium management committees having been formed in early January. The Yangon Region Condominium Management Committee seems to have received applications for nine projects already as of 16 January 2019.

An amendment to the Condominium Rules (an English translation is available to our premium subscribers) allows foreigners to purchase up to 40% of the units (previously, 40% of the total floor area) in a duly registered condominium.

4. Market access liberalisation for foreign insurance companies

On 18 January 2019, the Financial Regulatory Department published requests for (i) proposals from foreign life or composite insurers in a tender for up to three life insurance licenses; (ii) expressions of interest from local life insurers to form a joint venture with a foreign life or composite insurer with a 35% foreign ownership cap; and (iii) expressions of interest from local non-life insurers to form a joint venture with a foreign non-life or composite insurer with a 35% foreign ownership cap. The requests can be downloaded here: <https://tinyurl.com/yaoag7hd> (scroll down).

A colleague from DWF Singapore (<https://tinyurl.com/yddu5gkw>) commented as follows:

“Invitations for Expressions of Interest in forming life and non-life joint ventures in Myanmar have now been issued by the Financial Regulatory Department.

Although the associated conditions are not unexpected, there may be some disappointment that foreign ownership has been capped at 35%. That places Myanmar among the most restrictive foreign investment regimes for insurance in south-east Asia.

Minimum capital for non-life insurance business remains unchanged at approximately USD 25.95 million. Again, this is a high level for the region and may entail foreign insurance groups having to commit substantial funds for a minority stake.



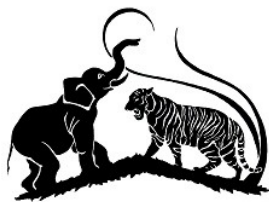
Local insurers have to pair with a single potential foreign partner that has a Myanmar representative office. Potential foreign partners can only participate in one response to the Invitations.

Shortlisted candidates for joint venture licences are to be announced on 17 May 2019. They will then be required to submit a more detailed proposal for the joint venture. More positively, foreign life insurers - with or without a Myanmar representative office - can apply to form a 100% owned subsidiary. The capital requirements are more reasonable. Up to 3 licenses will be issued for these subsidiaries."

5. Government projects

The Ministry of Planning and Finance is set to launch a "project bank" in 2019, i.e. an online database of government projects. The online database does not exist yet, but the Ministry of Planning and Finance showcased 30 projects at a recent exhibition in Nay Pyi Taw. According to the Myanmar Times (<https://tinyurl.com/yct4zndu>), these projects are:

- (1) Construction of inland port in Kachin's Bahmo
- (2) Construction of inland port in Magwe's Pakokku
- (3) Construction of inland port in Magwe along Ayeyarwady River
- (4) Construction of inland port in Sagaing's Kalewa
- (5) Construction of inland port in Sagaing's Monywa
- (6) Construction of Muse-Mandalay new railway line in Mandalay and Shan states
- (7) Construction of Mrauk-U airport in Rakhine's Mrauk-U
- (8) Construction of Thandwe airport Rakhine's Thandwe
- (9) Developing vehicle registration by radio frequency identification - nationwide
- (10) Upgrading Yangon-Mandalay Expressway in Yangon, Bago, and Mandalay regions
- (11) Constructing Yangon-Pathein-Ngayokekung Expressway in Yangon-Pathein-Ngayokekung
- (12) Construction of Yangon inner ring road



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- (13) Construction of Yangon outer ring road
- (14) Construction of Mandalay-Tigyaing-Muse Expressway in Mandalay to Muse township, Shan state through Tigyaing township, and Sagaing Region
- (15) Construction of Myitkyina-Tigyaing expressway in Kachin's Myitkyina and Sagaing's Tigyaing
- (16) Nay Pyi Taw-Kyauk Phyu expressway in Nay Pyi Taw to Kyauk Phyu, Rakhine through Magway's Aung Lan-Thayet
- (17) Eco-green city development in Yangon's Hlegu
- (18) New Mandalay Resort City in Mandalay's Pyin Oo Lwin
- (19) Sale fertiliser plant in Magwe's Chauk
- (20) New Kyun Chaung fertiliser plant in Magwe's Chauk (Kyun Chaung)
- (21) Kyaw Zaw fertiliser plant in Magwe's Aung Lan
- (22) New integrated refinery and petrochemical complex (10 MMTPA) in Yangon's Thanlyin
- (23) Nationwide utility scale solar project
- (24) High efficiency gas-based power generation in Yangon
- (25) Sustainable and low-cost hydropower development in Mandalay's middle Yeywa
- (26) Thaukyegat (1) hydropower project in Kayin's Hpa-An (Thaundaunggyi)
- (27) Chaung Tha wind power project (30 MW) in Ayeyarwady's Pathein (Chaung Tha beach)
- (28) Myanmar industrial waste water public private participation project in Yangon's Hlaing Tharyar township
- (29) Construction of Tamu-Kalay-Mandalay new railway line in Mandalay and Sagaing
- (30) Construction of new Hpa-an bridge in Kayin's Hpa-an



6. Labour matters

This is not exactly news, but as readers are aware, the country's labour dispute resolution system, composed of mediation by the Township Conciliation Body, arbitration by the Regional or State Arbitration Body and an appeal hearing at the Arbitration Council in Nay Pyi Taw, stopped working for individual disputes in June 2018 in what we understand to be a response to a Supreme Court decision on section 23 Settlement of Labour Dispute Law which requires individual disputes to be decided by the ordinary courts instead of the arbitration body.

The labour dispute resolution system is now only available for cases involving officially recognised unions (i.e., unions that have received "form 7"), and this article <https://tinyurl.com/y94pt5ru> describes pretty well what this means for workers.

In Yangon Region, aggrieved employees may file a complaint with the regional government in both individual and collective cases (the regional minister for Rakhine Ethnic Affairs is also in charge of labour matters), but we are not sure of the legal basis and the enforceability of such decisions as the Settlement of Labour Dispute Law does not provide for such an alternative system.

Employees complaining of unpaid salary may still turn to the Factory and General Labour Laws Inspection Department for an order commanding the employer to pay (section 12(b) Payment of Wages Law), but generally speaking, employees alleging unfair labour practices have to resort to the ordinary courts which is, given the time and costs involved, often not a realistic option for them.

On the whole, an employer is currently bound to win almost any labour case in practice.

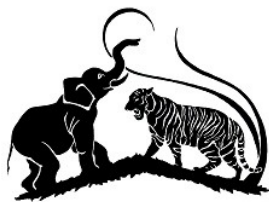
7. New laws

Apart from the Trademark Law and the Industrial Design Law, parliament passed a Law Amending the Accountancy Law, the Gemstone Law and the Myanmar Traditional Medicine Council Law in January 2019.

8. Electricity and energy news

(a) New electricity rates set to be announced this year: <https://tinyurl.com/yaaxzxcf>

(Against the background that electricity is heavily subsidised, prompting potential investors to worry that the state-owned off-taker may default on its obligations, this



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might be good news, but such announcements were already made in the past with nothing happening.)

- (b) 12 tender-winning companies signed agreements for electrification projects in 7 regions and states: <https://tinyurl.com/yb9yel54>
- (c) Sugar mill, power plant projects underway in Sagaing Region: <https://tinyurl.com/y8283wwc>
- (d) PTTEP to invest USD 3.3 billion in Thailand, Myanmar in 2019: <https://tinyurl.com/y8k8xk8y>
- (e) Yangon Region expects to need 1,700 MW electricity this year: <https://tinyurl.com/yafj8cwj>
- (f) MoEE to drill for natural gas in Magwe: <https://tinyurl.com/yagt85wt>

9. Market access and other news

- (a) Yangon's new city to start bidding process: <https://tinyurl.com/y89edm3s>
- (b) China Railway Eryuan Engineering Corporation (CREEC) started partial survey for Muse-Mandalay-Kyaukphyu railway line: <https://tinyurl.com/y7enrgdt>
- (c) Massive New Mandalay Resort City (NMRC) integrated township project set to proceed: <https://tinyurl.com/ycearjtz>
- (d) Central Bank permits banks to extend loans without collaterals at 16% interest p.a.: <https://tinyurl.com/y7b465n9>
- (e) Central Bank permits border trade in yen and yuan denominations <https://tinyurl.com/y9adm7v5>
- (f) Vinamilk set to enter Myanmar: <https://tinyurl.com/y8ej27lq>
- (g) Pretty good infographics on Chinese investments in Myanmar: <https://tinyurl.com/ybhb6upt>
- (h) First dry port in Mandalay Region to transport goods by container opened: <https://tinyurl.com/yb4fmp5f>



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- (i) MAPCO to develop three major projects with Chinese support this year:
<https://tinyurl.com/ya78r76x>
- (j) EU to impose tariffs on Myanmar, Cambodia rice for three years:
<https://tinyurl.com/y9uz6ful>

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

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