

Myanmar Moves to Increase Intellectual Property Protections

Myanmar is racing to upgrade its antiquated intellectual property ("IP") regime ahead of international treaty deadlines to provide protection to international brands wary of the uncertain protections currently in place.

At present, Myanmar maintains a patchwork system of intellectual property protections that provide minimal coverage and protection, especially to those held by foreigners. The Copyright Act is nearly a century old and provides only a limited amount of protection, mainly to locally created or published works. There is no principal trademark law, but limited protection can be secured through registration with the Office of Deeds and Assurances in Yangon and the publication of a cautionary notice in an English language newspaper of general circulation. There is also no law presently in effect protecting patents, although a patent holder may theoretically seek protection by registering an invention and seeking injunctions as necessary under the Specific Relief Act. Other types of intellectual property, such as trade secrets, geographical indications and industrial designs, do not also appear to be contemplated under the existing Myanmar intellectual property laws.

Fortunately, a new intellectual property regime presently being drafted by the Myanmar parliament is expected to produce retooled laws for copyrights, trademarks, patents, and industrial designs. With the assistance of both local and foreign IP experts, representatives from the Ministry of Science and Technology are in the process of simultaneously updating drafts of laws covering these four types of intellectual property. The current round of updates focuses on calibrating enforcement mechanisms, outlining specific rules and regulations, and ensuring compliance with these rules and regulation while allowing time for cultural practices to adjust. Although the recently extended deadline of the World Trade Organization ("WTO") for the application of the TRIPS Agreement to countries such as Myanmar (considered as a Least Developed Country under the WTO's compliance timetable) calls for compliance only in 2021, some, if not all, of these draft IP laws are expected to be passed as early as 2014.

Consultancy Tenders for the Third Myanmar SEZ Commenced; New SEZ Law Pending

The selection of a consultancy firm for the planning and development of the Kyauk Phyu Special Economic Zone in Rakhine State is set to be announced on 27 November.

The Bid Evaluation and Award Committee ("BEAC") of the Kyauk Phyu Special Economic Zone ("KP SEZ") unveiled plans and a timeline for development of the KP SEZ on 18 September during an information session for consulting firms seeking to participate in the tender. A total of 31 firms and consortia from 16 countries have been approved to participate, the results of which are to be announced on 27 November following evaluation by the 15-member BEAC.

Actual development of the KP SEZ is scheduled to begin in April 2014. Once completed, the KP SEZ is expected to bring about improved infrastructure for transportation, oil & gas, tourism, agro-processing and fisheries. This is in addition to the establishment of a seaport that is expected to create jobs and bring businesses to a region known most recently for outbreaks of ethnic strife.

Meanwhile in Nay Pyi Taw, the new SEZ law is pending review by the Parliament. When passed, the law will replace the previous SEZ Law enacted in January 2011 and is expected to better facilitate foreign investments in Myanmar and other subsequently established SEZs. Also predicted for inclusion in the new law is a scheme creating channels to provide opportunities for local small- and medium-sized Enterprises (“SMEs”) to benefit from established SEZs.

Event Update: Seminar on “Employment, Labor, and Human Resource Management” at UMFCCI

As Myanmar turns toward a modern economy, local businesses are eager to develop their human resources strategically for long-term growth, as seen by the discussions during an employment seminar at the UMFCCI on 4th October

At the **Employment, Labor, and Human Resource Management** seminar held on 4th October, U Kyaw Kyaw Tun, Regional Head of the Factory and General Labor Law Inspection Department under the Ministry of Labor, Employment, and Social Security discussed recent changes in workers’ welfare and protection laws, including the Social Security Law (2012), and the Minimum Wages Law and the Employment and Skill Development Law (2013). Forward steps on labor dispute management and occupational safety are being taken in order to improve productivity and workers’ satisfaction in workplaces.

Doug Ota, Foreign Consulting Attorney at Kelvin Chia Yangon, Ltd., presented basic concepts of employment contracts and the important role that such contracts play in protecting the rights of employers and employees alike. He also discussed applicable laws, contract principles, and requirements particularly applicable to, foreign investors in Myanmar. He pointed out, for example, that employers with 5 or more employees are required under existing Myanmar labour laws, to register with the Social Security Board, and that under the same laws, the employer and the employee are required to make a monthly contribution in a 5:3 ratio for the employee’s social security.

To complete the seminar, Managing Director of Mercer Thailand, Wittapon Jawjit, provided practical tips on human resource management in emerging markets. Wittapon said that a good salary can ensure satisfaction but does not necessarily translate in employee engagement and commitment. Thus, companies should apply the “Total Reward” concept to develop a clear value proposition to its employees in order to employ and retain the best talent and workforce available in the market.