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MYANMAR PASSES NEW LAW FOR LAND ACQUISITION, RESETTLEMENT AND REHABILITATION

On 19 August 2019, the Union Parliament of Myanmar, Pyidaungsu Hluttaw, enacted Land Acquisition, Resettlement and Rehabilitation Law (Pyidaungsu Hluttaw Law No. 24/2019) to replace the colonial-era Land Acquisition Act (1894) as well as to provide a legal framework for resettlement and rehabilitation for the first time in Myanmar.

The new law will come into effect on the date the President may appoint by official notification, and its implementing rules and regulations will be issued in the future by a particular Union Ministry authorized by the Union Cabinet to do so. In the meantime, the rules and directions issued under the now-repealed Land Acquisition Act will still be applicable as long as they do not contradict the provisions of the new law.

Overview

The new law states that its provisions are applicable to all matters relating to the acquisition of land, payment of compensation and damages, resettlement and socioeconomic rehabilitation with regards to the use, control and management of land for public purpose. In particular, the new law indicates that it applies to land acquisition for national defense and security affairs as well as

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- ▶ What are the potential opportunities and challenges?

for all categories of socioeconomic development projects. However, it explicitly excludes the payment of compensation and damages for the acquisition of farmland and the reclamation of vacant, fallow or virgin land from its scope.

The new law also states that it seeks to protect the interests of the people affected by land acquisition, promote a transparent and inclusive approach for land acquisition, and prevent adverse social and environment impacts due to land acquisition. To achieve these goals, the Union Cabinet will set up a union-level central committee to oversee all land acquisition, resettlement and rehabilitation affairs in Myanmar. In its turn, the central committee shall organize working groups in each state or region to implement land acquisition, resettlement and rehabilitation.

What's new?

As the name of the law itself suggests, the new law has integrated land acquisition with resettlement and rehabilitation. With the enactment of the new law, it has become mandatory by law that a land acquisition proposal must include not only a statement of commitment to pay due compensation and damages to the people affected by the land acquisition but also a plan for the potential resettlement and rehabilitation of the affected people. Failure to implement agreed resettlement or rehabilitation programs will result in overturning the land acquisition process under the new law.

The new law also puts much more emphasis on the monitoring and control of the environmental and social impacts of land acquisition. One of the new requirements for future land acquisition proposals is to include a report of the environmental and social impact assessments of the potential

land acquisition. By implication, the new law indicates that land acquisition without adequate mitigation of its adverse environmental and social impacts will not be allowed.

Land acquisition implemented according to the new law will have to be a more transparent and inclusive process than before. The new law requires transparency in the implementation of land acquisition, resettlement and rehabilitation and participation of the local communities and technical

experts, in addition to Government officials and the landowners, throughout the process. It is also required that the rights of the local people to their historical and cultural heritage be protected.

What are the potential opportunities and challenges?

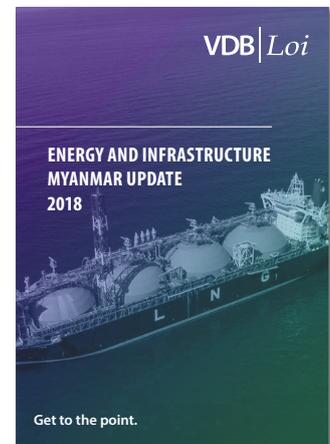
As the new law provides legal guidelines for the implementation of resettlement and rehabilitation as part

of the land acquisition process, the law opens up a new channel to resolve the potential land conflicts that could arise in large-scale development projects due to the inadequacy of the payment of compensation and damages as a means to address the grievances of the landowners and other affected people. By implementing land acquisition in a more comprehensive manner, investors of development projects could mitigate project risks associated with land conflicts and disputes over compensation and damages for Project Affected People.

However, at present, no timeline has been set out for the issuance of the implementing rules and regulations or the establishment of the central committee under the new law. If there will be a considerable delay in implementing those, that will create hinderances for many on-going projects to meet their project development targets.



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