

## **WEEKLY NEWSLETTER (MYANMAR)**

**27Sep 2014 to 03Oct 2014**

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## 1.1 PORT TRADE SURGE FORECAST TO ACCELERATE

**The number of containers that pass through Yangon Ports annually has almost tripled over the past decade, according to the Myanmar Port Authority, which expects the rate to accelerate as more jetties are under construction or in the planning stages.**

In fiscal year 2003-2004, the ports handled 9.8 million tonnes of commodities. In FY 2012-2013 FY, the amount rose to 24.2 million tones, and last fiscal year it rose above 28 million tonnes. Almost 20 million tonnes have been handled so far this year, data from the authority shows.

Kyaw Myint, managing director of Myanmar Port Authority, said massive expansion plans – which will see the number of jetties almost double – are underway for the surge in trade expected. “As of now, there are 18 jetties, seven more are under construction, and another seven in the planning stage,” he said.

When the new jetties are finished the ports will be able to handle 32 container ships at the same time, he added. They include Boangkyaw, Myanmar Industrial, Asia World and Myanmar International-Thilawa ports.

Combined they handle 85 per cent of Myanmar’s official imports and exports. Besides the 18 jetties, there are three warehouses.

About 40 per cent of the ships that enter the ports are container-carriers, 48 per cent are cargo ships and 12 per cent are vessels transporting vehicles.

## 1.2 CIRCULAR-TRAIN SYSTEM WILL SPIRAL TO THILAWA SEZ

**Yangon’s circular train route will be expanded to Hlinethaya and Thilawa townships and 11 overpasses will be upgraded to make it easier to access the system, which is intended to become the key mode of transport in the Yangon’s evolution to a commuter-friendly city, the Ministry of Rail Transportation has said.**

The expansion and upgrades will begin next year, officials from the ministry said. Previously, they said the speed of trains would more than double, and safety would become a critical component of the service – rather than the afterthought it is now.

The ministry has claimed that it has already negotiated with people living along the railways to ensure the upgrade does not damage their lives. Everyone living along the tracks is supportive of the upgrades, officials have said.

The ministry says its work will adhere to recommendations detailed in the environmental and social impact assessment. Not land grabs will be permitted, it said.



“We are working with the Japan International Cooperation Agency for land assessment for new routes extending to Hlinethaya Township and Thailawa special economic zone, and upgrading overpasses. The implementation will begin next year,” Tun Aung Thin, general manager for the ministry’s construction department said.

The upgrade – estimated to cost about US\$700 million – will see stations and tracks refurbished, coaches replaced, new fencing placed along the routes and automatic gates installed for commuters.

## 2.1 YANGON NEW CITY PLAN SUSPENDED INDEFINITELY

**The Yangon Region government has ended weeks of controversy by indefinitely shelving a massive expansion plan on the city’s western fringe.**

Yangon Mayor U Hla Myint told a special session of the Yangon Region Hluttaw on September 26 the regional government had decided it needed more time to study the plan and whether it was viable.

Just four days earlier, the government had said the project, which would cover 30,000 acres, would go ahead and promised to conduct a transparent and fair tender. It asked MPs to approve the plan at a vote on September 26.

U Hla Myint said it was unclear how long the project would be suspended for.

We haven’t set a time limit,” he said.

MPs approved the request to suspend the proposal. Daw Nyo Nyo Thin, a representative for Bahan who has been the most outspoken critic of the plan, said she had expected the plan to be approved, and described the decision to suspend it as “great”.

She said she had submitted a request to the speaker on September 24 to suspend the proposal and discuss it at the next session instead.

Another critic, U Kyaw, said the decision had defused a potentially ugly dispute with parliament over the issue. “If they didn’t suspend it, MPs would blame the regional government,” he said.

Some MPs, however, said they were disappointed. Daw Kyi Kyi Mar, a Union Solidarity and Development Party representative for Kyeemyindaing, said she did not accept parliament’s decision.

“Some people [in my constituency] wanted the new city to be built because it would help to develop their township. I’m very sad for them,” she said.



Other MPs from the USDP, which has a majority in the hluttaw, said they believed that the plan would be resubmitted in future.

“I think the government is giving us more time to study and discuss the plan and it will come back again to parliament,” said U Tin Hlaing, a representative for Dagon Seikkan.

In his presentation, Mayor U Hla Myint said on September 26 that the new city would create economic opportunities for companies, investors and ordinary people, as well as bringing infrastructure to an undeveloped area adjacent to the city.

The 30,000 acres slated for the project lies between the Pan Hlaing and Hlaing rivers and Twante Canal, and the project has an estimated price tag of US\$8 billion.

“We estimate 400,000 people will get [job] opportunities as a result of this plan,” he said.

However, concerns have been widely raised about the lack of clarity over several areas of the project, such as financing and relocation, as well as the decision, announced on August 22, to award the contract to Myanmar Saytannar Myothit Public Company without a tender.

According to the Myanmar Investment Commission, Myanmar Saytannar Myothit was registered at the Ministry of National Planning and Economic Development as a public company in December 2013.

Construction industry sources said it is run by two Chinese businesspeople, Xiao Pun and Xiao San. Both have close relations with former top military officials, including current Yangon Region Chief Minister U Myint Swe.

In response to public criticism, the government announced on August 28 that it would instead conduct a tender.

Since the initial announcement, land prices have exploded in the mostly rural areas to the west of Yangon. Plots in villages that were previously about K7 million immediately rose to K15 million an acre, though land with road access stood at closer to K100 million an acre. Reports said plots had peaked at K1 billion, prompting some to question whether the project was created simply to inflate land prices in the area, but trading has since been quiet.

“Land prices have been steady after the mayor submitted the proposal to parliament again on September 22,” said Ko Min Min Soe of the Mya Pan Thakin real estate agency. “The government’s decision to suspend the project is likely to hurt speculators who bought land.”

### [3.1 FIRST STEP MADE FOR A LEGAL CHINA RICE TRADE](#)

**Legal rice exports to China took a step closer to becoming reality last week, as Chinese and Myanmar officials inked an agreement as part of a move to ensure rice quality.**

Two years ago China was a small-scale buyer of Myanmar rice, but it has transformed to become Myanmar's largest rice export market, as border trade rose from a negligible amount in 2010-11 to 752,000 tonnes in 2012-13.

China became a net importer of rice only in 2011, and has been offering prices well above the world average in recent months. Yet Myanmar needs to improve its rice quality to meet challenges from countries like Vietnam and Cambodia, according to a World Bank report on the rice market from earlier this year.

Myanmar has also been disadvantaged through not having the formal agreements necessary to legally export rice to China. However, negotiations between the Myanmar Ministry of Agriculture and Irrigation and Chinese officials from the General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ), and supported by the Myanmar Rice Federation, are under way.

A memorandum of understanding on agricultural standards was signed by AQSIQ and ASEAN members during the ASEAN Ministerial Meeting on Agriculture and Forestry in Nay Pyi Taw on September 25. Traders say it gives them hope the other agreements needed to begin legal exports to China can be signed.

“We’ve just signed the first-step MoU on quality, but the market’s not officially opened,” said U Soe Tun, joint secretary of the Myanmar Rice Federation. “We can’t get much out of just this agreement, as we need to sign other government-to-government agreements.”

Traders say a sanitary and phytosanitary (SPS) agreement on health standards need to signed, as well as further negotiations over quotas and taxes, before exports can formally begin. Legal shipments will then likely leave Yangon port by ocean-going vessel, through the Straits of Malacca to the Chinese ports.

However, without the benefit of legal trade, rice exports are confined to informal, overland routes.

The trade to China went from being nearly non-existent two years to presently comprising over 50 percent of total exports. With the major reorientation in export market, the trade routes have also shifted.

Rice from the major growing areas in Ayeyarwady Region are usually shipped to Yangon by small boat or road, and then on to Mandalay. Sometimes Ayeyarwady rice, as well as rice from Sagaing or Bago, is shipped directly to Mandalay by barge on the Ayeyarwaddy river.

From Mandalay, rice travels overland to the Muse border crossing in northern Shan State – the main point of entry for Myanmar rice to China.

One rice trader said it costs about K80,000 per tonne to ship rice from Yangon to Muse using a combination of truck and river traffic. The cost is about double that of shipping from Yangon port to Myanmar’s traditional markets in Africa.



Large-scale rice trader and MRF joint secretary U Lu Maw Myint Maung said the cost could drop significantly if the China trade becomes legalised and traders were instead able to ship by water.

With ocean shipping to China now impossible due to the legal situation of rice, the overland route predominates. The Muse commodity exchange centre is full of brokers who have connections to Chinese buyers, who then purchase the rice, often for use as an ingredient in food like noodles or snacks.

U Myo Thura Aye, a former joint secretary of the MRF, said Muse brokers are used to doing business with the Chinese, and are an integral part of this new trade.

“They have had relations for many years – so finding buyers for them is not very difficult,” he said.

Usually about 30 or 40 rice brokers enter from the Chinese city of Ruili when the border gates open at 8am Myanmar time. Brokers and buyers then meet to discuss the price and terms of contracts, before returning to Ruili.

Myanmar traders are usually required to get the rice across the border by using trucks with Chinese licences that are owned by Myanmar traders, often with shipments of up to 20 tonnes a truck. From Ruili, the rice is sold in other areas in China.

U Min Thein said many Myanmar traders have bank accounts in Ruili to make payments easier.

“If you have a Myanmar national registration card, you can open a bank account in Ruili,” he said.

Yunnan Province is the main area in China that buys Myanmar rice, partly due to its proximity to Shan State, but there are another three or four provinces that have active demand. Much of it gets used to make food, with prices well above international rates.

High-quality Thai 100pc B Grade fetched about US\$450 to \$460 a tonne on international markets last week, according to the industry website [www.oryza.com](http://www.oryza.com)

Myanmar traders say Chinese demand has been much stronger since June, when a flare-up of tension in the South China Sea made it politically difficult to purchase rice from Vietnam, traditionally its largest source of the staple.

Yet because Myanmar’s trade is illegal from China’s point of view, it is subject to various confiscations at the border, which traders say have recently limited the amount that has flowed across the border.

### 3.2 5.7M TONNES OF TEAK AND HARDWOOD IN 4 YEARS

**Within four years since President Thein Sein's administration took office, more than 5.7 million tonnes of teak and hardwood have been exported under the permission of Myanmar Timber Enterprise (MTE).**

In fiscal year 2011-12, teak and hardwood around 2.3 million tonnes; in 2012-13, nearly 1.7 million tonnes; in 2013-14, about 1 million tonnes; in this fiscal year, over 700,000 tonnes of teak and hardwood have been exported.

Htoo, Myat Noe Thu and Tin Win Tun companies are the top exporters, according to the official figures.

In the four-year period, Htoo Company exported 121,450 tonnes of teak and 104,750 tonnes of hardwood and becomes the largest teak exporter.

Likewise, Myat Noe Thu Company exported 63,000 tonnes of teak and 521,000 tonnes of hardwood and becomes the largest hardwood exporter.

Tin Win Tun Company exported 17,300 tonnes of teak and 436,300 tonnes of hardwood and becomes the second largest hardwood exporter.

Some exporters say that Htoo Company alone had exported approximate 1 million tonnes of wood in last decade. [MTE did not release the exact figures.]

Myat Noe Thu and Tin Win Tun companies are late comers in wood exporting business, according to some business owners in this field.

Despite being the major timber exporter, Htoo Company has not appeared in the list of top five taxpayers of fiscal year 2009-10, and top-ten lists issued between 2010 and 2013 as so the Myat Noe Thu and Tin Win Tun companies, according to figures of Internal Revenue Department.

The government allows timber production and in a matter of 14 years from 2001-2002 to 2015-2016, about 21 million tonnes of timber have been produced.

According to official data, it was in 2009-2010 when the previous government permitted production of timber that saw a record high with 1.648968 million tonnes.

However, the ruling government has allowed for production of nearly 2.4 million tonnes of timber within a year since taking office in 2011-2012 reaching the highest record in 14 years.

The record exports of teak and hard wood in 20 years are also reported in the time of President Thein Sein.

Under the rule of the previous government, the record exports of teak and hard wood in 20 years happened in 2007-2008 but the amount was just more than 1 million tonnes.



But the present government exported 1.2 million tonnes in 2012-2013 and 1.5 million tonnes in 2013-2014, setting a higher record.

The previous government exported 25 million tonnes of timber in three years from 2008-2009 to 2010-2011. The Thein Sein government however allowed exportation of far more- 37 million tonnes from 2011-2012 to 2013-2014.

The official data releases have revealed that the highest record of timber production and exports have only been permitted under the present government.

The companies that enjoyed permission for the largest production of timber in 14 years are Htoo, Myat Noe Thu and Tin Win Tun. The companies which were permitted the largest production in four years are Lucre Wood, a branch of Asia World, MRT close to former industry-1 minister Aung Thaung's son, Nature Timber Wood World, Momentum and Tun Myat Aung that are on the list of Myanmar's top ten companies. However, those companies are not reported in the list of top ten tax payers.

#### 4.1 FOREIGN BANKING WINNERS REVEALED

**Japan was the big winner in the foreign banking licence contest, securing three of the nine licences awarded on October 1.**

A total of 25 foreign banks had entered the race for the licences by July 14.

One winner each comes from Australia, Thailand, China and Malaysia, while Singapore boasted two successful banks and Japan claimed three winners.

The banks now have a year to get their branch up and running.

"Now comes the hard part," said Sean Turnell, a Myanmar-focused economist at Macquarie University.

"How to come up with a viable business plan that will generate profitable return on the minimum capital requirement of US\$75 million. It will be tough, especially in the early years."

"This will be a long-term bet for them all," he said.

Mr Turnell also noted that all three Japanese banks that entered - Bank of Tokyo-Mitsubishi, Mizuho Bank and Sumitomo Mitsui - had received a slot.

"So, despite some disappointments in other sectors, Japan's substantial investments in their relationship with Myanmar is now paying dividends," he said.



DBS was one notable omission, as the Singapore-based bank is one of the largest and most influential in the area, with great regional ambitions, he added. Two of the three Singaporean entrants - UOB and OCBC - won preliminary licences.

Edwin Vanderbruggen, senior partner at legal and tax advisors VDB Loi, said there were some surprises among the banking winners and losers. Three South Korean banks - Industrial Bank of Korea, Kookmin Bank and Shinhan Bank - had submitted proposals to the CBM, but none of them had made the cut.

"We were expecting that at least one Korean bank would be able to clinch the license," he said.

"Similarly, no Vietnam, Taiwan or India bank is in the line-up, which is definitely a pity."

Of the winners, Mr Vanderbruggen said ANZ's strong presence in Asia and ICBC being the only entrant from China likely helped them both, while Bangkok Bank and Maybank both managed to beat out several competitors from their own countries of Thailand and Malaysia.

The winning banks were selected by a tender process from among a shortlist of 25 candidates released on July 14. The shortlist was composed from expressions of interest from the 42 foreign banks with Myanmar representative offices.

Central Bank of Myanmar governor U Kyaw Kyaw Maung said licences were award on the basis of technical skill, service and discipline, capability on their home country and regional footprint.

Assessing how much the banks will contribute to develop the domestic economy was also important.

"After a detailed analysis I am sure these nine banks are perfect for the country," he said. "There are many others we could have chosen, but I hope the winners will assist with developing the economy."

The preliminary approvals are valid for 12 months, during which the banks must prepare to open their branches. They will face restrictions, such as being barred from retail banking, a limit of one branch and not be allowed to lend to local companies.

However, the foreign banks will be able to use both dollars and kyats, according to local media, and will be able to lend to local banks and foreign companies.

After a year the Central Bank will grant the final licences.

KPMG Myanmar managing director Yasuhide Fujii said the winners all have representative offices in the country, so have experience working in Myanmar and understanding the practical difficulties.

"However, they also have great faith in the Myanmar growth story as well as the Myanmar people's ability to overcome these difficulties with some help," he said.



Myanmar is seen as a key market going forward, and could support pan-Asian growth strategies and service existing customers into Myanmar as "a natural extension of their operations within the region," he said.

The banks that lost out on licences will likely have future opportunities to enter the market, through avenues such as joint ventures.

Some local bankers have also opposed the licensing round, claiming it is too much competition too early in their development.

Winning banks

Australia and New Zealand Banking Group (ANZ)

Industrial and Commercial Bank of China (ICBC)

Malayan Banking Berhad (Maybank)

Bangkok Bank

Overseas-Chinese Banking Corporation (OCBC)

United Overseas Bank (UOB)

Bank of Tokyo - Mitsubishi UFJ

Mizuho Bank

Sumitomo-Mitsui Banking Corporation

#### [4.2 TELENOR LAUNCHES IN MANDALAY](#)

**Telenor became the third mobile operator in Myanmar after launching services in Mandalay on September 27, as the company positions itself to serve the mass market in an increasingly competitive telecoms landscape.**

Like its rivals, the Norway-based telco has faced challenges in receiving permissions to build towers as well as constructing them in the rainy season, leading to its decision to delay launching in Nay Pyi Taw and Yangon until early October.

Telenor has a commitment to launch services in Myanmar before October 5 – a deadline it will meet in Mandalay and Nay Pyi Taw. However, its Yangon service will not launch until about a week after the deadline, said Telenor Myanmar CEO Petter Furberg.



“The reason we are delayed is partly related to building permits. The government has done a very good job supporting us in terms of building permits, but Yangon for was instance very slow in terms of giving out build permits,” he said.

“And we also emphasised to the government it is important for Telenor to have good quality before we launch. We cannot sell and charge for something that isn’t real,” he said.

The firm has informed the regulator in writing about the delay, Mr Furberg said at a press conference on September 25.

Meanwhile, the residents of Myanmar’s second city were able to officially purchase SIMs on September 27.

More than 1500 Mandalay shops and nine proprietary Telenor stores started selling the telco’s K1500 SIM cards on September 27. Though Mr Furberg declined to disclose the exact number of SIMs Telenor provided to stores, he said the figure was in the millions and is more than enough to meet consumers’ needs without resorting to the black market.

The order in which service will come to Myanmar’s cities and rural areas depends on the state of the Telenor network there, according to Mr Furberg, as the company emphasises good coverage above all else. Yangon’s tower build has been hampered by heavy rains and regulatory delays.

“While it’s been raining and raining and raining in Yangon, it’s been sunshine in Mandalay,” Mr Furberg said.

Telenor has also taken a mass-market approach partly by using a mix of 2G and 3G coverage, in contrast to Ooredoo’s 3G-only approach. It will charge K25 per minute to make calls to anyone in Myanmar, while messaging will cost K15 per SMS.

Mr Furberg also downplayed concerns that a mass-market approach could mean missing out on the most lucrative subscribers, saying the firm is working to bringing telecoms to those who previously did not have access.

“We actually see the mass market as the most lucrative segment. We came to this market to be part of bringing mobile phones to those that did not have mobile phones,” he said.

“Our focus has never been on the people in Yangon that already have big, fat smartphones and were able to afford a SIM card for US\$200.”

The company is also offering two different types of internet plans, one aimed at users who make use of less bandwidth-intense services such as Facebook, email and Viber, and the other aimed at heavier users who want to stream content.

It's My Internet plan is standard, delivering internet speeds of up to 300kbps for K6 a megabyte, while its Smart Internet plan costs K10 a megabyte for speeds capped at 2mpbs. Both plans have

pack upgrades that give mobile users that pay more upfront for better deals on more megabytes of data.

Mr Furberg also highlighted the firm's add-ons, such as free Wikipedia and its partnership with Facebook, as well as its My Tune music service.

The telco aims to cover more than 90pc of Myanmar in five years, with its products sold across 100,000 points of sale.

#### 4.3 OFFICIALS MONITOR INFLATION AS NEW BILLS ENTER MARKET

**An updated K5000 note will enter circulation on October 1 in a bid to fight counterfeiting, but authorities say they are being careful to make sure the move will not upset the money supply and lead to inflation.**

The plan is to gradually introduce the new note, which appears similar to the existing red-coloured white elephant note except it includes a watermark elephant, a security thread and a layer of varnish on both sides.

The Central Bank of Myanmar is introducing the note in a bid to prevent counterfeiting, though the existing K5000 note will continue to be legal tender.

A Central Bank official said the amount of new notes being printed is confidential, "but the main purpose is to prevent harm [from counterfeits] when citizens withdraw money".

The government has attempted to head off any problems from introducing the revamped K5000 note in part by devoting half of the front page of the September 19 New Light of Myanmar to announcing the new bill.

High denomination notes are particularly likely to be counterfeit, the Central Bank's website said. It added that steps to discover a forgery include checking to see if the suspect note is too smooth, or has no security thread or watermark. The Central Bank also claims there are relatively few counterfeit notes in circulation in Myanmar.

U Thaw Zay Ya, general manager at Kanbawza Bank's Botahtaung branch, said counterfeit notes often end up at the bank, where they are demolished by punching holes in the note, as long as the customer agrees.

"We discuss the problems of counterfeiting with the customer first and tell them it can't enter the market," he said. "The customer is responsible if they don't accept our advice."

The Myanmar economy is still largely cash-based, and there is a widespread problem of having old, worn-out notes accepted. Though the Central Bank's policy is that banks must accept worn-out but genuine notes, it is not universally adhered to.



U Thaw Zay Ya said it can be difficult accepting larger denomination K5000 and K10,000 notes if they are hard to reissue. It also becomes more difficult to tell counterfeit and genuine notes apart as they get older – though even newer bills can still be counterfeit.

“Even the US has to update its notes [due to counterfeiting],” he said.

Still, introducing new bills to make counterfeiting more difficult comes with its own set of perils.

Experts say Myanmar has mishandled some previous currency schemes, including two large-scale demonetisations of existing currency and introduction of bills with odd face values like K45 and K90 in the 1980s. Excessive money printing has also been blamed for high inflation rates in the past, though the Central Bank official said it is keen to avoid repeating this mistake.

Whether the new notes will lead to inflation depends on how they are introduced, said economist U Khine Htun.

if the new K5000 notes are used to replace old notes in a one-for-one exchange, or if the total new money supply is less than the rate of GDP growth, it should not result in undue inflation.

“But if it’s not done this way, printing new money will be the primary reason for inflation,” he said.

Inflation has been on the government’s radar. U Kan Zaw, minister of national planning and economic development, said last month that it is something the government seeks to address, partly through its efforts to ease trade flows and production.

The Asian Development Bank said it estimates inflation at 6.6 percent in 2014, to rise to 6.9pc next year. It anticipates GDP growth at 7.8pc for both 2014 and 2015, according to its website.

#### 4.4 TWO MORE COMPANIES TO BUILD PLANTS IN THILAWA

**Two more companies have paid deposits for land to build factories in Thilawa’s first phase, raising the number to 21 so far, according to Win Aung, the blacklisted chairperson of Thilawa SEZ Plc.**

The companies have signed documents reserving plots in the 400 hectares set aside for special economic zone (SEZ)’s first phase, and paid deposits, said Win Aung, who is on the US Treasury Departments specially designated nationals (SDN) list, which bars American firms and businesses from conducting business with him and his many companies.

He made the comments on September 30, one day before Thilawa SEZ Plc opened an over the counter centre for trading of the shares it launched on March 3, at its headquarters in Yangon.



The SEZ about 20 kilometres southeast of central Yangon is a cornerstone of the government's plan to transform Myanmar into a regional manufacturing hub. Both the Myanmar and Japanese governments own stakes in it, along with consortia of businesses from both countries.

Win Aung, also president of the Union of Myanmar Federation of Chambers of Commerce and Industry, said 19 companies had signed on to invest in Thilawa as of September 19 and another two – one from Japan and another from Thailand – had signed on since then.

eight of the companies are from Japan, four from Taiwan and two from Thailand, he said. Companies from Australia, China, Hong Kong Special Administrative Region, Sweden and the United States have also pledged to set up factories in Thilawa. These include a steel plant, construction materials manufacturers, electronic product plants, plastic product makers, and garment factories.

Thilawa executives have said more than 250 foreign companies are considering investing in the SEZ, and many have signed letters of intent for investment.

Win Aung said some of the factories will start operating by the middle of next year, and that infrastructure development was focused on about half the land available for the first phase: 211 hectares.

When all phases of Thilawa SEZ are completed it will cover 23.42 square kilometres.

#### 4.5 WORKER INSURANCE ON THE AGENDA

**Most construction workers are building up Yangon without any personal insurance, as insurers say they must do more to spread knowledge of their services.**

Construction is a notoriously risky industry to work in, but even long-time labourers say they usually have no protection in the case of accidents.

“I’ve been working in construction for ages,” said labourer Ko Htin Aung Thwin. “But I know very little about insurance.”

He said he understands insurance pays money in the event of a workplace accident, but is not aware of how to get coverage unless his employer chooses to do so. Still, Ko Htin Aung Thwin said insurance would likely be helpful.

“If we have insurance, we don’t need to worry for our family’s future,” he said.

Yet it is not only workers who claim limited knowledge of insurance. Several developers told The Myanmar Times they have only passing familiarity with the concept, though some have since looked into buying insurance for their labourers.



U Hla Maung Shwe, owner of Pyae Phyo Kyaw Construction, said he had previously not bought insurance for his workers as he did not understand it, until he researched it and decided insurance was worth the investment.

Providing insurance makes for a happier workforce, as they have peace of mind that they will be looked after if they are injured on the job.

“If employers buy insurance for their workers, they will take their work seriously,” he said.

While most international-class developers buy insurance as a matter of course, smaller firms often do not.

Workers tend to float between different small-scale developers, finding temporary employment for a specific project. This makes it difficult to arrange insurance for workers, especially when there is high employee turnover.

For those who do purchase insurance, the most common plan for construction workers is a group plan costing K5000 per worker a year, with a payment of K500,000 in the event of death, and different amounts for other injuries. Terms can range significantly between one month and 45 years, with premium payments to match, according to industry sources.

While group insurance requires a minimum of five members in a plan, there is also personal insurance available, which can last between one and five years.

A 2013 move to end Myanmar Insurance’s monopoly and allow private companies into the sector has also improved knowledge on the issue, as private insurers look to attract customers. U Hla Maung Shwe said a private insurance company assisted him with explaining the benefits of insurance, after which he purchased their products.

Ayeyar Myanmar Insurance official U Than Zaw said it is important to explain the different types of insurance, such as the different types of life insurance, when signing up customers.

Firms can for instance offer term and permanent insurance, with different sets of criteria for groups, endowment or snake-bite insurance.

Myanmar Insurance sends its representatives around to different construction companies to explain the benefits of having insurance, said U Saw Sein Lin, assistant manager from Myanmar Insurance.

There are different premiums for different classifications of risk type for personal insurance, but the schemes are “being implemented widely”, he said. “The new [private] insurance companies are also implementing it enthusiastically.”

“But some employers stint on paying money and don’t want to buy insurance, while others don’t know about insurance,” he said.

While there are a number of private insurance companies now selling products, the services they offer and the premiums they charge are restricted by the Insurance Business Supervisory Board.

#### 4.6 THE FINE PRINT: LEGAL AND TAX INSIGHT

**One of the most important clauses in a contract with parties from different countries is the choice of law clause.**

In the choice of law clause, parties lay down which law should govern the contract. An investor from, for instance, Thailand will of course want agreements to be interpreted according to the standards of Thai law as the Thai legal system is familiar to him, just as, naturally, the Myanmar side will be unlikely to accept this proposal and suggest that the contract be governed by Myanmar law instead.

Sometimes, the parties agree on the law of a third country such as Singapore so as to avoid one party having an advantage over the other by understanding more about the law governing the contract. However, this is often not an option.

For one thing, the application of Myanmar law is sometimes mandatory, for instance in contracts for the cross-border sale of goods. Furthermore, contracts with government entities such as a state-owned enterprise usually have to be submitted to the Union Attorney General's Office (AGO) for review. The AGO will – most likely – refuse approval if the contract is governed by foreign law.

If the Myanmar side is a private party, negotiations may fail if the foreign investor does not concede on the choice of law issue. Furthermore, choice of foreign law may cause problems if the contract has to be submitted as part of the application procedure for a permit.

Many foreign investors fear that the outcome of disputes will become intolerably unpredictable if Myanmar law is chosen. However, is this fear justified?

The laws of Myanmar – especially the laws dealing with contracts – are largely the laws as they were in place in British India; they have not been amended much post-independence. There is hardly any case law post-independence dealing with business disputes. On the positive side, this also means that there is not much surprising case law that could interfere with the interpretation of a contract. Of course this depends on the contents of the specific contract, but many contracts are governed by only one law, the Myanmar Contract Act of 1872. This law upholds the freedom of the parties to agree, with very few exceptions, on whatever pleases them; its text is available in English. If the contract is drafted in a clear fashion with words that are easy to understand, there should not be much room for surprising interpretations.

there is of course uncertainty as one can expect old colonial-time laws to be gradually replaced with new laws. However, it is difficult to imagine a government, through the channels available to it, trying to create laws that deliberately aim at ousting investors from a specific contractual

position (unless, perhaps, the investor is involved in a big project of vital interest to the government). Again, the clear drafting of contracts should be a powerful tool against unpredictable changes of laws.

Furthermore, even government entities have become more and more accepting of dispute resolution clauses that submit disputes to (well-functioning) arbitration in Singapore. This reduces the risk of one-sided decisions. The enforceability of foreign arbitral awards is still very much in question in Myanmar, but it may actually increase the likelihood of enforceability if the arbitrators decided the case on the basis of Myanmar law as this should make it easier for the Myanmar judge enforcing the award to understand it.