

Draft Electricity Law Lights Hope for Myanmar's Future

A draft of the Electricity Law ("the Draft Electricity Law") was officially published on 23 February 2014 in the newspaper. In support of Myanmar's economic development goals, the Draft Electricity Law is expected to enable foreign investment in the sector and ease administrative procedures for investors.

Electricity is a much-needed, yet scarce resource for Myanmar. The Asian Development Bank, in a 2013 report, estimates that 74% of Myanmar's population lacks access to electricity, while the demand is expected to increase with the expansion of manufacturing activities in the country.

The Draft Electricity Law when enacted will be a significant step toward liberalizing this sector once ambiguously regulated and restricted under a patchwork of laws and regulations. In particular, the **State-Owned Economic Enterprises Law (1989)** reserves "electricity generation services other than those permitted by law to private and corporative electricity generation services" to the state-owned economic enterprises. While the existing **Electricity Law (1984)** does not identify explicit restrictions, the more recently issued **Notification No. 1/2013 implementing the Foreign Investment Law (2013)** prohibits foreign participation in (i) the administration of electric power system, (ii) the trading of electric power, and (iii) the inspection of electrical works.

The Draft Electricity Law categorizes electricity generation into three types: (i) small-scale production for generation below 10 megawatts of electricity; (ii) medium-scale production for generation between 10 megawatts to 30 megawatts of electricity, and (iii) large-scale production for generation of more than 30 megawatts of electricity. In accordance with the Draft Electricity Law's objective to promote local and foreign investment in the sector, the Draft Electricity Law also eases the application procedures for investors in this sector with the aim to increase availability of electricity in the country.

If the Draft Electricity Law is passed in current state, local and foreign investments for small- and medium-scale electricity generation projects may be approved on the level of state and regional governments only, including special administrative bodies, without a need for any approval from any national decision-making agency. The Draft Electricity Law further states that the relevant ministry, with the approval of the Union Government, may allow both local and foreign investments in the large-scale electricity generation activities.

With regards to pricing, the Draft Electricity Law does not provide for a specific mechanism by which electricity prices are fixed or determined. Instead, the Draft Electricity Law stipulates that the relevant ministry may determine the price of electricity for each region or state with the approval of the Union Government.

We are hopeful that the Draft Electricity Law when enacted will not only increase access to electricity and improve standards of living, but also facilitate greater investment, thereby creating more employment opportunities for the Myanmar people.

Anti-Bribery Commission Formed with Retired Government Officials

The Anti-Bribery Commission was formed on 25 February 2014, in accordance with the provisions of the Anti-Corruption Law (2013).

The President Office, in Order No. 6/2014 issued on 25 February 2014, officially constituted the Anti-Bribery Commission pursuant to the provisions of the Anti-Corruption Law (2013). The Anti-Bribery Commission consists of 15 members including one Chairman and one Secretary. All members are retired government officials from the Ministry of Foreign Affairs, the Ministry of National Planning and Economic Development, the Ministry of Livestock, Fisheries and Rural Development, the Office of Attorney-General of the Union, the Office of Auditor-General of the Union, the military, and the Defense Services Technological Academy.

The Anti-Corruption Law gives the Anti-Bribery Commission special powers to seize evidence, freeze properties, investigate accounts in financial institutions, and confiscate money and properties as part of the investigation process, which is to be conducted jointly by a Corruption Investigation Team and a Preliminary Scrutiny Panel – both created pursuant to an appointment by the Anti-Bribery Commission. The formation of the Anti-Bribery Commission is seen as a testament to the Myanmar government's continued commitment to creating a clean and transparent government in Myanmar.

Multi-Modal Transport Law Passed on 31 January 2014

The Multi-Modal Transport Law, passed on 31 January 2014, thoroughly defines the obligations of both multi-modal transport operators and shippers.

The Multi-Modal Transport Law ("the Law") was passed by the Myanmar Parliament on 31 January 2014 aiming to facilitate the movement of goods across countries more effectively and efficiently. The Law applies in cases involving the licensed multi-modal transport operators and the disputes whereby goods originate in Myanmar and are to be delivered to another country, or goods originating in other countries for delivery to Myanmar.

The law requires that entities engaging in the "multi-modal transport of goods (i.e. transport of goods involving at least two modes of transport)" secure a license from the Multi-Modal Transport of Goods Central Committee ("Committee"), which also serves as the general regulatory body of all licensed multi-modal transport operators. As regulator, the Law grants the Committee with the power to impose penalties such as the suspension of the license for a specified period of time or the termination of the license if the licensees violate any provisions of the law and its regulations and notifications.

Additionally, the Law thoroughly defines the obligations of both multi-modal transport operators and shippers aiming to minimize the risk of disputes between the transport operators and the shippers. The Law further elaborates the burden of liability on the multi-modal transport operators and the conditions under which the operators shall not be held liable.

The passage of the Multi-Modal Transport Law is timely with the forthcoming ASEAN Economic Community in 2015. With increasing trade volume in the ASEAN region, the passage of the Multi-Modal Transport Law is expected to streamline the movement of goods across countries, protect the interests of both multi-modal transport operators and their customers, and enhance the level of such services.

The Multi-Modal Transport Law will come into effect upon official notification by the President, which remains forthcoming at the present time.