

Government Steps Up Legal Reform: Looking Back 2014 and Forward to 2015

Recognizing the need for a robust and comprehensive legal system to support foreign investment, the Myanmar government has enacted a slew of significant laws and regulations in 2014. The following is a brief summary of significant sector-specific laws enacted in 2014 (as well as those which are expected to be formally adopted in 2015).

Construction, Infrastructure, and Logistics

Two important pieces of legislation were enacted this year: (a) The Multi-Modal Transport Law; and, (b) The Electricity Law.

The Multi-Modal Transport Law thoroughly defines the obligations of both multi-modal transport operators and their customers aiming to minimize the risk of disputes between the same. More importantly, the law now imposes a regulatory framework by requiring entities engaging in the “multi-modal transport of goods (*i.e.*, transport of goods involving at least two modes of transport)” to secure a license from the Multi-Modal Transport of Goods Central Committee.

The Electricity Law aims to provide for a decentralized decision-making process and involve foreign participation in a once-restricted sector. The law also aims to aid in the development of electricity production and facilitate improved access to electricity for rural and urban communities.

Further, the Telecommunications Licensing Rules were also recently released pursuant to the Telecommunications Law outlining the scope of activities permitted under the different types of telecommunication licenses and the procedure in their application.

Notably absent in the area of construction and infrastructure is the passage of the Condominium Law, a draft of which was officially released in November 2013 for public comment and consultation. The passage of the Condominium Law is expected to settle extant issues on ownership of condominium units, particularly by foreigners.

Financial Services and Capital Markets

Although only one law for this sector was enacted this year – The Anti-Money Laundering Law – substantial progress has been made in this sector with the granting of preliminary approvals to nine foreign banks for the establishment of their respective branch operations in Myanmar. There are also pending legislations, which are currently subject to discussions such as the Banks and Financial Institutions Law and the Rules and Regulations pursuant to the Securities Exchange Law.

The Anti-Money Laundering Law introduces a series of reporting requirements for banking, real estate and professional business services in the attempt to fight the laundering of funds related to drug trafficking and terrorism. Additionally, the law establishes an enforcement regime which includes the formation of a scrutinizing panel, an investigation team and the establishment of reportorial requirements on the part of banks and financial institutions and even non-financial business and professions which have been assigned by the Central Body to report.

Further, the Foreign Exchange Management Regulations (Notification No. 7/2014) were also issued by the Central Bank of Myanmar – this Notification provides further guidance on the procedures and requirements for foreign exchange transactions in Myanmar, including approvals for the entry of foreign currency loans for overseas lenders.

For 2015, we look forward to the passage of the Banks and Financial Institutions Law which will primarily regulate the activities of banks (both local banks and branches of foreign banks) and non-bank financial institutions. Further, the

Securities Exchange Rules and implementing procedures pursuant to the Securities Exchange Law are also expected to come out early next year in anticipation of the launch of the Yangon Stock Exchange in October 2015.

Special Economic Zones

The Myanmar Special Economic Zone Law was passed in 2014, and establishes a regulatory authority for special economic zones in Myanmar, and also details the structures of the zones within each special economic zone and their respective incentive schemes. While the rules implementing the Myanmar Special Economic Zone Law are still pending, the Government has released regulations specifically in relation to applying for permits for investment in the Thilawa SEZ. Investors can, therefore, apply for such permits now.

Tax

The Government restructured the tax regime with a series of tax legislations. These are: (a) the Law Amending the Income Tax Law; (b) the Law Amending the Commercial Tax Law; and, (c) the Union Tax Law. The Union Tax Law establishes the applicable tax rates and determines whether goods are exempt from commercial tax. The amended Income Tax Law and Commercial Tax Law regulate the actual collection of taxes and the administration of the tax authorities.

General Business Regulatory Framework

The Government's efforts to improve the country's general business framework have resulted to the re-classification of the types of economic activities for foreign investors through the issuance of the MIC Notifications 49/2014 and 50/2014, the enactment of the Consumer Protection Law and the passage of the Environmental Conservation Rules. Further, the proposed Competition Law, which aims to promote fair competition practices, is currently pending discussion, and a draft of the law has been published for public comment and consultation.

The Government has also sought public comment and consultation to revise the Myanmar Companies Act. The draft chapters of the proposed revisions to the Companies Act are posted on the website of the Directorate of Investment and Company Administration at the following link - <http://dica.gov.mm.x-aas.net/>.

At the same time, a total of 241 investment permits have been issued by the Myanmar Investment Commission in 2014 alone, 182 to foreign investors and 59 to local. According to the Directorate of Investment and Company Administration, more than US\$50 billion in foreign investments were approved as of 30 November 2014 in various sectors.