

MYANMAR LEGAL MHM

Newsletter

In light of the ongoing situation in Myanmar, we have prepared this summary of recent developments in Myanmar in order to ensure our clients are informed of the current situation.

1. ANNOUNCEMENT OF US AND UK SANCTIONS

President Biden issued a new Executive Order 14014 titled Blocking Property With Respect To The Situation In Burma on 11 February 2021 requiring assets held in the US or by US persons or certain foreign persons determined by the Secretary to the Treasury and Secretary of State of the US to not be transferred, paid, exported, withdrawn or otherwise dealt in for certain prescribed purposes, including for the benefit of the Myanmar military.

In addition, twelve current and former military leaders (including six members of the State Administration Council ("SAC")) were added to the US Treasury's Office of Foreign Assets Control's list of Specifically Designated Nationals and Blocked Persons pursuant to Executive Order 14014. Of these twelve individuals, two (the Commander-in-Chief of the Defence Services ("CIC") and Deputy Commander-in-Chief, who are the Chairman and Vice Chairman of the SAC respectively) were already sanctioned individuals. Three companies (Cancri Gems & Jewellery Co., Ltd., Myanmar Imperial Jade Co., Ltd. and Myanmar Ruby Enterprise) were also sanctioned.

The US Department of Commerce's Bureau of Industry and Security has also restricted exports of sensitive items which require a licence for export or re-export, to Myanmar's Ministry of Defence, Ministry of Home Affairs, the Myanmar military and other security forces, and announced it is considering further measures.

In addition, the US has announced that it will take steps to freeze US\$1 billion in Myanmar government assets held in the US.

On 18 February 2021, the United Kingdom announced that it would enforce financial sanctions and travel bans against three additional Myanmar military personnel being Minister of Defence General Mya Tun Oo, Minister for Home Affairs General Lieutenant Soe Htut and Deputy Minister for Home Affairs Lieutenant Than Hlaing. On 25 February 2021, another five Myanmar military personnel were added to the UK sanctions list.

Press reports indicate that the European Union member states have asked the European Commission to develop a list of Myanmar military leaders to be sanctioned.

2. FORMATION OF STATE ADMINISTRATIVE COUNCIL

- On 2 February 2021, the CIC issued Order No. 9/2021 forming the State Administration Council ("SAC"). While it is not clearly mentioned in the order, it can be understood from its actions so far (including the appointment of new ministers and the enactment of new laws) that the SAC exercises administrative and legislative powers pursuant to Article 419 of the Constitution. On 3 February 2021, SAC issued Order No. 14/2021 appointing additional members of the SAC.

The current members of the SAC are:

Name	Position	Party
Senior General Min Aung Hlaing	Chair	Military
Vice Senior General Soe Win	Vice-Chair	
General Mya Tun Oo	Member	
General Tin Aung San	Member	
General Maung Maung Kyaw	Member	
Lieutenant General Moe Myint Tun	Member	
P'doh Mahn Nyein Maung	Member	Kayin People's Party
Thein Nyunt	Member	National Democratic Force
Khin Maung Swe	Member	
Aye Nu Sein	Member	Arakan National Party

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Jeng Phang Naw Htaung	Member	
Maung Ha	Member	
Sai Long Hseng	Member	Union Solidarity and Development Party
Daniel Saw	Member	Karenni National Progressive Party
Lieutenant-General Aung Lin Dwe	Secretary	Military
Lieutenant-General Ye Win Oo	Joint secretary	

- On 4 February 2021, the SAC issued Order No. 21/2020 changing of the name of the 'Office of the President' to the 'Office of the State Administration Council'.

3. ANNOUNCEMENT OF UNION MINISTRY AND APPOINTMENTS OF GOVERNMENT OFFICIALS AND JUDGES

- The Office of the CIC and the SAC has appointed new Ministers. A number of new ministers are familiar because of their previous roles in key positions under the Thein Sein administration, including U Aung Naing Oo, most recently the permanent secretary of the Ministry of Investment and Foreign Economic Relations, to the role of Minister of that Ministry.

Ministry	Union Minister	Deputy Minister
Ministry of Foreign Affairs	U Wunna Maung Lwin	U Kyaw Myo Htut
Ministry of Home Affairs and Office of the Union Government	Lieutenant General Soe Htut	Lieutenant General Than Hlaing
Ministry of Defence	General Mya Tun Oo	
Ministry of Border Affairs	Lieutenant General Tun Tun Naung	
Ministry of Planning, Finance and Industry	U Win Shein	U Maung Maung Winn, Daw Than Than Lin
Ministry of Investment and Foreign Economic Relations	U Aung Naing Oo	U Than Aung Kyaw
Ministry of International Cooperation	U Ko Ko Hlaing	
Ministry of Information	U Chit Naing	U Ye Tint, Brigadier General Zaw Min Tun
Ministry of Religious Affairs and Culture	U Ko Ko	
Ministry of Agriculture, Livestock and Irrigation	U Tin Htut Oo	
Ministry of Transport and Communications	Admiral Tin Aung San	Brigadier General Lu Mon
Ministry of Natural Resources and Environmental Conservation	U Khin Maung Yi	
Ministry of Electricity and Energy	U Aung Than Oo	
Ministry of Labour, Immigration and Population	U Myint Kyaing	U Win Shein, U Htay Hlaing
Ministry of Commerce	Dr Pwint San	U Nyunt Aung
Ministry of Education	Dr Nyunt Phay	
Ministry of Health and Sports	Dr Thet Khaing Win	U Myo Hlaing
Ministry of Construction	U Shwe Lay	U Min Htein
Ministry of Social Welfare, Relief & Resettlement	Dr Thet Thet Khaing	
Ministry of Hotels and Tourism	U Maung Maung Ohn	
Ministry of Ethnic Affairs	U Saw Tun Aung Myint	

- In addition to the appointment of the Ministers, the SAC has also issued more than eighty (80) orders to appoint, assign and terminate duty of judges and governmental officials at both Union and regional levels, including judges at the Supreme Court, Ministers, the Union Election Commission Members and the Governor of the Central Bank of Myanmar. The effect of these appointments on the administration of government will become clearer in coming months.

4. NEW LAWS

Since the formation of the SAC by the CIC, the following laws have been enacted or proposed to be amended or enacted (by the SAC which is exercising legislative authority):

- Cyber law bill:** The Ministry of Transport and Communications issued letter no. 500-Has Nya/Division (5) License/1873 dated 9 February 2021 calling for comments on a cyber law bill from all telecommunication operators and companies holding the telecommunications licences by 15 February 2021. The bill contains



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provisions which require, among others, that online platforms and service providers operating in Myanmar keep a broad range of user data, including the person's name, IP address, phone number, national registration card number, and physical address in a place designated by the government for three (3) years and hand over such data to the government when requested. The bill also requires that online service providers block or remove a wide range of information at the instruction of the authorities, including misinformation and disinformation, information causing hate, information which disrupts the unity, stabilisation and peace of Myanmar, and statements against any existing law. Anyone who posts misinformation or disinformation may be subject to a prison term of up to three (3) years if they are found to have done so with the intent of causing public panic, loss of trust or social division.

The bill has attracted significant local and international commentary, and the status of this bill remains unclear, as we understand the SAC is now considering whether or not to proceed with the bill in its proposed form given strong objection by the public.

- **Law Amending the YCDC Law and Law Amending the MCDC Law:** On 10 February 2021, the SAC enacted the Law Amending the Yangon City Development Committee ("YCDC") Law (Law No. 1/2021) and the Law Amending the Mandalay City Development Committee ("MCDC") Law (Law No. 2/2021). Both laws repeal the chapters regarding the formation of the YCDC and MCDC respectively, and the election, appointment and termination of committee members. The Laws shall take effect until termination of the state of emergency declared on 1 February 2021.
- **Law Amending the Law Protecting the Privacy and Security of the Citizens:** On 13 February 2021, the SAC enacted the Law Amending the Law Protecting the Privacy and Security of the Citizens (Law No. 3/2021). According to the Law, Sections 5, 7 and 8 of the original Law Protecting the Privacy and Security of the Citizens shall be suspended during the state of emergency declared on 1 February 2021. Under these amendments, authorities may enter private property without a warrant to search the property and arrest any person, and can detain people for more than 24 hours without permission from the courts.
- **Fourth Amendment of the Ward and Village Tract Administration Law:** On 13 February 2021, the SAC enacted the Fourth Amendment of the Ward and Village Tract Administration (Law No.4/2021). This law replaces several sections of the Ward and Village Tract Administration Law and requires all residents to inform their respective ward or ward administrator of the arrival and departure of overnight guests who come from other wards and are not listed in their family units. Failure to do so can lead to fines.
- **Law Amending the Penal Code and Law Amending the Criminal Procedure Code:** On 14 February 2021, the SAC enacted Law Amending the Penal Code (Law No.5/2021) and Law Amending the Criminal Procedure Code (Law No.6/2021), broadening the scope of the crimes of high treason and sedition. These laws also introduce new offences relating to sabotaging or hindering military or law enforcement personnel 'engaged in preserving the stability' of Myanmar, hindering military or government personnel carrying out their official duties, and causing fear, spreading false news, or "agitating" directly or indirectly criminal offenses against government employees.
- **Law Amending the Electronic Transaction Law:** On 15 February 2021, the SAC enacted the Law Amending the Electronic Transaction Law (Law No.7/2021). Key amendments include the insertion of a prohibition of "cyber attacks" defined as violations of, or attempting or abetting or inciting or coordinating, attacks of the national administration, finance, economy, rule of law, national security, public security and welfare, using a cyber source within a cyber space. Certain exceptions to the protection of personal information were also introduced where an act of interference is carried out by government authorities with respect to cyber security, cyber attacks, cyber misuse, cyber accident or cyber crimes.

5. STATE PARDON ORDER AND REMITTING PRISON SENTENCES ORDERS

- On 11 February 2021, the SAC issued three (3) Orders commuting certain existing sentences (Order No. 58/2021) including reduction of some existing statutory penalties and providing conditional releases for certain prisoners (Order Nos. 59-60/2021).
- Under Orders No. 59-60/2021, 23,314 local and 55 foreign prisoners who had been imprisonment for any offence before 31 January 2021 were released conditionally subject to not committing any further offences.

Our Yangon office remains fully operational and available to provide support to our clients during this period. If you wish to read previous issues of our newsletters, please [click here](#). You can also [follow us on LinkedIn](#). We hope you find this information useful. Please do not hesitate to reach out to us if you have any questions or comments. Please let us know if you would like to opt-out of receiving these updates.