



LAWS AND REGULATIONS

PROMULGATED TO GIVE EFFECT TO THE PROVISIONS OF THE INTERNATIONAL TREATIES ON NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES

*In accordance with the relevant articles of the international treaties on narcotic drugs and psychotropic substances,
the Secretary-General has the honour to communicate the following legislative text / texts*

MYANMAR

Communicated by the Government of Myanmar

NOTE BY THE SECRETARIAT

- (a) Some editing of texts may be done by the Secretariat in the interest of clarity. In this connection, words in square brackets [] have been added or changed by the Secretariat.
- (b) Only passages directly relevant to the control of narcotic drugs or psychotropic substances have been reproduced in this document. Non-relevant parts of laws and regulations have been deleted by the Secretariat; such deletions are indicated by [...].

	CONTENTS	PAGE
E/NL.2005/12	Notification N° 1/2002	2
E/NL.2005/13	Notification N° 2/2002	4
E/NL.2005/14	Notification N° 3/2002	6
E/NL.2005/15	Control of Money Laundering Law	8
E/NL.2005/16	Mutual Assistance in Criminal Matters Law	15



E/NL.2005/12

The Government of the Union of Myanmar

The Ministry of Health

Notification N° 1/2002

Yangon, the 10th Waning of Kason, 1364 ME

(5th June, 2002)

1. The Ministry of Health in exercise of the powers conferred on it under sub-section (b) of section 16 and sub-section (b) of section 30 of the Narcotic Drugs and Psychotropic Substances Law¹, hereby prescribes the following chemicals as controlled precursor chemicals that are used in the production of narcotic drugs and psychotropic substances:

(a) Controlled precursor chemicals that include in Table I of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988:²

Schedule I

(b) Controlled precursor chemicals that include in Table II of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988:

Schedule II

(c) Controlled precursor chemical; prescribed due to requirement of Myanmar

Schedule III

(1) Caffeine

(2) Thionyl Chloride

2. For possession, storage, use, research, production, transport, transit, distribution, import or export of controlled precursor chemicals prescribed under Paragraph 1 shall have to obtain recommendation or permission in conformity with Paragraph 3. Provided that for the following controlled precursor chemicals, drugs and compounds prepared, mixed or produced with such chemicals, that are not to be used in the production of narcotic drugs and psychotropic substances, no recommendation or permission is required:

(a) pharmaceutical preparations containing controlled precursor chemicals in Paragraph 1 that are used in medical treatment

(b) other preparations containing controlled precursor chemicals in Paragraph 1 that are compounded in such a way that such chemicals cannot be easily used or recovered by readily applicable means

(c) controlled precursor chemicals of commodities of household use, personal use and business use which are below the following weight, volume or quantity:

- | | |
|------------------------------------|------------|
| (1) Acetic anhydride | 10 litre |
| (2) Potassium permanganate | 5 kilogram |
| (3) Acetone | 10 litre |
| (4) Ethyl ether (or) Diethyl ether | 10 litre |
| (5) Hydrochloric acid | 50 litre |
| (6) Sulphuric acid | 50 litre |
| (7) Toluene | 10 litre |

(d) controlled precursor chemicals permitted for use, possession and transport by the registered medical practitioner and patients in conformity with the directive of the Ministry of Health

3. With regard to the controlled precursor chemicals that require the recommendation or permission under this Notification:

(a) the person desirous of any of the following business shall carry on performing it only after obtaining the prior recommendation of the Precursor Chemicals Control Committee:

- (1) production business of controlled precursor chemical
- (2) commodity production business making use of controlled precursor chemical
- (3) import and export business

¹ Note by the Secretariat: E/NL.1993/2

² Note by the Secretariat: As the Schedules reproduce the Schedules of the Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988, the Secretariat has decided not to reproduce them in this document.

- (b) the person doing business under sub-paragraph (a)(3), if it is of import and export of controlled precursor chemicals mentioned in Schedule I of Paragraph 1, shall, prior to such import and export, inform the Precursor Chemicals Control Committee in accordance with the stipulations
 - (c) the person desirous of doing any of the following business or purpose shall obtain the permission of the Precursor Chemicals Control Committee or different levels of the Committee for the prevention of the danger of Narcotic Drugs and Psychotropic Substances delegated and assigned duty by the said Committee:
 - (1) possession or storage
 - (2) transport or transit
 - (3) distribution
 - (4) research
4. The following Notifications are hereby repealed by this Notification:
- (a) Notification dated 28-1-93 of the Ministry of Health³
 - (b) Notification N° 4/96 dated 20-9-96 of the Ministry of Health
 - (c) Notification N° 3/2000 dated 2-10-2000 of the Ministry of Health
 - (d) Notification N° 1/2001 dated; 23-2-2001 of the Ministry of Health

(Sd.)
Major-General Ket Sein
Minister
Ministry of Health

³ Note by the Secretariat: E/NL.1993/7

E/NL.2005/13

The Government of the Union of Myanmar

The Ministry of Health

Notification N° 2/2002

Yangon, The 11th Waxing of Nayon, 1364 M.E.

(21 June, 2002)

1. The Ministry of Health, in exercise of the powers conferred on it under subsection (b) of section 30 of the Narcotic Drugs and Psychotropic Substances Law¹, for the purpose of the definition of sub-section (b) of section 2, hereby prescribes the following substances as psychotropic substances:

(a) Psychotropic substances that include in Schedule I of the Convention on Psychotropic Substances, 1971²

Schedule I

(b) Psychotropic substances that include in Schedule II of the Convention on Psychotropic Substances, 1971

Schedule II

(c) Psychotropic substances that include in Schedule III of the Convention on Psychotropic Substances, 1971

Schedule III

(d) Psychotropic substances that include in Schedule IV of the Convention on Psychotropic Substances, 1971

Schedule IV

(e) Psychotropic substances prescribed due to requirement of Myanmar:

Schedule V

(1) Psilocybe Mushrooms

(2) Peyote Cactus (Mescaline)

2. The psychotropic substances prescribed under Paragraph 1 also include drugs in which are inclusive of the said drugs and other substances and compounded, mixed or prepared with any kind of the said drugs and substances

3. In Paragraph 1

(a) the psychotropic substances prescribed in Schedule I, excepting scientific research and medical treatment under control, are drugs controlled and prohibited completely

(b) though the psychotropic substances prescribed in Schedules I, II, III and IV are substances used in medical treatment, and being the fact that substances can be misused, Rules, Orders, Directives and Instructions are prescribed for production, research, medical treatment, use, possession, distribution, import and export of the said drugs

4. With regard to psychotropic substances prescribed under Paragraph 1, the person who carries out the following business or purpose shall perform in conformity with the Rules relating to the Narcotic Drugs and Psychotropic Substances Law and the Orders and Directives issued by the relevant Ministry:

(a) production or research

(b) medical treatment or other use

(c) possession or storage

(d) distribution or sale

(e) transport, transit or transfer and

(f) import or export

¹ Note by the Secretariat: E/NL.1998/2

² Note by the Secretariat: As the Schedules reproduce the Schedules of the Convention on Psychotropic Substances, 1971, the Secretariat has decided not to reproduce them in this document.

5. The following Notifications are hereby repealed by this Notification:
- (a) Notification dated 28-1-93 of the Ministry of Health³
 - (b) Notification dated 1-7-93 of the Ministry of Health⁴
 - (c) Notification dated 2-1-96 of the Ministry of Health
 - (d) Notification dated 10-10-2001 of the Ministry of Health

(Sd.)
Maj. Gen. Ket Sein
Minister
Ministry of Health

³ Note by the Secretariat: E/NL.1993/5

⁴ Note by the Secretariat: E/NL.1993/4

E/NL.2005/14

The Government of the Union of Myanmar

The Ministry of Health

Notification N° 3/2002

Yangon, 5th Waxing of Nayon, 1364 M.E.

(29 July, 2002)

1. The Ministry of Health, in exercise of the powers conferred on it under section 2, subsection (a) (2) and section 30, sub-section (b) of the Narcotic Drugs and Psychotropic Substances Law¹ hereby prescribes the following drugs as the narcotic drugs:

(a) The narcotic drugs that include in Schedule I of the Single Convention on Narcotic Drugs, 1961²
Schedule I

(b) The narcotic drugs that include in Schedule II of the Single Convention on Narcotic Drugs, 1961
Schedule II

(c) The narcotic drugs prescribed due to requirement of Myanmar
Schedule III

Mitragyna Speciosa

2. The narcotic drugs as prescribed in paragraph I means, with the exception of drugs in conformity with the restrictions contained in paragraph 4 also include drugs and other substances in which are inclusive of any of the said drugs, drugs and other substances compounded, mixed or prepared with any kind of the said drugs

3. In paragraph 1:

(a) As the narcotic drugs prescribed in Schedule I are the drugs that can be abused, the said drugs are completely controlled for scientific and medical purposes

(b) As the narcotic drugs prescribed in Schedule II can be abused though the said drugs can be used in the medical treatment, the said drugs are substances for which are prescribed the Rules, Orders, Directives and terms and conditions regarding the production, research, medical treatment, use, possession, distribution, import and export

4. The following drugs which are exempted in Schedule III of the Single Convention on Narcotic Drugs, 1961 shall not be presumed to be included in the drugs prescribed under paragraphs 1 and 2:

(a) Preparations of Acetyldihydrocodeine

Codeine

Dihydrocodeine

Ethylmorphine

Nicocodine

Nicodicodine

Norcodeine and

Pholcodine

When compounded with one or more other ingredients and containing not more than 100 milligrams of the drug per dosage unit and with a concentration of not more than 2.5 per cent in undivided preparations

(b) Preparations of propiram containing not more than 100 milligrams of propiram per dosage unit and compounded with at least the same amount of methylcellulose

(c) Preparations of dextropropoxyphene for oral use containing not more than 135 milligrams of dextropropoxyphene base per dosage unit or with a concentration of not more than 2.5 per cent in undivided preparations, provided that such preparations do not contain any substance controlled under the 1971 Convention on Psychotropic Substances

¹ Note by the Secretariat: E/NL.1993/2

² Note by the Secretariat: As the Schedules reproduce the Schedules of the Single Convention on Narcotic Drugs, 1961, the Secretariat has decided not to reproduce them in this document.

- (d) Preparations of cocaine containing not more than 0.1 per cent of cocaine calculated as cocaine base and preparations of opium or morphine containing not more than 0.2 per cent of morphine calculated as anhydrous morphine base and compounded with one or more other ingredients and in such a way that the drug cannot be recovered by readily applicable means or in a yield which would constitute a risk to public health
- (e) Preparations of difenoxin containing, per dosage unit, not more than 0.5 milligram of difenoxin and a quantity of atropine sulphate equivalent to at least 5 per cent of the dose of difenoxin
- (f) Preparations of diphenoxylate containing, per dosage unit, not more than 2.5 milligrams of diphenoxylate calculated as base and a quantity of atropine sulphate equivalent to at least one per cent of the dose of diphenoxylate
- (g) Pulvis ipecacuanhae et opii compositus
10 per cent opium in powder
10 per cent Ipecacuanha root, in powder well mixed with
80 per cent of any other powdered ingredient containing no drug
- (h) Preparations conforming to any of the formulae listed in this Schedule and mixtures of such preparations with any material which contains no drugs

5. With regard to narcotic drugs prescribed under paragraph 1, the person who carries out the following business or purpose shall perform in conformity with the Rules, Orders and Directives relating to the narcotic drugs and psychotropic substances issued by the relevant Ministry:

- (a) production or research
- (b) medical treatment or use
- (c) possession or storage
- (d) distribution or sale
- (e) transport, dispatch in transit or transfer and
- (f) importation or exportation

6. The following Notifications are hereby repealed by this Notification:

- (a) Notification dated 28-1-93 of the Ministry of Health
- (a) Notification dated 20-4-93 of the Ministry of Health
- (b) Notification dated 21-4-94 of the Ministry of Health.

(Sd.)
Maj. Gen. Ket Sein
Minister
Ministry of Health

E/NL.2005/15

The Union of Myanmar
The State Peace and Development Council
The Control of Money Laundering Law
(The State Peace and Development Council Law No. 6 /2002)
The Waxing Day of Nayon , 1364 M.E .
(17th June, 2002)

The State Peace and Development Council hereby enacts the following Law:

Chapter I
Title, Jurisdiction and Definition

1. This Law shall be called the Control of Money Laundering Law.
2. This Law shall have jurisdiction on any person who commits any offence cognizable under this Law in the territory of the Union of Myanmar, or on Myanmar citizen or any person residing permanently in the Union of Myanmar who commits the said offence outside the country, or on any person who commits the said offence on board a vessel or an aircraft registered under its existing law.
3. The following expressions contained in this Law shall have the meanings given hereunder:
 - (a) *Money laundering offence* means an offence of laundering money and property obtained by illegal means in respect of any offence mentioned in sub-sections (a) and (b) of section 5 of this Law.
 - (b) *Money and property obtained by illegal means* mean money and property obtained by converting, transferring, concealing, obliterating or disguising of money or property obtained from committing the money laundering offence.
 - (c) *Banks and financial institutions* mean the organizations established in the State, whose corporate purpose is intermediation on the money or capital markets through the collection of financial resources from third parties for investment on their own account in credit operations, credit and public debt instruments, securities, or other authorized financial activities. This expression also includes the commercial banks, investment or development banks and finance companies.
 - (d) *Money* means legal tender coins, their lower denominations and currency notes issued by the Central Bank of Myanmar, promissory notes, bills of exchange and cheques being negotiable instruments, bonds, treasury bills and debentures instruments, and foreign currencies and any kind of instruments or certificates related to foreign currencies.
 - (e) *Property* means movable or immovable property in any form, being corporeal or incorporeal and tangible or intangible. This expression also includes profits, rights and titles pertinent to property.
 - (f) *Central Control Board* means the Central Control Board on Money Laundering formed under this Law.

Chapter II
Objectives

4. The objectives of this Law are as follows:
 - (a) to control and enable taking of effective action against money and property obtained by illegal means and to prevent offences arising therefrom;
 - (b) to prevent interference in the executive, economic and social sectors of the State, using money and property obtained by illegal means;
 - (c) to carry out measures in conformity with the international conventions that Myanmar has acceded, in implementing control of money and property obtained by illegal means;
 - (d) to co-operate with international organizations, regional organizations and neighbouring countries for controlling money and property obtained by illegal means.

Chapter III Money Laundering Offences

5. (a) This Law shall apply to the offences of illegally converting, transferring, concealing, obliterating or disguising of money and property obtained from the commission of any of the following offences to legalize the same:
- (1) offences committed under the Narcotic Drugs and Psychotropic Substances Law;
 - (2) trafficking in and smuggling of women and children;
 - (3) undertakings of a financial institution without the licence issued by the Central Bank of Myanmar;
 - (4) theft and smuggling out of the country of antiques and articles of cultural heritage;
 - (5) illegal trafficking in arms, ammunition and explosives;
 - (6) counterfeiting money, using and possessing thereof;
 - (7) hijacking of aircraft, vessel or any type of vehicle;
 - (8) cyber crimes committed by electronic means;
 - (9) offences committed by acts of terrorism;
 - (10) offences prescribed by the Government by notification from time to time.
- (b) This Law shall also be applicable to the commission of transnational offences contained in sub-section (a).
- (c) The amount of value of money and property relating to offences contained in sub-sections (a) and (b) shall be as prescribed by the Central Control Board.

Chapter IV Formation of the Central Control Board and Duties and Powers thereof

6. The Government shall form the Central Control Board on Money Laundering comprising the following persons:
- | | |
|--|-----------------|
| (a) Minister, Ministry of Home Affairs | Chairman |
| (b) Minister, Ministry of Finance and Revenue | Deputy Chairman |
| (c) Ministers or Deputy Ministers of relevant Ministries | Members |
| (d) Deputy Chief Justice | Member |
| (e) Deputy Attorney General | Member |
| (f) Governor of the Central Bank of Myanmar | Member |
| (g) Director General, Department of Settlements and Land Records | Member |
| (h) Police Director General, Myanmar Police Force | Secretary |
| (i) Director General, Bureau of Special Investigation | Joint Secretary |
7. The duties of the Central Control Board are as follows:-
- (a) laying down the policies of control of money and property obtained by illegal means and taking legal action in accordance with the said policies, in co-ordination with the government departments and organizations concerned;
 - (b) supervising and directing in taking action under this Law;
 - (c) directing the Investigation Body to investigate and reveal information relating to converting, transferring, concealing, obliterating and disguising of money and property obtained by illegal means;
 - (d) directing the Preliminary Scrutiny Body to scrutinize the report of findings submitted by the Investigation Body;
 - (e) co-operating with the States Parties of the United Nations conventions, international and regional organizations and neighbouring countries in respect of control of money and property obtained by illegal means, exchange of information, investigation, taking legal action and adjudication;
 - (f) guiding and supervising the relevant government departments and organizations so that banks, financial institutions and economic enterprises may not be established and operated by using money and property obtained by illegal means;
 - (g) guiding and supervising the responsible persons of the banks and financial institutions to conduct training courses as may be necessary for enabling to reveal and take action against money and property obtained by illegal means;
 - (h) submitting the report of its activities to the Government in accordance with the stipulations.

8. The powers of the Central Control Board are as follows:
- (a) prescribing the amount of value of money and property obtained by committing any offence contained in sub-sections (a) and (b) of section 5 and revising thereof from time to time;
 - (b) prescribing, with the approval of the Government the amount of value of money and property to be reported to the Central Control Board;
 - (c) forming the Investigation Body and Preliminary Scrutiny Body and prescribing their functions and duties, and making arrangement to enable aiding of necessary money and technical know-how to such bodies;
 - (d) assigning duties to the Investigation Body to carry out investigation, enter a building and conduct inspection, search, and seize as exhibit in respect of money and property obtained by illegal means, in accordance with the stipulations;
 - (e) passing an order permitting the return of the property seized as exhibit under a bond, and revoking the permission;
 - (f) issuing an order to the responsible persons of the banks and financial institutions to allow search and seizure of money and property obtained by illegal means as exhibit, at the relevant banks and financial institutions, examining and making copy of the financial records and if necessary to allow search and seizure thereof as exhibit by the Investigation Body;
 - (g) issuing the prohibitory order to the relevant departments, organizations and persons not to convert, transfer, conceal, obliterate and disguise money and property obtained by illegal means during the investigation period under this Law, and directing the attachment and sealing thereof;
 - (h) revoking the order issued under sub -section (f), and the prohibitory order and sealing directive under sub-section (g);
 - (i) passing an order confiscating money and property obtained by illegal means;
 - (j) giving necessary protection and deserving reward to an informer in respect of money and property obtained by illegal means;
 - (k) forming the staff office comprising experts to assist the Central Control Board in performing its functions and duties.

Chapter V

Formation of the Investigation Body and Functions and Duties thereof

9. The Central Control Board shall:
- (a) form the Investigation Body comprising not less than three members from suitable persons of relevant government departments and organizations to investigate and reveal the money and property obtained by illegal means;
 - (b) change the members on case-by-case basis or time limit instead of on a fixed basis in forming the Investigation Body.
10. In investigating and examining under the directive of the Central Control Board in respect of money and property obtained by illegal means in accordance with the stipulations, the Investigation Body:
- (a) may make necessary investigations and gather intelligence;
 - (b) may call for and examine necessary documents from the person who is under investigation or any other person or the government departments and organizations or the banks and financial institutions;
 - (c) may summon and examine the person who is under investigation or other necessary persons;
 - (d) has the right to enter, inspect, search and seize as exhibit building, land and work-site of the person who is under investigation;
 - (e) has the right to enter, inspect, search and seize as exhibit building, land and work-site under the name of other person and derived from the money and property obtained by illegal means.
11. The Investigation Body shall:
- (a) submit the report on findings to the Central Control Board in accordance with the stipulations;
 - (b) submit the case of seizure of property as exhibit under sub-section (d) or (e) of section 10 to the Central Control Board in accordance with the stipulations;
 - (c) keep secret each and every matter under investigation.

12. The Central Control Board may, on receiving the report on findings of the Investigation Body, assign duty to the original Investigation Body or newly-formed Investigation Body to investigate the whole case or the necessary facts, if it considers that further investigation is required.

Chapter VI

Formation of the Preliminary Scrutiny Body and Functions and Duties thereof

13. The Central Control Board shall, subject to the report on findings of the Investigation Body, form the Preliminary Scrutiny Body comprising not less than three members chaired by one Deputy Minister to scrutinize and submit in respect of money and property obtained by illegal means.

14. The Preliminary Scrutiny Body:

- (a) shall inform and give the right of defence to the person who is under investigation in respect of the report on findings of the Investigation Body;
- (b) may summon and examine the necessary persons and take necessary evidence in respect of the report on findings of the investigation;
- (c) shall submit to the Central Control Board with its findings and recommendations after considering the report of the Investigation Body and defence made by the person under investigation;
- (d) shall keep secret each and every matter under investigation.

Chapter VII

Appeal and Revision

15. A person who is under investigation may, if he is dissatisfied with any order of the Central Control Board appeal to the Government within 90 days from the date on which the said order is received.

16. The Government may pass any suitable order for confirmation, revision or setting aside the said order or cause re-investigation to be made, upon an appeal submitted by the aggrieved person or at its discretion on any order passed by the Central Control Board.

17. The decision of the Government shall be final and conclusive.

Chapter VIII

Functions and Duties of the Banks and Financial Institutions

18. The responsible persons of the banks and financial institutions:

- (a) shall obtain, scrutinize and record the names, addresses and registration card numbers or passports of persons who open accounts, deposit, withdraw and transfer cash, and the required particulars in respect of opening accounts, cash deposit and cash withdrawal in accordance with the stipulations;
- (b) after carrying out the opening of accounts and transactions in accordance with the stipulations, supporting documents, accounts and records shall be kept for at least 5 years;
- (c) shall allow the Investigation Body to inspect financial records, make copies, seize money and property obtained by illegal means as exhibit;
- (d) shall not, without the permission of the Central Control Board release or transfer money and property obtained by illegal means, during the period of investigation and taking legal action;
- (e) shall not, without the permission of the Central Control Board obliterate, alter, amend or transfer the financial records relating to the investigation.

Chapter IX Duties to Report

19. The responsible persons of the banks and financial institutions:
- (a) shall, notwithstanding anything contained in existing laws in respect of bank secrecy, report to the Central Control Board without delay, any deposit, withdrawal or transfer of cash in an amount which is in excess of the amount prescribed by the Central Control Board. Provided that this shall not apply to transfer and succession in accordance with the right to inheritance under any existing law or Customary Law.
 - (b) shall report any unusual or suspicious transaction to the Central Control Board without delay, and in accordance with the stipulations.
20. The responsible persons of the Department of Settlements and Land Records and its respective subordinate offices in performing the registration of documents relating to the transfer of immovable property:
- (a) shall report the transfer of property the value of which exceeds the amount prescribed by the Central Control Board without delay and in accordance with the stipulations. Provided that this shall not apply to transfer and succession in accordance with the right to inheritance under any existing law or Customary Law.
 - (b) shall report any unusual or suspicious transfer to the Central Control Board without delay and in accordance with the stipulations.
21. The responsible persons of the relevant government departments or organizations, on declaring to him the foreign currency brought into the country by any person who enters the Union of Myanmar shall, if the amount exceeds the amount prescribed by the Central Control Board, report the matter to the Central Control Board without delay, and in accordance with the stipulations.

Chapter X Offences and Penalties

22. Whoever commits any of the following acts in committing any offence contained in the Narcotic Drugs and Psychotropic Substances Law shall, on conviction, be punished with imprisonment for a term which may extend from a minimum of 10 years to a maximum of an unlimited period:
- (a) concealing or obliterating of money and property obtained by commission of an offence, so that action may not be taken.
 - (b) converting, transferring or disguising of money and property relating to an offence so as to appear to have been acquired from a legitimate source.
23. Whoever converts, transfers, conceals, obliterates or disguises money and property obtained by committing any offence contained in sub-sections (a) and (b) of section 5, so as to appear to have been acquired from a legitimate source except any offence contained in section 22 shall, on conviction, be punished with imprisonment for a term which may extend to 10 years and may also be liable to a fine.
24. Any responsible persons of the banks and financial institutions who commits any of the following acts in respect of an offence relating to this Law shall, on conviction, be punished with imprisonment for a term which may extend from a minimum of 3 years to a maximum of 7 years and may also be liable to a fine:
- (a) refusing to grant permission to the Investigation Body to carry out official duty in accordance with sub-section (c) of section 18;
 - (b) violating the prohibition contained in sub-section (d) of section 18 and releasing or transferring money and property obtained by illegal means, without the permission of the Central Control Board;
 - (c) violating the prohibition contained in sub-section (e) of section 18 and obliterating, altering, amending or transferring the financial records, without the permission of the Central Control Board.
25. Any member of the Investigation Body who commits any of the following acts or omissions in investigating money laundering offence shall, on conviction, be punished with imprisonment for a term which may extend from a minimum of 3 years to a maximum of 7 years and may also be liable to a fine:
- (a) demanding or accepting money or property either for himself or for any other person as a gratification;

- (b) substitution of an offender with any other person so that action cannot be taken against him or imprisonment of an offender without taking action against him;
- (c) concealment, obliteration, conversion, transfer in any manner or disguising of money and property obtained by illegal means so that action may not be taken against them.

26. Whoever violates a prohibitory order issued by the Central Control Board not to convert, transfer, conceal, obliterate or disguise money and property obtained by illegal means, during the investigation period under this Law shall, on conviction, be punished with imprisonment for a term which may extend to 7 years and may also be liable to a fine.

27. Whoever destroys or acts with the intention of damaging the property returned under a bond with the permission of the Central Control Board, during the investigation period under this Law shall, on conviction, be punished with imprisonment for a term which may extend to 7 years and may also be liable to a fine.

28. If any responsible persons of the banks and financial institutions commits any of the following omissions, he shall, on conviction, be punished with imprisonment for a term which may extend to 3 years or with fine or with both:

- (a) failure to carry out any of the functions and duties contained in sub-sections (a) and (b) of section 18 in accordance with the stipulations;
- (b) failure to report to the Central Control Board under section 19 in accordance with the stipulations.

29. Any responsible persons of the Department of Settlements and Land Records and its respective subordinate offices who fails to report to the Central Control Board under section 20 in accordance with the stipulations shall, on conviction, be punished with imprisonment for a term which may extend to 3 years or with fine or with both.

30. Any responsible persons of the relevant government departments and organizations who fails to report to the Central Control Board under section 21 in accordance with the stipulations shall, on conviction, be punished with imprisonment for a term which may extend to 3 years or with fine or with both.

31. Whoever opens an account under a false name, deposits and draws money, transfers money or delegates authority to any person to do such activities shall, on conviction, be punished with imprisonment for a term which may extend to 3 years or with fine or with both.

32. Whoever attempts, conspires, organizes or administers to commit any offence or abets or aids financially in committing any offence contained in this Law shall be liable to the punishment provided in this Law for such offence.

Chapter XI Miscellaneous

33. A person under investigation has the responsibility to prove clearly with valid evidence of how he legally obtained the money and property under investigation or by which income they were obtained.

34. In respect of money and property obtained by illegal means, if any other person who is not under investigation is able to prove clearly that such money and property were transferred by certain means with consideration and in good faith, his right shall not be affected.

35. No suit or prosecution shall lie against a person who reports according to his duty in good faith under section 19, 20 or 21, notwithstanding that his report has caused injury to any person.

36. (a) During the investigation period under this Law on money and property obtained by illegal means, the relevant government departments and organizations shall keep pending any action being taken in respect of the said money and property under the Income Tax Law or Profit Tax Law or Commercial Tax Law or laws relating to customs duty or any other existing laws against a person under investigation.

- (b) When the Central Control Board has passed an order according to the findings in respect of money laundering offence, the relevant government departments and organizations shall proceed in accordance with the stipulations.

37. In cases of taking action under this Law on money and property obtained by illegal means, search, arrest, seizure as exhibits, return of the same under a bond, prohibition of the immovable property during the investigation period, sealing, perusing the financial records of the banks and financial institutions and confiscation thereof shall be carried out in accordance with this Law and rules, procedures, notifications, orders and directives issued thereunder.

38. In respect of money or property obtained by committing any offence under sub-sections (a) and (b) of section 5:

(a) action shall be taken only under this Law upon offences relating to money and property obtained by illegal means such as conversion, transfer, concealment, obliteration and disguising of money and property, after this Law comes into force.

(b) action shall not be taken under this Law upon offences relating to money and property obtained by illegal means such as conversion, transfer, concealment, obliteration and disguising of money and property, before this Law comes into force.

39. (a) Action shall be taken against a person who commits any offence not being money laundering offence contained in sub-sections (a) and (b) of section 5 under any relevant existing law provided for such offence.

(b) Action shall not be taken under this Law upon the exhibits in respect of which action had been taken under sub-section (a) and which have been confiscated.

40. In prosecuting an offence under this Law, prior sanction of the Ministry of Home Affairs shall be obtained.

41. For the purpose of implementing the provisions of this Law:

(a) the Ministry of Home Affairs may, with the approval of the Government, issue such rules and procedures as may be necessary;

(b) the Central Control Board, the Ministry of Home Affairs, the Ministry of Finance and Revenue and the relevant government departments and organizations may issue such notifications, orders and directives as may be necessary.

(Sd.)

Than Shwe
Senior General
Chairman

The State Peace and Development Council

E/NL.2005/16

The Union of Myanmar
The State Peace and Development Council
The Mutual Assistance in Criminal Matters Law
(The State Peace and Development Council Law N° 4/2004)
The 10th Waxing of Kason 1366 ME
(28th April, 2004)

The State Peace and Development Council hereby enacts the following Law:

Chapter I
Title, Application and Definition

1. This Law shall be called the Mutual Assistance in Criminal Matters Law.
2. This Law shall apply to providing assistance in criminal proceedings with States parties to an international convention or regional agreement to which the Union of Myanmar is a State party or with the State that has entered into bilateral agreement or with the State that will provide reciprocal assistance though not a State party to the international convention or regional agreement or bilateral agreement with respect to investigation, prosecution and judicial proceedings in criminal matters.
3. The following expressions contained in this Law shall have the meanings given hereunder:
 - (a) Offence means the offence, punishable with imprisonment for a term of one year and above under any existing law. The said expression also includes offences punishable with imprisonment for a term of one year and above under the law of any requesting foreign State;
 - (b) Assistance means providing assistance in investigation, prosecution and judicial proceedings in respect of an offence for the purpose of this Law;
 - (c) Investigation includes inquiry, search and seizure of exhibits relating to the offence by a police officer or person authorized by the Central Authority or the Judge;
 - (d) Performance of judicial proceedings includes all activities of the judge under any existing law, with respect to an offence;
 - (e) Property means corporeal and incorporeal property of every description, whether tangible or intangible, movable or immovable. This expression also includes interests, rights and ownership in respect of the property;
 - (f) Document means writing, mark, figure alphabet or symbol upon any substance including information and record or any mark or symbol that can be interpreted by any means or any object that can interpret sound, image or writing spontaneously or a map, design, picture and any similar object;
 - (g) Record means any data recorded or marked upon any substance and which can be read or understood by any person personally or by a computer system or by the use of any other device;
 - (h) Restraining Order means any order issued with the intention of restraining property related to offence in the possession of any person;
 - (i) Central Authority means the Central Authority formed under this Law to provide mutual assistance in criminal matters among States.

Chapter II
Aims

4. The aims of this Law are as follows:
 - (a) To enable rendering of assistance in criminal matters in accordance with international conventions, regional agreements and agreements among States;
 - (b) To enable liaison and communication with the international organizations, regional organizations and foreign countries in carrying out criminal matters;

- (c) To enable laying down and carrying out appropriate means and measures for providing assistance among States, in respect of investigation, prosecution and judicial proceedings in criminal matters;
- (d) To enable effective prevention and suppression of other serious crimes including terrorism, financing of terrorism, transnational organized crimes and crimes related to money laundering.

Chapter III

Forming the Central Authority and Duties and Powers Thereof

5. The Government shall form the Central Authority for rendering assistance among States in criminal matters, comprising the following persons:

(a) Minister, Ministry of Home Affairs	Chairman
(b) Deputy Minister, Ministry of Home Affairs	Vice Chairman
(c) Deputy Minister, Ministry of Foreign Affairs	Member
(d) Deputy Minister, Ministry of Finance and Revenue	Member
(e) Deputy Minister, Ministry of Immigration and Population	Member
(f) Deputy Chief Justice	Member
(g) Deputy Attorney General	Member
(h) A Representative from the Ministry of Defence	Member
(i) Director General, General Administration Department	Member
(j) Director General, Myanmar Police Force	Secretary
(k) Chief of Police General Staff Myanmar Police Force	Joint Secretary

6. The functions and duties of the Central Authority are as follows:
- (a) granting or refusing to provide assistance after scrutiny of the request;
 - (b) giving opinion to the Government with respect to entering into agreement between States on mutual assistance in criminal matters;
 - (c) laying down necessary training programmes for personnel from relevant departments and organizations for enhancement of skill and technology in implementation of this law;
 - (d) liaising and coordinating, as may be necessary if requested issue is also involved with another State;
 - (e) coordinating with the relevant government departments, organizations and persons in respect of the requested issue;
 - (f) informing the relevant government department and organization to carry out matters related to the request and handing over the performances of the relevant government department and organization to the Requesting State;
 - (g) requesting and obtaining assistance from a foreign State in criminal matters.

7. In implementing its duties and powers under Section 6, the Central Authority may, if necessary, assign duty to any member of the Central Authority or a body headed by any member and comprising other suitable persons.

8. The Chairman of the Central Authority or the Secretary assigned by the Chairman has the right to perform the matters to be carried out immediately out of the duties and powers of the said Authority, and such performance shall be submitted to the Central Authority and approval obtained therefrom.

9. The Government may, if necessary amend, alter, suspend or cancel any performance made by the Central Authority in respect of the assistance requested.

Chapter IV

Requesting Assistance and Refusal

10. Any foreign State requesting assistance of Myanmar in criminal matters shall:
- (a) if it is the State Party to the international convention or regional agreement to which the Union of Myanmar is a State Party or the State which has bilateral agreement with the Union of Myanmar request assistance directly to the Central Authority;

- (b) if it is the State Party to the international convention or regional agreement to which the Union of Myanmar is not a State Party or the State that has not entered into bilateral agreement with the Union of Myanmar, request to the Central Authority through diplomatic channel.

11. Any foreign State may, in making a request under section 10, with respect to investigation, prosecution and judicial proceedings in criminal matters include and request the following matters

- (a) taking evidence or statement from any person;
- (b) rendering service so that judicial documents shall have effect;
- (c) examining objects and sites;
- (d) identifying or tracing money or property to be used for evidentiary purpose to be relevant to the offence;
- (e) executing searches, seizures, control, issuing restraining order and confiscation of exhibit;
- (f) obtaining information, documents to be used for evidentiary purpose, records and expert opinion;
- (g) providing originals or certified copies of relevant documents and records to be used for evidentiary purpose;
- (h) exposing the residential address of offender, location of the exhibit and other necessary information;
- (i) other matters in respect of which the Central Authority has agreed to give assistance.

12. The requesting State shall, in making a request mention the following facts in Myanmar language or English language

- (a) name and designation of the authority making the request;
- (b) statement setting out a summary and nature of the case relevant to the request;
- (c) necessary identity, address and nationality of the person concerned;
- (d) procedures for rendering assistance in matters for obtaining evidence;
- (e) period and limitation during which the request is to be complied with;
- (f) information to be exposed and evidence to be obtained;
- (g) statement to perform confidentially if the matter is required to be performed confidentially;
- (h) extract of relevant laws, rules and procedures exercised in one's own State in respect of the assistance of requested and reasons thereof;
- (i) name, function and responsibility of the person conducting investigation, prosecution and judicial proceedings in one's own State;
- (j) other necessary information.

13. The requesting State may, in urgent circumstance make request orally by telephone facsimile, electronic mail or other electronic means including computer network. In making such request the original letter of request shall be sent to the Central Authority without delay.

14. The Central Authority may:

- (a) on receiving the request of any foreign State, request after scrutiny, necessary additional information and supporting evidence for the execution in conformity with the existing laws.
- (b) meet with the person or body of persons assigned by the authority of the requesting State and make inquiry and request supporting evidences.

15. If the Central Authority, on receiving the request and on finding that the request is in conformity with the following facts may grant the request:

- (a) the offence relating to the request being an offence covered by sub-section (a) of section 3;
- (b) having no infringement with any fact that is ground for refusal contained in section 18;
- (c) the request being in conformity with the forms terms and means and ways prescribed by the Central Authority;
- (d) upon the expenses incurred by the Union of Myanmar for rendering assistance having been coordinated and agreed between the two countries.

16. In respect of mutual assistance in criminal matters, if the Central Authority is desirous of granting the request to the State which is neither the State Party to the Convention or regional agreement nor has bilateral agreement, it may do so on condition that such requesting State has already agreed to grant the request of the Union of Myanmar on reciprocal basis.

17. In respect of a request of any foreign State, if the Central Authority is of the opinion that, it interferes with an ongoing investigation, prosecution or proceeding in the Union of Myanmar it may postpone the request in whole or in part in consultation with the requesting State.

18. The Central Authority shall not refuse the request of any foreign State on the ground of it being a bank and financial institutions secrecy. Provided that if it is found on scrutiny that it infringes one of the following facts the request may be refused in whole or in part:

- (a) not being in conformity with the stipulations of this Law;
- (b) encroaching on the sovereignty of the State, its security prevalence of law and order or public interests;
- (c) there being cause to believe that the race, sex, religion, nationality, ethnic origin, political opinion or personal stand of any individual is encroached;
- (d) there being a prohibition of conducting investigation, prosecution and judicial proceedings of an offence similar to the offence requested, under the existing law of the Union of Myanmar;
- (e) being an offence of military nature actionable under the Defense Services Act, 1959;
- (f) the subject matter relating to the request being contrary to the laws of Myanmar;
- (g) being a request incidental to matters reserved in the international convention to which Union of Myanmar is a State Party.

19. The Central Authority shall, on refusing the request of any foreign State reply to the requesting State giving reasons for so refusing.

20. (a) The Central Authority shall, on deciding to grant the request of any foreign State assign duty to the relevant government department and organization to execute in conformity with the stipulations.
- (b) The government department or organization assigned duty under sub-section (a) shall, for enabling the reply to the Requesting State, submit to the Central Authority urgently the condition of completion or the condition of being unable to perform, giving complete reasons.

21. The Central Authority, on receiving the submission made by the relevant government department and organization under sub-section (b) of section 20 shall:

- (a) if no performance can be made with respect to the request, inform the Requesting State giving reasons therefore;
- (b) if performance can be made with respect to the request, carry out for enabling the handing over of the relevant information, testimony, documents, records and supporting evidences to the Requesting State within the stipulated time.

22. The Central Authority shall

- (a) if there are matters that are to be kept confidential among the information and evidences to be sent by one's own State with respect to matters that are given assistance or matters that are sought assistance by the Union of Myanmar, inform the Requesting State to keep the same confidential;
- (b) if there is no intention of handing over document, record and properties in their entirety to the Requesting State, mention to return the same without delay to the Union of Myanmar after completing performance of request.

23. The Central Authority shall, if it is required to conduct joint investigation between two or more States with respect to request or giving assistance, obtain prior agreement of the competent authority of the relevant foreign State on each issue of the matter through coordination.

24. The Central Authority and the relevant Government departments and organizations shall not, with respect to information, testimony, document, records and supporting evidences handed over by the requested State to the Union of Myanmar use, handover or expose without agreement between the two states in relation to matters not mentioned in the request.

Chapter V
Search, Seizure, Control, Issuing Restraining Order and Confiscation of Exhibits

25. With respect to request of any foreign State the Central Authority shall, if granted after scrutiny the request of a foreign State to search, seize, control, issue restraining order or confiscate the exhibit is granted instruct the relevant government department and organization to search, seize, control, issue restraining order and confiscate in conformity with the existing laws.
26. (a) The Central Authority shall administer the property seized as exhibits, property controlled and property confiscated under the request of a foreign State in conformity with the bilateral agreement.
(b) If there exists no bilateral agreement between the two States, the confiscated property shall vest in the State.
27. If a person who is not involved in the offence can prove that he has in good faith and after giving consideration taken over and has in possession the property that has been seized as exhibit or has been confiscated, the right of such person shall not be affected.

Chapter VI
Sending a Person who is in Myanmar to Give Testimony and Statement

28. The Central Authority shall:
- (a) with respect to a request made to send a person who is in Myanmar to give testimony, statement or expert opinion in a foreign State, if the said person has agreed to testify, and the Central Authority has also decided to grant permission, inform the relevant government department and organization to make arrangements for travel and right to go abroad of the said person permitted to be sent;
- (b) if the person permitted to be sent is a person in custody inform the relevant government department and organization to make arrangements to transfer and transport him safely in custody and to transport him back under the bilateral agreement.
29. (a) The Central Authority shall, in sending the person in custody, if Union of Myanmar has not sent a letter informing that the said person is to be released from custody, mention to keep him in custody till the time of transporting him back to Union of Myanmar after completion of requested matter.
(b) The duration of time in which the person sent in custody is in the Requested State including the duration of time of transporting him in custody shall be deemed as if it were the duration of time in custody in the Union of Myanmar.
30. If the person who is to give testimony, statement or expert opinion is prohibited from giving testimony, statement or expert opinion under the existing Law of Myanmar, he may refuse for the said matter.
31. The Central Authority shall, if the person who is to give testimony, statement or expert opinion in any foreign State has committed any offence previously in the Requested State, within 15 days or if it exceeds 15 days from the date of arrival at the said State and making report thereof, raise the issue to get prior agreement with the said State so as not to prosecute, detain, punish or restrict personal liberty in the said State with respect to the previous offence, during the period agreed upon by the two States.
32. The Central Authority shall, if the request of a foreign State to transfer a person in custody in transit from the Union of Myanmar or passing through the Union of Myanmar to provide assistance is granted, inform the relevant government department and organization to give assistance for the security of such person in custody, within the territory of Myanmar.

Chapter VII **Request by the Union of Myanmar**

33. The government department and organization desirous of requesting assistance from any foreign State with respect to matters contained in section 11 shall, to obtain permission for the assistance desired, submit to the Central Authority mentioning completely the points contained in section 12.

34. If the Central Authority, grants permission under Section 33 on the submission of the relevant government department and organization to request assistance from any foreign State shall:

- (a) if it is the State Party to the international convention or regional agreement to which the Union of Myanmar is a State Party or the State which has bilateral agreement with the Union of Myanmar, request assistance directly from the Central Authority of the said State;
- (b) if it is the State Party to the international convention or regional agreement to which the Union of Myanmar is not a State Party or the State that has not entered into bilateral agreement with the Union of Myanmar, request the Central Authority of the said State through diplomatic channel.

35. The relevant government department and organization shall not prosecute, detain, punish or restrict personal liberty of a person sent by a foreign State with respect to any offence committed by him previously in the Union of Myanmar within 15 days or if it exceeds 15 days from the date of arrival and making report thereof, during the period agreed upon between the two States while he is in the Union of Myanmar to give testimony, statement, expert opinion or in person, in accordance with this Law.

36. The government department and organization that performs under the direction of the Central Authority shall, if the relevant foreign State does not send a letter informing to release the person in custody who has been transferred to give testimony or statement in Myanmar, have the authority to put him in custody during the time agreed upon between the two States and, after submitting to the Central Authority, carry out in accordance with the direction of the Central Authority, for enabling to transport him back to the Requesting State without delay, in conformity with the stipulations after completion of the said matter.

Chapter VIII **Bearing of Costs**

37. In carrying out the tasks on requested matters, if there exists no specific agreement between the two States, the ordinary costs shall be borne by the requested State. The costs exceeding the ordinary costs or costs of extraordinary nature shall be borne by the relevant State in accordance with the terms and conditions agreed upon in advance.

38. If the cost of requesting assistance or providing assistance by the Union of Myanmar is to be borne by the Union of Myanmar, it shall be borne by the relevant government department or organization with the approval of the Government.

Chapter IX **Miscellaneous**

39. (a) The Central Authority shall, if the requested matter of the foreign State is for judicial proceedings, inform to the Supreme Court.
- (b) The Supreme Court may carry out the matter informed under sub- section (a) by itself or delegate to the relevant competent Court.

40. The Central Authority, with respect to testimony, documents, records and supporting evidences which are performed under the request of any foreign State:

- (a) may determine and assign duty to any relevant government department and organization or any expert or a body of experts to submit the same after translation;
- (b) shall, after authenticating on the translation, hand it over to the relevant foreign State.

41. With respect to mutual assistance in criminal matters, the communications made by telephone, fax or e-mail, or any other electronic means including communications made through computer network shall be entitled to be submitted as evidence.

42. With respect to any offence for which assistance is requested by any foreign State, if there is no explicit provision in this Law, regarding investigation, prosecution and judicial proceedings, the Central Authority and the government department and organization assigned duty by such body shall, comply with the provisions of the existing Law.

43. In implementing the provisions of this Law:

- (a) The Ministry of Home Affairs may, with the approval of the Government, issue such rules and procedures as may be necessary;
- (b) The Central Authority, relevant Ministry, the Supreme Court and the Office of the Attorney General may with the approval of the government; issue such notifications, orders and directives as may be necessary.

(Sd.)

Than Shwe
Senior General
Chairman

The State Peace and Development Council