

Myanmar Legal/Regulatory and Investment Newsletter June 2023

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Telegram

<https://t.me/+mL6NJUOHGXU1OGZI>



Viber

<https://invite.viber.com/?q2=AQAhsfKKeyRFp1CSk%2F4map2ukgqGcDUJjDAPuv2qWV1RecRoD54Z4gt4PiJv0SGj>



Legal/regulatory developments

Implementation of online taxpayer registrations. Following recent announcements that the Internal Revenue Department (IRD) is introducing an electronic taxpayer registration system, the functionality has now been made available via a new e-Registration System page on the IRD's own website at: <https://eregistration.ird.gov.mm/>.

New taxpayers can create an account on the site, and then carry out their taxpayer registration process online, including being able to submit required forms and documents via the site. The IRD has published an announcement on its website stating that:

- going forward, all taxpayer registration procedures will be administered only via the new online e-Registration System; and
- any new taxpayer, whether companies, non-profit organizations or individual entrepreneurs, should now use the new e-Registration System instead of applying for taxpayer registration over-the-counter via tax offices.

<https://tinyurl.com/27assn7z>

Registration system to be developed for rice storage. The Ministry of Commerce (MoC) published an announcement on 9 May regarding a new registration system for rice storage. The announcement establishes a new committee for registration of rice storage businesses, made up of government and private sector rice industry representatives. The committee will establish a system for registration of any business or trader who wishes to store

rice in an amount greater than 50 tonnes / 1,000 bags / 5,000 baskets in a single location, and verification of whether rice storage businesses are registered. [Note: as far as we can tell, these three measures are not actually equivalent weights. But this seems to be what the letter says.]

This initiative is presumably intended to reduce the ability of traders to speculate on prices with a simple 'buy and hold' strategy. While any measures to try to control rice price fluctuations should be welcome for consumers in the face of high inflation and continued economic uncertainty, this could impact negatively on rice traders already hurt by currency fluctuations and export restrictions – and may see more traders simply cease business. The other concern is whether this initiative might in part be driven by perceived risks of a domestic rice supply shortfall – which must be a possibility at a time when Myanmar is trying to export more rice to earn more forex, but farmers are struggling with rising input costs and security issues and potentially planting/growing less.

<https://www.popularmyanmar.com/?p=115515>

New forms for tax refund applications. On 19 May 2023, the Internal Revenue Department issued a new Notification (5/2023) and a raft of new forms relating to processes and applications for refunds of corporate income tax, special goods/commodity tax, and commercial tax under the Tax Administration Law.

Anecdotally, tax refunds have historically been very difficult to obtain from the IRD. But as we see various measures being implemented to try to tighten up tax collection, there will presumably be more instances of over-collection (particularly given the IRD's predilection for advance tax payments). Hopefully these new forms and related processes will make claiming refunds a more efficient and less painful process.

https://www.ird.gov.mm/sites/default/files/Notification_52_2023.pdf

CBM continues to ratchet up rhetoric on currency enforcement. On 25 May, the Central Bank of Myanmar (**CBM**) released a statement commencing with a summary of the progress in stabilization of Myanmar's banking system – noting the increase in deposits, improved MMK and USD liquidity, availability of pre-shipment and post-shipment loans and other trade financing to support import/export activities, and the continuing development of digital payment systems.

The statement went on to caution that importers should not be hoarding forex under the pretence of requiring this for import purposes, that importers must convert forex earnings into MMK in accordance with applicable policy/regulations, and that banks must not sell/convert forex at black market rate or otherwise be involved in currency speculation.

There have been a number of broadly similar announcements from the CBM over recent months. General high-level warnings with limited accompanying specific action typify the 'NATO' ('no action, talk only') approach to enforcement that undermines the effectiveness of many areas of regulation in Myanmar. But it does feel a bit like the CBM might be building towards some more stringent enforcement measures and perhaps more stringent measures will be taken against currency speculators in the not too distant future....

<https://www.cbm.gov.mm/content/8013>

<https://elevenmyanmar.com/news/action-will-be-taken-if-local-banks-are-involved-in-selling-dollars-with-higher-market-prices>

IRD tendering for tax management system upgrade. The Internal Revenue Department (**IRD**) is tendering for consultants to assist with the upgrade of the 'Tax Revenue Management System' during the current financial year. The tender advertisement isn't clear, but this is presumably the IT system that runs the IRD's tax assessment and collection functions. The tender appears to be limited to Myanmar companies only.

If well-executed, any upgrading of the tax management and collection functionality of the IRD – which is currently, frankly speaking, woeful – is welcome. (Unfortunately, to date e-government initiatives in Myanmar exhibit mixed

results and effectiveness....) Myanmar has the lowest tax collection as a percentage of GDP in ASEAN, and sorely needs to improve on this front. IT infrastructure isn't really the reason for the current low collection rates, but it could potentially be at least part of the solution.

<https://tinyurl.com/p95wt73w>

DICA blacklisting for forex issues. The Directorate of Investment and Company Administration (**DICA**) has published an announcement stating that three companies named in the announcement have been "blacklisted" since 7 June because they have accepted money transfers into foreign bank accounts in relation to domestic rice trading transactions.

DICA has put out several 'blacklisting' notices (that we've seen) in the past year or 18 months. It's interesting to see this measure expressly being used in relation to capital control and foreign exchange breaches.

However, the concept of 'blacklisting' by DICA under the Myanmar Companies Law (**MCL**) is a little odd, since there isn't any such thing in the MCL itself – so DICA doesn't actually have authority to do this and it's not entirely clear what 'blacklisting' by DICA means in practice. The MCL does, of course, provide for various sanctions for prohibited activities (mostly fines) – which DICA never seems to use. It would be preferable if transgressions under the MCL were addressed with penalties provided for in the MCL, and transgressions against other laws – like import/export and foreign exchange regulations - were dealt with by relevant bodies under those laws.

https://dica.gov.mm/sites/default/files/document-files/sip_konica23060717490.pdf

Reduced customs duty on SKD/CKD imports. The Ministry of Planning and Finance has released a new Notification that reduces the customs duties on importation of components for the assembly of vehicles in Myanmar on a Semi Knocked Down (**SKD**) or Completely Knocked Down (**CKD**) basis. (This is where the parts are manufactured overseas, imported into Myanmar and assembled into a finished car here. In an SKD system, part of the assembly is done here; in a CKD system all of the assembly is done here). These new customs duty reductions are intended to apply to petroleum vehicles assembled under an SKD or CKD system (this is not another electric vehicle promotion).

It appears that at this stage the reduced customs duties will only apply from 1 June 2023 to 31 May 2024. If the government is hoping to promote the development of additional SKD and CKD assembly plants, these incentives will need to be in place for more than a year. But hopefully they will be helpful in the short term in increasing activity at the few existing SKD and CKD plants in Myanmar, which we understand are only producing limited output in the current economic and electricity supply circumstances.

<https://www.facebook.com/BETVBusiness/posts/pfbid0NWTQFuAnYo2XthHhs3ABbqwtAKCuzLdforG3AA1JinMsiNhyfRgKAsWRYgqDuxxl>

Notification:

<https://www.facebook.com/winhtutaung.cpa.accountants/posts/pfbid02RTG2vtKEvjid6aydWjdynf7FvwDQ9DicV6rQFsf nec8nQDkrMKLkP13TUPVcrrvI>

New sanctions against State-owned banks. The US government has announced new sanctions against the Ministry of Defence and against State-owned Myanmar Foreign Trade Bank (**MFTB**) and the Myanmar Investment and Commercial Bank today. There's some speculation that these sanctions may be particularly significant as all USD inbound and outbound transfers are supposed to go via MFTB. We doubt that this happens in practice, but MFTB certainly does handle a large proportion of Myanmar's foreign currency transfers – and probably most of the transfers made by government or relating to government requirements. However, given that restrictive financial measures being imposed against Myanmar's economy are already becoming increasingly effective in any case, it's possible that express sanctions on MFTB might not make things much worse than they already are.

<https://home.treasury.gov/news/press-releases/jy1555>

Investment news

Yoma Strategic full year results. SGX-listed Yoma Strategic Holdings Ltd (**Yoma**) – the largest and most prominent of the handful of overseas listed companies focused on Myanmar – released its financial statements for the period ended 31 March 2023 on 25 May. While Yoma’s revenue increased by 126% year on year – to US\$82.7 million from a 2022 figure of US\$36.6 million – its net loss for the year also increased to US\$32.7 million (up from a loss of US\$14.8 million in the previous year).

Yoma reported a record volume of home sales by number of units sold, but also attributed much of its net loss to net fair value losses on an annual valuation of the Yoma Central project, along with impairment losses on portions of the Yoma Central project. The change in Myanmar’s end of financial year back to 31 March resulted in Yoma not undertaking an annual valuation exercise last year. This would have increased the impact of the valuation/impairment exercise for the most recent financial year. However, it still suggests a concerning – though not surprising – overall picture of Yoma selling more units than ever (at lower prices than ever) but still losing money largely because its remaining landholdings are falling in value. (However, to be fair, as a semi-completed stalled construction project, Yoma Central may be particularly exposed to impairment losses in current circumstances).

Yoma also paid down US\$94 million of net debt during the financial year, reducing its net gearing ratio to a fairly modest 18.6% - which seems prudent in unstable times.

<https://elevenmyanmar.com/news/yoma-strategic-h2-loss-widens-to-442-million-on-higher-finance-costs>
<https://yomastrategic.com/wp-content/uploads/2023/05/Financial-Statements-and-Related-Announcement-Full-Yearly-Results.pdf>

Myanmar-China (Lancang) Trade Fair. A Myanmar -China (Lancang) Trade Fair event was held in Naypyitaw from 25 to 28 May. The event was jointly organized by the Myanmar Trade Promotion Organization under the Ministry of Commerce and the government of Lancang County within Yunnan Province in the People’s Republic of China. The Ministry of Commerce reported that 17 companies from Myanmar and China signed nine agreements on cooperation and trade in the fields of agricultural products, pharmaceutical products and electric vehicles at the event.

<https://elevenmyanmar.com/news/17-companies-from-myanmar-china-signed-nine-agreements-on-cooperation-and-trade>

MTSH full year results. Myanmar Thilawa SEZ Holdings Public Company Limited (**MTSH**) released its annual report and management discussion and analysis statement for the financial year ended 31 March 2023 on 24 May. MTSH is a Yangon-listed holding company whose main assets are a large minority shareholding in one of the development companies responsible for the development and management of the Thilawa Special Economic Zone and a majority shareholding in the other Thilawa development and management company. In the releases, MTSH confirmed that there have been no new subleases granted to new investors at the Thilawa SEZ for three years (although MTSH stated that investor interest in Thilawa is starting to recover).

https://ysx-mm.com/wp-content/uploads/2023/05/dd_00002_en_20230524_3.pdf
https://ysx-mm.com/wp-content/uploads/2023/05/dd_00002_20230524_2_r.pdf

FDI into Myanmar continued to fall in April. Figures released by the Directorate of Investment and Company Administration (**DICA**) show that Myanmar attracted only US\$3.73 million in new foreign direct investment (**FDI**) in April 2023, down 37% from the US\$5.99 million of FDI in April 2022. (Note: although these figures are often reported as FDI inflows into Myanmar, DICA actually releases figures based on investments approved by the Myanmar Investment Commission (**MIC**) or by DICA itself. These do not represent actual inflows. Investments approved by the MIC/DICA may not be fully made, or may not be made at all, and there may be considerable delay between the MIC/DICA granting approval and the investment capital actually being brought in. At the same time, smaller amounts

of investment capital may be brought in for projects for which MIC/DICA approval is not relevant that would not be captured in DICA's reported figures).

<https://english.news.cn/asiapacific/20230520/49c6709692024e30b81734ee6d273c9b/c.html>
<https://www.gnfm.com.mm/myanmar-manufacturing-sector-attracts-3-7-mln-in-april/>

Chinese Yuan prioritized for iron and steel import permits. The Ministry of Commerce has apparently informed the Myanmar Iron and Steel Association – which has in turn informed its members – that iron and steel importers purchasing inventory in Chinese Yuan (**CNY**) will be favoured for processing of import licences over those using USD. Some reports have implied that China is pressuring Myanmar to increase use of the CNY. This overlooks the real and obvious reason for these kinds of moves – which is a pursuit of increasing de-dollarisation by the Myanmar government (in line with global trends) in the face of the sanctions and other restrictive financial measures that have been imposed against Myanmar's economy.

One interesting point raised in the reports is that, in light of frequent moves in the CNY-USD exchange rate and the dependency of CNY-MMK rates on the USD as a reference, suppliers in China often themselves prefer to sell in USD rather than CNY. We have heard similar comments that this is a problem for the uptake of CNY in border trade in general. People proclaiming the death of the USD's reserve currency status are probably a little bit premature at this stage....

<https://npnewsmm.com/news/64746f81b46c7a351c186d05>
<https://www.irrawaddy.com/news/burma/myanmar-junta-favors-iron-steel-importers-who-use-yuan-drop-dollar.html>

Rumoured Yoma Central project re-start. There have been reports of rumours that the Yoma group is set to re-start construction on the Yangon Central project in downtown Yangon in July. The article also reports a caution from the usual activists – in particular, “Justice for Myanmar” – cautioning that the project site is leased from the government and may therefore provide revenue to the Myanmar military. However, the article discloses that annual lease fees for the site are just USD60,000. It also refers to USD9m in “land use premiums”, without disclosing whether this is a periodic payment or a one-off upfront payment that may have already been provided to the former NLD government. If the government revenue from the project is just US60,000 per annum, even for a small economy like Myanmar's that amount is barely a rounding error at the national budget level.

<https://myanmar-now.org/en/news/resumed-development-of-yangon-commercial-multiplex-risks-funding-military-junta-activists-say/>

Tighter restrictions blamed for trade volume drop. Volumes of overland cross border trade have reportedly fallen further in the first two months of the current financial year as a result of tighter restrictions on import/export. In particular, expansion of compulsory forex to MMK conversion requirements for export earnings to apply more strictly to rice exports has apparently resulted in there having been no exports of rice via Muse in the three months since March. Myanmar's balance of trade performance is also slipping. Total export volumes from both sea and border trade from 1 April to 19 May are apparently down around USD450m compared with the same period last year; while total import volumes for the same period increased around USD400m year on year. There have been suggestions that the increase in imports may be largely due to imports of electric vehicles and accessories.

The Myanmar government is in something of a bind with capital and import/export controls. It needs access to forex to ensure purchase of essential commodities, in particular fuel and edible oil, to make sure the basic economy can keep functioning. But tighter controls on trade have always carried the risk of disincentivizing trading activities – particularly export - and hurting both overall economic performance and the balance of trade. Hopefully some more novel and/or flexible measures can be developed to address this issue with less negative impact.

<https://www.mizzima.com/article/myanmar-border-trade-falls-amid-tighter-restrictions>

Thailand completes East-West Economic Corridor upgrade. The Thai government has reported that final upgrading works to the Thailand section of Highway 12 have been completed and all planned expansion of the highway within Thailand is now finalized. Highway 12 is part of the East-West Economic Corridor, which runs from Mawlamyine in Myanmar in the West through Thailand and Laos to Danang in Vietnam in the East. We're not sure what the status of the highway is in the other three countries it traverses – presumably not all sections are yet on par with the upgrading completed in Thailand. However, any work on improving this kind of transport infrastructure is valuable as it lays the foundations for the future growth and trade connectivity in the region.
<https://www.bangkokpost.com/thailand/general/2585631/highway-12-expansion-completed>

Electricity tariff surveys. The Myanmar government has apparently been surveying business owners in industrial zones around Yangon regarding their electricity usage and openness to paying higher electricity tariffs in the range of 400 to 500 per unit (i.e. KWh). The current tariffs comprise a sliding scale of fees per band of usage – with a different scale for residential and business users. A scale ranging from 400 to 500 per unit would be around three times the amount of the current scale of fees for business users.

Despite the headline (see link below), nothing in the body of the article reporting on the surveys seems to disclose that the government has made any offer to supply more electricity to industrial zones or other factory sites if businesses pay higher tariffs. It only refers to business owners wanting to make this a condition of paying more. And to surveys being conducted to collect feedback from businesses on electricity usage and price - which actually sounds like a refreshingly communicative and informed policy-making step compared to Myanmar's usual standards.

While it doesn't say so directly, the article also implies that the current power shortage is the fault of the current government. There have been plenty of other media comments in recent times directly saying this, but it's not actually correct. While foreign and domestic investment – and associated electricity demand - continued to grow from 2016 to 2020, the NLD was almost singularly unable to grant new electricity generation permits, despite a multitude of proposals. Instead, electricity generation policy was rudderless and there was little meaningful activity on increasing supply for almost five years. Electricity supply in Yangon first began to suffer serious shortages (albeit not as bad as it is now) in the 2019 dry season – and was anticipated at the time to get much worse during 2020. What 'saved' us from the effects of the worsening supply was Covid lockdowns that closed most factories most of the time during the 2020 dry season, and protests/riots that closed a large number of factories during the 2021 dry season (and in fact burned some factories down). What we've experienced in 2022 and again this year is the latent effects of the lack of permitting of new projects during the preceding years, along with the additional new issue that what electricity can be generated cannot always be efficiently distributed now because of attacks on electricity distribution infrastructure.
<https://www.irrawaddy.com/news/burma/myanmar-junta-offers-factory-owners-reliable-electricity-at-triple-price.html>

Myanmar to China exported goods impounded. The director of the Muse 105 Mile trading zone mentioned in a recent interview that at present some 13,000 tons of beans and sesame belonging to 29 Myanmar traders, plus some amounts of more perishable items, like coriander and turmeric, have been seized and impounded on the Chinese side of the border for import violations. We understand that this has been an issue with cross-border exports to China for some time. Even where the goods are legally exported from Myanmar, sometimes they are not legally imported on the Chinese side – which leaves Myanmar exporters exposed to the effects of penalties in China where the exporter has not been fully paid in advance (which would usually not be the case).

It seems that Chinese authorities are proposing to auction off the current impounded goods, but Myanmar authorities are negotiating with their Chinese counterparts to try to agree an alternative course of action. The 105 Mile director noted in the interview that these types of occurrences can potentially have a negative impact on Myanmar-China trade. Which is true of course, and particularly problematic at present when Myanmar sorely needs to increase exports where possible.

https://www.facebook.com/story.php?story_fbid=pfbid0uHGtFvc1hKnM4ej2vNnAW5Z5xfKj7wFLJfjemmDtNPsDDWXi8TvusSgwdHtrpSXJI&id=100071915201292&mibextid=Nif5oz

IDR cross-border settlement mechanism closer to implementation. We have previously reported on discussions between India and Myanmar to allow settlement of cross-border trades in Indian Rupee (IDR). CB Bank and UAB Bank have now been selected to open IDR vostro accounts with Punjab National Bank in India to allow these banks to start offering IDR settlement services.

Reports on this development suggest that some Indian stakeholders are champing at the bit to commence IDR trade settlements with Myanmar, with expectations that trade between the two countries will increase significantly once the IDR settlement mechanism is in operation. India presents an invaluable opportunity for Myanmar to increase its access to non-USD (and other sanctioned currency) trade – which is essential to supporting Myanmar’s economy against the financial restrictions being imposed against it.

<https://www.reuters.com/markets/asia/india-asks-myanmar-expedite-trade-through-rupee-exporters-body-2023-06-12/>

Bangkok to Kolkata highway link progressing. In addition to the above report that the Thai government has finalized upgrading of the Thai section of highway that forms part of the East-West Economic Corridor road connectivity project, there has also recently been some positive comment (although perhaps less concrete progress) on a separate highway connectivity project extending to the West. Under the rubric of the Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation (BIMSTEC) organization, Thailand, Myanmar and India are to implement a trilateral highway project running from Bangkok to Kolkata, via Myanmar. During a recent business conclave in Kolkata organised by Indian Chamber of Commerce and the Ministry of External Affairs, the Thai Deputy Minister of Foreign Affairs stated that the Thai section of the highway is almost completed. Myanmar’s Minister of Commerce, U Aung Naing Oo, stated that the Myanmar government has recommenced work on the Myanmar section of the highway and it is likely to be completed in three years.

Although we are not quite clear on the route, it seems that the Myanmar section will run from Myawaddy on the Thai border via Yangon and Mandalay to Tamu on the Indian border. Given the instability affecting sections of this route, particularly at either end near the borders, three years seems a little optimistic in current circumstances. However, we certainly hope this was a serious and informed comment by U Aung Naing Oo.

<https://timesofindia.indiatimes.com/city/kolkata/kol-bangkok-highway-opening-likely-in-4-yrs/articleshow/100977985.cms?from=mdr>

Myanmar delegation at St Petersburg International Economic Forum. Another instalment of the St Petersburg International Economic Forum took place in mid-June. In keeping with its heavy attendance last year and growing government to government engagement with Russia, the Myanmar government was well-represented at the Forum again this year. Some highlights of Myanmar’s delegation that we picked up were:

- Nova Wind JSC, the wind power subsidiary of Russian State-Owned Enterprise Rosatom, signed three MoUs relating to Myanmar, being:
 1. An MoU with the Ministry of Electric Power for feasibility studies on ten potential wind projects.
 2. An MoU with Myanmar company Primus Advanced Technologies Limited to cooperate on studies for a possible 100 MW project at Minhla and 50 MW project at Mindon in Magway Region.
 3. An MoU with Myanmar company Zeya & Associates Co., Ltd. for feasibility studies on potential projects in Kyaukpadaung Township and Nyaung-U Township in Mandalay Region

<https://www.facebook.com/BETVBusiness/posts/pfbid0eQjn65PDWXPB9tZsfMN894sKJoX8LtvCbtpC3iKTbMKrgAbeSgWR4UiGPkitZW9mI>

<https://www.gnlm.com.mm/moep-union-minister-attends-international-economic-forum-2023/#article-title>
- Central Bank of Myanmar Governor, Daw Than Than Swe, met with the Chair of the Bank of Russia to discuss capacity-building initiatives and financial cooperation, including payment systems and greater use of local currency.

- Notably, whilst at the Forum, Daw Than Than Swe apparently expressed interest in Myanmar joining the New Development Bank (**NDB**). The NDB is a multilateral development funding institution created and managed by the BRICS nations. We're not clear on the relationship between joining the NDB and joining BRICS per se. But presumably, even if countries can join the NDB without joining BRICS, it's still a significant step in that direction.
<https://npnewsmm.com/news/648ad91648f5d7159660dfd3>
<https://www.facebook.com/watch/?v=218686077724512>
- A Payment Systems Interaction Agreement was signed between Myanmar Payment Union and the Russia's National Payment Card System. (The two organisations have previously signed an MoU in February 2023). Reports on the signing stated that it is expected that Russians visitors will be able to use Russian payment cards in Myanmar by the end of 2023.
<https://www.gnlm.com.mm/cbm-governor-engages-in-productive-discussions-at-26th-st-petersburg-international-economic-forum/>
- The Myanmar delegation met with:
 1. Anton Kobayakov, Adviser to the Russian President and Deputy Chairman and Executive Secretary of the Roscongress Foundation, and Alexander Sergeevich Shatirov, Director of Roscongress Investments Fund (who has visited Naypyitaw several times in the past year or so) to discuss potential investment opportunities ranging across oil refineries, solar power plants, paper pulp factories, fuel procurement, and enhanced bilateral trade and investment across multiple sectors.
 2. Sergey Glazyev, Minister for Integration and Macroeconomics of the Eurasian Economic Commission – widely considered to be one of the most influential economists in Russia – to discuss enhancement of trade, economic investment, and cooperation between Myanmar and the member states of the Eurasian Economic Union.
 3. Russian Minister of Economic Development, Maxim Reshetnikov, to discuss continuing development of economic cooperation between Russia and Myanmar.
<https://www.gnlm.com.mm/myanmar-delegation-participates-in-26th-st-petersburg-international-economic-forum/>
- The Myanmar delegation also participated in a number of other meetings with representatives of Russian business organisations.
<https://www.gnlm.com.mm/myanmar-delegation-led-by-dpm-mopf-union-minister-attends-26th-st-petersburg-international-economic-forum/>
<https://www.gnlm.com.mm/moep-union-minister-attends-third-day-of-spief23-in-russia/>

While the various rounds of government-to-government-to-quasi-government meetings between Myanmar and Russia in the past couple of years have seemed at times interminable, it does feel as though some progress is starting to be made and some concrete outcomes might be seen by the end of this year. Deeper engagement with Russia, the Eurasian Economic Union, BRICS members and the Shanghai Cooperation Organization – all of which Myanmar is pursuing – will be crucial to providing Myanmar with access to alternative payments systems and currencies, and new trading relationships, to allow its economy to survive the current conflict, including the restrictive economic measures being imposed against Myanmar's economy.
