



Dear Readers,

Welcome to a new edition of our newsletter.

1. Exporters of various agricultural and aquatic products wanted

A partner in an associated law firm wrote us:

“One of my clients has just opened their subsidiary company in Dubai, UAE doing business of import of agricultural and aquatic products into UAE. They’re asking me to connect business partners doing agricultural export business.

Currently, they are looking for sources of white pepper, black pepper, unprocessed cashew nuts, black sesame seeds, anise, cinnamon, fragrant rice, jasmine rice, frozen shrimp, frozen green mussels.

Therefore, if you have partners/clients who want to explore this potential business, please kindly connect us accordingly.”

Please contact us if you think that you might be interested.

2. Payment to foreign suppliers and other creditors

The following is a repost from an earlier newsletter as the feedback was quite remarkable:

Some foreign suppliers and other foreign creditors of companies in Myanmar are facing a cashflow problem as companies in Myanmar tend to face difficulties making remittances abroad due to foreign currency controls in Myanmar. This is often not a matter of the company in Myanmar not wanting to pay but boils down to technical difficulties. We have had some success recently navigating the regulatory landscape and you may wish to contact us if you think that you are facing such a problem.

3. Translation of the E-Commerce Guidelines uploaded

We reported extensively about the E-Commerce Guidelines published by the SAC’s Ministry of Commerce on 5 September 2023 in a [previous newsletter](#). For the benefit of our readers, we uploaded an [English translation](#).



4. Do sanctions prohibit US persons (and Canadians) from using ATOM (formerly Telenor) SIM cards in Myanmar?

On 31 January 2024, the US [designated](#) Shwe Byain Phyu Group of Companies and its owner family as being associated with the Myanmar military. This means that under US law, “US persons” (US citizens or permanent residents; entities incorporated in the US, including a foreign branch; any persons in the US) are prohibited from any dealings with them.

Shwe Byain Phyu Group of Companies was in the news when, in 2022, [Reuters](#) and others reported that it had acquired 80% of Telenor Myanmar, since renamed ATOM. There is no way of knowing whether the reports at the time were correct or, if they were, the group still owns that much of ATOM, as in September 2022, the Directorate of Investment and Company Administration (DICA) disabled access to most of its online company database to outsiders. A prudent person would, however, act on the assumption that the Reuters report was and still is accurate.

According to the [50% rule](#) of the US Office of Foreign Assets Control (OFAC), entities of which a designated person directly or indirectly owns 50% or more are also sanctioned, meaning that a prudent person would assume that ATOM is a sanctioned entity.

Furthermore, exceptions that would allow US persons to deal with ATOM (by, e.g., buying or topping up an ATOM SIM card) either do not exist or are limited in scope:

- There is [no minimum amount](#) for prohibited dealings, although OFAC’s enforcement guidelines consider it a mitigating factor if the amount of the transactions allegedly infringing sanctions regulations is small in comparison to the total volume of transactions.
- Buying a SIM card from a third-party vendor instead of directly from ATOM does not help as OFAC is of the [opinion](#) that one cannot do something indirectly that one would not be able to do directly.
- [General License 6](#) allows transactions to wind down transactions with Shwe Byain Phyu Group of Companies until 1 March 2024, but this would not cover the purchase of a new or the topping up of an existing ATOM SIM card.
- The [International Emergency Economic Powers Act](#) provides for an exemption for telephonic or other personal communication, but only if it does not involve a transfer of anything of value.



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- Likewise, there is an exemption for transactions ordinarily incident to travel to and from any country. This exemption might allow American tourists or business travellers to buy and top up ATOM SIM cards, but US persons resident in Myanmar would probably not be covered.
- The [Burma Sanctions Regulations](#) exempt transactions that are for the conduct of the official business of the US Government or certain international organisations and entities, but this would not cover a US person who is not engaged in such business.

The upshot is that US sanctions do indeed seem to prohibit many US persons from using ATOM (formerly Telenor Myanmar) SIM cards, although it is a bit difficult to imagine that OFAC would start enforcement procedures for such small amounts.

A similar issue seems to exist for Canadians as their government targeted Shwe Byain Phyu Group already on 31 October 2023.

In addition to ATOM, telecommunication services are provided in Myanmar by Ooredoo, MPT, and MyTel (which is, we understand, not subject to foreign sanctions).

5. Sanctions update

In addition to Shwe Byain Phyu Group of Companies, its founder, his wife and their two adult children, the US listed shipping company Myanmar Five Star Line Company Limited, although the rationale is not entirely apparent as OFAC's 50% rule means that it is already sanctioned for being owned by listed Myanmar Economic Holdings (MEHL).

Furthermore, OFAC published a "[Burma Business Advisory](#)" on 26 January 2024 which, among others, identifies state-owned enterprises, gems and precious metals, real estate and construction projects, and the arms trade as areas of particular concern, and summarises the US Government's actions in response to the situation in Myanmar.

Further designations were announced by [Australia](#) and the [UK](#).

Not to be outdone, we revised and updated our [sanctions primer](#).

6. SAC reshuffles Union Government

In the wake of the recent extension of the state of emergency, the State Administration Council ("[SAC](#)") reshuffled its Union Government, as reported in the Global New Light of Myanmar:



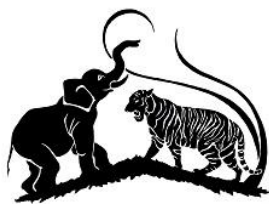
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Republic of the Union of Myanmar
State Administration Council
Order No 17/2024
7 Waning of Pyatho 1385 ME
1 February 2024
Reconstitution of Union Government

IN order to more speedily and effectively implement the adopted five-point roadmap and nine objectives, the State Administration Council, exercising Section 419 of the Constitution, reconstituted the Union government as follows:-

- | | |
|---|--------------------------------|
| 1. Prime Minister | Senior General Min Aung Hlaing |
| 2. Deputy Prime Minister | Vice-Senior General Soe Win |
| 3. Deputy Prime Minister and Union Minister for Transport and Communications | General Mya Tun Oo |
| 4. Deputy Prime Minister and Union Minister for Defence | Admiral Tin Aung San |
| 5. Union Minister, Ministry of Home Affairs | Lt-Gen Yar Pyae |
| 6. Deputy Prime Minister and Union Minister for Planning and Finance | U Win Shein |
| 7. Deputy Prime Minister and Union Minister for Foreign Affairs | U Than Swe |
| 8. Union Minister, State Administration Council Chairman's Office Ministry 1 | U Ko Ko Hlaing |
| 9. Union Minister, State Administration Council Chairman's Office Ministry 2 | U Aung Naing Oo |
| 10. Union Minister, State Administration Council Chairman's Office Ministry 3 | U Aung Kyaw Hoe |
| 11. Union Minister, State Administration Council Chairman's Office Ministry 4 | Admiral Moe Aung |



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12.	Union Minister, Ministry of Border Affairs	Lt-Gen Tun Tun Naung
13.	Union Minister, Ministry of Investment and Foreign Economic Relations	Dr Kan Zaw
14.	Union Minister, Ministry of Legal Affairs	Dr Thi Da Oo
15.	Union Minister, Ministry of Information	U Maung Maung Ohn
16.	Union Minister, Ministry of Religious Affairs and Culture	U Tin Oo Lwin
17.	Union Minister, Ministry of Agriculture, Livestock and Irrigation	U Min Naung
18.	Union Minister, Ministry of Cooperatives and Rural Development	U Hla Moe
19.	Union Minister, Ministry of Natural Resources and Environmental Conservation	U Khin Maung Yi
20.	Union Minister, Ministry of Electric Power	U Nyan Tun
21.	Union Minister, Ministry of Energy	U Ko Ko Lwin
22.	Union Minister, Ministry of Industry	Dr Charlie Than
23.	Union Minister, Ministry of Immigration and Population	U Myint Kyaing
24.	Union Minister, Ministry of Labour	U Myint Naung
25.	Union Minister, Ministry of Commerce	U Tun Ohn
26.	Union Minister, Ministry of Education	Dr Nyunt Pe
27.	Union Minister, Ministry of Science and Technology	Dr Myo Thein Kyaw
28.	Union Minister, Ministry of Health	Dr Thet Khaing Win
29.	Union Minister, Ministry of Sports and Youth Affairs	U Min Thein Zan
30.	Union Minister, Ministry of Construction	U Myo Thant
31.	Union Minister, Ministry of Social Welfare, Relief and Resettlement	Dr Soe Win
32.	Union Minister, Ministry of Hotels and Tourism	Dr Thet Thet Khine



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- | | |
|--|----------------------|
| 33. Union Minister, Ministry of Ethnic Affairs | Jeng Phang Naw Taung |
| 34. Permanent Secretary, Union Government Office | U Zaw Than Thin |

Sd/

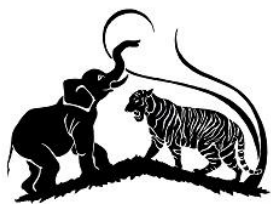
Min Aung Hlaing
Senior General
Chairman
State Administration Council

[Published in the Global New Light of Myanmar on 2 February 2024.]

We hope that you have found this information useful.

Sebastian Pawlita
Managing Director

Nyein Chan Zaw
Director



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About Lincoln Legal Services (Myanmar) Limited

Lincoln Legal Services (Myanmar) Limited provides the full range of legal and tax advisory and compliance work required by investors. We pride ourselves in offering result-oriented work, high dependability and a fast response time at very competitive prices. Please do not hesitate to contact us:

■ Sebastian Pawlita, Managing Director

Phone: +95-9-262546284 (English)

E-Mail: sebastian@lincolnmyanmar.com

■ Nyein Chan Zaw, Director

Phone: +95-9-790488268 (Burmese)

E-Mail: nyeinchanzaw@lincolnmyanmar.com

Office address: La Pyi Wun Plaza, Room 409 (4th Floor), 37 Alan Pya Pagoda Road, Dagon Township, Yangon

Web: www.lincolnmyanmar.com