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# REGIONAL ROUND-UP 2023: MYANMAR



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# Introduction



Throughout the year, we have been keeping you up to date on noteworthy developments across the region with our Regional Round-up Publications. As we enter 2024, we are pleased to share with you our *2023 year-in-review of the Regional Round-up* for our Regional Offices in the Rajah & Tann Asia network.

In each jurisdiction, we recount the key milestones in the path that has been travelled in 2023, as well as consider the terrain of the road that lies ahead in 2024. In the "**Looking Back: 2023**" section, we take stock of the past year and highlight the key legal and regulatory developments affecting each jurisdiction in 2023. In the "**Gazing Into: 2024**" section, we look ahead to some key areas of development that you should take note of in the year to come, referencing the legal and business trends shaping up potential legislative and regulatory changes in each jurisdiction.

We hope that this year-in-review edition of the Regional Round-up provides some perspective and insight into the legal landscape of the jurisdictions across the region. As always, please feel free to contact our lawyers in our Regional Offices if you have any queries or for further discussion.

Please click on the links below to access the full collection of our country-specific *2023 year-in-review of the Regional Round-up*:

- [Cambodia](#)
- [China](#)
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# Looking Back: 2023

*In 2023, the State Administrative Council ("SAC") introduced changes and initiatives that have impacted the business sector.*



*Summaries of the key developments relating to the above areas are provided below.*

## **Banking & Finance – Ongoing Developments in Foreign Currency Conversion Requirement**

The Central Bank of Myanmar ("CBM") issued a series of notifications relating to the mandatory requirement to convert all foreign currency transfers and balances to Myanmar Kyats. On 30 December 2022, CBM issued Letter No. FE-1/2861, which provides that foreign companies which hold shares of more than 35% are exempted from complying with the requirement of mandatory currency conversion. These foreign companies can use and sell the foreign currency to authorised dealing banks (or AD Banks). However, if they intend to carry out outward bound remittance, they should seek the consent of the Foreign Exchange Supervisory Committee.

Near the end of 2023, CBM adopted a market-driven exchange rate for its online trading platform. Although the CBM's official foreign exchange rate remains unchanged, we have started to see the application of the usage of market exchange rate for trading purposes. This requirement has not applied to other types of remittances made locally.

On 13 July 2023, CBM issued Notification 15/2023 allowing exporters to convert up to 50% of their export earnings into Myanmar Kyats. This amended the previous requirement set by Notification 36/2022, released on 5 August 2022, which required the conversion of 65% of export earnings into Myanmar Kyats. Notification 15/2023 signifies a relaxation of the previous regulations, granting exporters the flexibility to convert a lower percentage of their export earnings into Myanmar Kyats. Click [here](#) and [here](#) for more information.

## **Tax – Union Taxation Law 2023**

The 2023 Union Taxation Law ("UTL 2023"), which includes updates on tax rates and procedures relating to income tax, commercial tax and specific goods tax, was enacted on 30 March 2023. The UTL 2023 took effect on



1 April 2023 at the start of the 2023-2024 financial year. Some of the key highlights of the UTL 2023 include the increase in specific goods tax rates for liquor, the commercial tax exemption on Battery Electric Vehicles (BEVs) and photovoltaic/solar-related equipment, and the increase in income tax threshold for small and medium-sized companies. Click [here](#) for more information.

### Trade – Importer and Exporter Registration Procedures

On 23 May 2023, the Department of Trade under the Ministry of Commerce ("MOC") issued new guidelines on importer and exporter registration through Notification 35/2023, which replaced the previous Order 42/1954 and Export and Import Bulletin No. 6/2018. Under the new procedure, MOC has divided the importer and exporter registration structures into two categories: (i) for trading purposes, and (ii) for non-trading purposes. Both categories require an export import registration certificate (EIR). Click [here](#) for more information.

In relation to the conversion of export earnings, on 6 December 2023, CBM issued Notification No. 26/2023 reducing the percentage of export earnings that must be converted from foreign currency into Myanmar Kyats from 50% to 35%.

### Intellectual Property – Enactment of Several Intellectual Property-related Laws

In 2023, the Department of Intellectual Property of Myanmar ("DIPM") enacted these intellectual property-related laws which were passed in 2019: (i) Trademark Law, (ii) Copyright Law, and (iii) Industrial Design Law.

- (a) **Trademark Law:** On 10 March 2023, DIPM issued a Notification stating that the new Trademark Law (2019) would come into effect starting 1 April 2023.
- (b) **Copyright Law and Industrial Design Law:** Two notifications were released in October 2023 announcing the official commencement date of the Copyright Law and Industrial Design Rights Law to be 31 October 2023. Prior to the issuance of these notifications, MOC, under the SAC, had introduced the Industrial Design Rules via Notification 67/2023 dated 29 September 2023.

Although the laws and rules have been made effective in 2023, the official registration process and the practical implementation of these laws and rules are expected to commence in February 2024.

### Corporate Commercial – Mandatory Registration for E-Commerce Businesses

On 21 July 2023, MOC issued three notifications that (i) classify online retail businesses as essential services under the Essential Supplies and Services Law; and (ii) require Myanmar entities (which include both companies registered in Myanmar and natural persons residing in Myanmar) that are engaged in online retail businesses to register with the Department of Trade ("DOT"). Click [here](#) for more information.

On 28 December 2023, MOC issued a newsletter stating that online retail businesses must register with DOT starting from 1 January 2024. The registration will be valid for two years from the date of registration. The newsletter also sets out the registration fee, extension fee and amendment fee for different businesses.

### Insolvency – Notifications Issued to Implement New Myanmar Insolvency Law

Following the enactment of the new Myanmar Insolvency Law ("MIL") in 2020, the Myanmar Insolvency Practitioner Regulatory Council issued notifications to implement the new MIL. This is through the establishment of the Insolvency Practitioner Certificate Committee ("Committee"), the Disciplinary Committee, and the Executive Committee. According to the requirements set out by the Committee, individuals who intend to be Insolvency Practitioners must, among others, have at least 10 years of experience as a certified public accountant or an advocate.

On 20 December 2023, the Supreme Court issued Notification 1185/2023 on the procedures for adjudicating suits under the MIL. The new insolvency procedures include instructions for courts to act if any petition is filed for (i) liquidation order against companies and unincorporated entities; (ii) bankruptcy order against individuals; and (iii) a moratorium order to temporarily suspend court proceedings against individuals.

### **Employment – Minimum Wage**

The National Committee for Setting the Minimum Wage has issued Notification No. 2/2023 dated 9 October 2023 revising the minimum wage to 5,800 MMK per day exclusively for manageable and small industry businesses with fewer than 10 workers. The official minimum wage remains at 4,800 MMK, and the additional 1,000 MMK is given as allowance.

### **Corporate Commercial – Registration of General Powers of Attorney and Special Powers of Attorney for Property Purchases**

In the last quarter of 2023, the Deeds Registration Office ("DRO") published a new policy which took effect on 1 December 2023. The policy stipulates that General Powers of Attorney and Special Powers of Attorney for the purpose of property purchase or sale will not be registered until the DRO receives documentary evidence proving that the sale of the relevant property has been duly stamped.

# Gazing Into: 2024

*Although the SAC extended the state of emergency for six months until February 2024, it is likely to maintain the current state for an unforeseeable future due to the ongoing escalation of armed conflicts nationwide. The escalation in fighting since October 2023, including in the main trade corridor between Myanmar and China, is likely to further challenge the turnaround of Myanmar's economy.*



## International Sanctions

Targeted sanctions and sanctions against several business associations that are military affiliated have been unveiled in 2023. Compared to the past year, sanctions have started to significantly impact Myanmar's economy, largely affecting the financial sector.

The US announced sanctions in June 2023 against two Myanmar state-owned banks handling the SAC's foreign currency transactions. New sanctions added in late October 2023 include a directive prohibiting the provision of financial services by US persons to the Myanmar Oil & Gas Enterprise. These actions have restricted the SAC's access to foreign earnings to fund military actions against civilians, and led to a freezing of funds held in correspondent accounts by those Myanmar state-owned banks. Separately, sanctions, rising compliance costs following the Financial Action Task Force's blacklisting of Myanmar in October 2022, and mounting reputational risks contributed to a local Singapore bank restricting offshore transactions with Myanmar. There is a heightened likelihood of restrictive measures in the financial sector worsening and affecting more aspects of the public's welfare as a whole in 2024.

## Upcoming Legal Developments

Back in October 2023, MOC implemented the Copyright Law and issued registration rules for industrial design and copyrights. Although the laws and rules have been made effective in 2023, the official registration process and the practical implementation of the law and rules is expected to commence in February 2024.

## Foreign Investments

During the past financial year, a majority of foreign investments were largely made in the manufacturing sector, with China, Thailand and Singapore being the top sources of foreign direct investments ("FDI"). It is likely that FDI will continue to flow at a slow pace into the country over time due to economic controls and the prevailing foreign exchange restrictions.

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