

Dear Readers,

Welcome to a new edition of our newsletter.

1. Introduction of a fuel rationing system (update)

One News Myanmar on [12 October 2024](#) reported as follows on the introduction of a fuel rationing system:

CONVENIENCE TRANSLATION - ACCURACY NOT GUARANTEED

There will be two types of smart cards to purchase fuel

According to the Myanmar Petroleum Trade Association, the fuel purchase authorisation card (smart card) will be divided into two types, digital smart card and physical smart card.

It is reportedly planned that the card will be able to collect information when fuel is purchased with the fuel card as to the vehicle number, vehicle type and fuel type purchased, and that there will be an online application to apply for a digital smart card online.

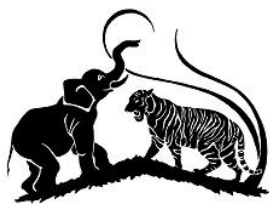
It is also reported that the application can be downloaded on the phone and is currently being tested.

Reportedly, it is planned to test the purchase of fuel with the fuel card (smart card) first in big petrol stations in Yangon Region that conduct sales with computers, and then expand to nationwide use after resolving the difficulties encountered.

It is furthermore reported that the sale of fuel with a smart card aims to prevent the diversion of petrol into and its distribution in the illegal black market and to solve the problem of queues building up in times of fuel shortages.

2. Crackdown on imports without import license and depression of imports

To conserve foreign currency and strengthen the kyat, the State Administration Council (“SAC”) reportedly decreed that from 1 September 2024, imports may only be made if the importer has export earnings, although no corresponding notification has become public with the exception of a Department of Trade letter concerning [pharmaceuticals](#).



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Furthermore, Vice-Senior General Soe Win on [9 October 2024](#) announced a crackdown on “illegal trade” (i.e., against goods imported without an import license). Additionally, a “smart card” system is being implemented to ration fuel, thereby reducing fuel imports.

Informers are being given rewards under a MMK 2 billion grant.

As a consequence, the kyat indeed appreciated against the USD in the black market, as fewer imports mean less demand for USD.

On 17 October 2024, local media reported about the crackdown on “illegal trade” as follows, which we think is required reading for anybody operating a shop, a supermarket, a logistics company, a pharmacy, a warehouse or a similar business.

CONVENIENCE TRANSLATION - ACCURACY NOT GUARANTEED

Any foreign goods [*imported without import license*] will be intercepted, inspected and seized by joint teams under the State Administration Council, and those found in possession will be prosecuted under the Export/Import Law, which may result in a prison sentence of up to 3 years

A source from the Ministry of Commerce said that joint teams under the State Administration Council are intercepting and inspecting any foreign goods loaded on lorries and cars plying the roads in Myanmar.

It has been reported that starting from early October, the State Administration Council has formed joint teams composed of the General Administration Department, police, military, Department of Consumer Affairs, customs, and multiple departments including [*from the Ministry of*] Commerce, that these joint teams have set up checkpoints to combat illegal trade, and that any foreign goods for which no import license and documentation can be shown are intercepted and inspected and the drivers are being prosecuted under the Export/Import Law.

The source from the Ministry of Commerce said: “More inspections are being conducted to prevent the entry of smuggled goods on the Yangon-Mandalay expressway and old road, on the Mandalay-Lashio road, at the Nyaung Khar Shey gate, and at the Moke Pa Lin gate. Everything coming in by sea and air and as cargo is inspected. In addition, joint teams in the townships composed of the General Administration Department, police, fire [*department*],



FDA, Department of Consumer Affairs, and *[departments from the Ministry of]* Commerce are also inspecting shops, markets and malls. Everything imported from abroad is being inspected, irrespective of whether the goods are for personal or business use or are medicines. If no proof of import can be shown, everything is seized, and the person in possession and the importer are prosecuted under the Export/Import Law.”

It is reported that currently, cases are being prepared under the Export/Import Law against persons who imported in shops and malls without permission or who imported cars without permission, irrespective of whether for personal or business use, and that according to sections 8 and 9 Export/Import Law, imprisonment of up to 3 years, a fine or both may be imposed.

The source from the Ministry of Commerce continued to explain: “Now, shops, warehouses and fairs are being raided. Pharmacies are also being raided. Currently, if there is a raid, not only are the goods confiscated, but in addition a case is filed under the Export/Import Law. It is necessary not to stock smuggled goods. Imports from abroad that are stocked must have documents and import licenses.”

It is reported that the directive to intercept all foreign imports in the entire country was given by Vice-Senior General Soe Win at meeting 4/2024 of the Illegal Trade Eradication Steering Committee held in Nay Pyi Taw on 9 October to combat and prevent the growth of illegal trade that provides armed organisations with a long life, and that he furthermore directed to monitor and intercept routes and search and seize warehouses and storage facilities, and to penetrate markets, visit localities, and carry out arrests, inspections and prosecutions.

3. Impact of the Counter-Terrorism Law and the Unlawful Associations Act on unregistered associations

On 26 September 2024, the SAC [amended](#) the [Counter-Terrorism Law](#) to introduce substantial fines for companies and organisations that fail to comply with a prohibition or duty to act imposed by [rules](#) or other pieces of legislation implementing the Counter-Terrorism Law.

The question has arisen whether this amendment, and generally the Counter-Terrorism Law and the [Unlawful Associations Act](#), create specific risks for donors and other organisations that



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support or otherwise deal with associations that are not registered under the [Registration of Associations Law](#).

The Registration of Associations Law among others criminalises the operation of an unregistered association and the aiding and abetting of an unregistered association. The penalty for the latter is a fine of up to MMK 500,000 (USD 238 at the Central Bank rate) or, if the fine is not paid, imprisonment of up to 2 years (section 41).

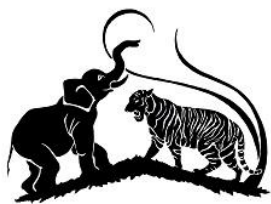
In contrast, the penalty for aiding and abetting a terrorist group is imprisonment from 3 to 7 years and a fine (section 52 (a) Counter-Terrorism Law) or imprisonment from 10 years to life and a fine if the offence consists in financing a terrorist group (section 50 (j) Counter-Terrorism Law), and for aiding and abetting an unlawful association imprisonment from 2 to 3 years and a fine (section 17 (1) Unlawful Associations Act).

A terrorist group is a group formed with the aim of engaging in terrorism or a group declared as such by the Central Committee to Counter Terrorism (section 3 (ya) Counter-Terrorism Law). An unlawful association is an association which encourages or aids persons to commit acts of violence or intimidation or of which the members habitually commit such acts, or an association declared as such by the President of the Union (section 15 (2) Unlawful Associations Act).

No matter what other consultants might be saying: Merely being an unregistered association does not make the association a terrorist group or an unlawful association and is not indicative of whether the police or other law enforcement agencies under the SAC might treat the association as terrorist or unlawful.

Whether an association is declared or considered terrorist or unlawful has nothing to do with it being registered or unregistered but is based on whether authorities under the SAC suspect it of engaging in terrorism or acts of violence or intimidation.

Donors and other organisations wishing to reduce the risk of becoming entangled in the Counter-Terrorism Law and/or the Unlawful Associations Law must do a background check on the association that they intend to support, irrespective of whether the association is registered or unregistered. This involves checking what the association does, where it operates, who its members are, how the money is spent, with whom the association's officers might get into contact, etc.



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4. Payments to foreign suppliers and other creditors

Some foreign suppliers and other foreign creditors of companies in Myanmar are facing a cashflow problem as companies in Myanmar have difficulties making remittances abroad due to foreign currency controls in Myanmar. You may wish to contact us if you think that you are experiencing such issues as this is often not a matter of the company in Myanmar not wanting to pay but due to problems navigating the regulatory landscape.

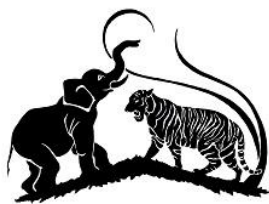
5. Many companies permitted to offer express delivery services

The following companies obtained permission according to the State-owned Enterprise Law to operate as a registered service provider in the express delivery sector according to notifications of the Union Government under the SAC dated 9 August 2024:

Sr.	Company name	Domestic express delivery	International express delivery
1.	Myanmar Mass Marketing Co., Ltd.	■	
2.	MYGO Myanmar Co., Ltd.	■	
3.	Wepozt Co., Ltd.	■	
4.	Nyunt Ta Lu Trading & Services Co., Ltd.	■	
5.	Omni Tech Co., Ltd.	■	■
6.	Asia Mega Link Services Co., Ltd.	■	■
7.	Star Banner Co., Ltd.	■	■
8.	Myanmar Elite Logistics Co., Ltd.	■	■
9.	Zhejiang BFS International Logistics Co., Ltd.		■
10.	Zego Express Co., Ltd.		■
11.	Thant Phyu Co., Ltd.		■
12.	Royal Express Services Ltd.		■
13.	First Courier Service Co., Ltd.		■
14.	Flying Helios Co., Ltd.		■

6. Insolvency practitioners may now register with DICA

On [9 August 2024](#), the Supreme Court under the SAC published forms and fees to be filed and paid by insolvency practitioners with the Registrar (i.e., the Directorate of Investment and



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Company Administration “DICA”) for (i) registering as an insolvency practitioner and (ii) making filings for winding up a company.

The forms for (ii) had already been available on myco.gov.mm for some time. In the meantime, DICA has also started to accept applications for registration as per (i). To register as an insolvency practitioner, the applicant must have been an advocate or CPA for at least 10 years and be a member of the Myanmar Association of Insolvency Practitioners (membership fee: MMK 200,000 per year). The DICA registration fee is MMK 200,000.

It is necessary to involve a registered insolvency practitioner in the voluntary winding-up of companies, the most common method to close a company.

7. Environmental measures

In order to control and prevent damage to the ozone layer, the Ministry of Natural Resources and Environmental Conservation under the SAC on 9 August 2024 prohibited with Notification 71/2024 of the Union Minister’s Office the importation into the country from 6 November 2024 of air conditioners and large appliances such as commercial refrigerators, cold storage rooms and chillers with a capacity of 2.5 horse powers (21,000 BTU/hr) and more that use hydrochlorofluorocarbons (HCFCs) including HCFC-22/R-22, the main substances destroying the ozone layer.

Furthermore, and likewise on 9 August 2024, the ministry amended with Notification 72/2024 no. 24 in Appendix A to the Environmental Impact Assessment Procedure as follows:

Sr.	Type of investment project	Size from which an initial environmental examination is required	Size from which an environmental impact assessment is required
Energy sector development project			
24.	Petrol station business including liquefied petroleum gas (LPG) and natural gas (CNG)	Storage capacity ranges from a minimum of 56,001 gallons (254,580.546 litres) to a maximum of 76,800 gallons (349,132.8 litres)	Minimum storage capacity of 76,801 gallons (349,137.346 litres) or more



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We hope that you have found this information useful.

Sebastian Pawlita
Managing Director

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:

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