CLIMATE CHANGE LEGISLATION IN

MYANMAR

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A Review of Climate Change Legislation in 99 Countries



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Myanmar

Legislative Process

The Republic of the Union of Myanmar is a unitary presidential constitutional republic. The President is both the head of state and the head of government. The State Constitution was adopted in 2008 by national referendum and replaces two previous constitutions (1947 and 1974). It established the Pyidaungsu Hluttaw (hereafter referred to as the National Parliament, although also known in English as the Assembly of the Union) the national bicameral legislature. It comprises two houses, which have five-year, simultaneous terms: the 224-seat upper house known as Amyotha Hluttaw (also known as the House of Nationalities or National Assembly, but hereafter referred to as the Upper House) and the 440-seat lower house known as Pyithu Hluttaw (also known as the House of Representatives or People's Assembly, but hereafter referred to as the Lower House). The Upper House consists of 168 directly-elected seats relating to the regions and states and 56 military personnel nominated by the Commander-in-Chief of the Defence Services. The Lower House consists of 330 seats accorded to each township in Myanmar, with the remaining 110 allocated to military personnel nominated by the Commander-in-Chief. The executive branch of government is known as the Union Government, and the President forms a Cabinet of Union Ministers upon approval of these names by the National Parliament.

Myanmar is formed of 14 major administrative regions and states, each with their own local parliament comprising elected civilian members and military representatives (the latter comprising one third of all seats). There are also five self-administered zones and one self-administered division administered by a Leading Body that has both executive and legislative powers. Each Leading Body consists of at least 10 members and state or regional parliament members elected from the zones or divisions, as well as members nominated by the Defence Services. Finally, there is one union territory, Nay Pyi Taw (also known as Naypyidaw), the capital city, which is under the direct administration of the President. Day-to-day activities are carried out by the Nay Pyi Taw Council, whose members are appointed by the President and include civilians and military representatives.

Legislative power is shared among the National Parliament and the state and regional parliaments. The judiciary is independent of the executive branch. The National Parliament has the power to enact laws for the entire or any part of the union, including Nay Pyi Taw when necessary. Bills related to national plans, annual budgets or taxation must be submitted exclusively by the Union Government to the National Parliament and must be discussed and resolved exclusively at the National Parliament. All other bills may be submitted by Union-level organisations on matters that they administer and may be initiated and discussed at either the Upper House or the Lower House. If a bill initiated in the Upper or Lower House is approved by both Houses, it is deemed as approved overall by the National Parliament. If there is a disagreement between the Lower House and the Upper House, then it must be discussed and resolved in the National Parliament. Bills are either signed by the President or become law as if the President had signed it after 14 days. It is then published in the official gazette and becomes law on that date. Laws may subsequently be enacted by rules or policies released by the ministry in charge of the topic in question. Other types of policy, such as national plans, master plans or strategies, may have de facto legal status, particularly when there is no formal legal act implemented in the specific area.

The first election of the National Parliament occurred in 2010. Seats nominated by the Commanderin-Chief of the Defence Services are excluded from the electoral process. The next general election for the National Parliament is expected to take place in late 2015, following a by-election in late 2014 to fill 30 vacant parliamentary seats.

Approach to Climate Change

Myanmar ratified the UNFCCC in 1994 and the Kyoto Protocol (as a non-Annex I country) in 2003. It submitted its first initial national communication to the UNFCCC in December 2012. No specific climate change legislation has been passed; however, a variety of national strategies and plans either solely or in part refer to climate change mitigation or adaptation measures.

Before 1989, no governmental agency existed to oversee environmental matters. In 1989, the Ministry of Foreign Affairs (MOFA) began to assume authority over domestic environmental protection issues, while the Cabinet retained responsibility for international environmental matters. A National Commission for Environmental Affairs (NCEA) was initiated in 1990 by MOFA to provide guidance and directions for environmental conservation activities. In 2011 the NCEA was reformed as the National Environmental Conservation Committee (NECC). The NECC guides national activities to tackle climate change-related problems. It develops climate change-related policies and any corresponding programmes of action, including the National Adaptation Programme of Action to Climate Change, published in 2012. The NECC works in conjunction with the Environmental Conservation Department, established in 2012 as one of six sub-departments of the Ministry of Environmental Conservation and Forestry (MOECAF). This department is responsible for all national environmental policy. MOECAF has developed a system of Environmental Performance Assessment to monitor and evaluate the effectiveness and efficiency of government policies and programmes that address the eight most critical issues of environmental concern in Myanmar (of which climate change is one, along with issues such as deforestation, water resource management and air pollution).

Myanmar is one of the world's most vulnerable countries to climate change and Yangon, its largest city, is one of the world's five most vulnerable cities to climate change. A large proportion of the population lives in low lying areas prone to flood risks. As well as the impacts of flooding (including rising sea levels and heavier rains), the effects of drought, heat waves and seasonal change on agriculture, water resources, public health, forestry and biodiversity are key climate change-related concerns. Incursion of sea water into freshwater supplies on land is already damaging agricultural production and freshwater fisheries. Climate change is also expected to exacerbate existing development issues, particularly food and water insecurity.

Numerous NGO and international projects are operating to help the country increase its ability to face climate change, such as the Myanmar Climate Change Alliance (MCCA) which is jointly implemented by UN-Habitat and UNEP and runs for four years from April 2013 as a unit within MOECAF.

Energy supply

Only 26% (approximately) of the population has access to electricity (falling to around 6% in rural areas), and an estimated 75% of total primary energy supply comes from traditional biomass, mainly fuel wood from natural forests. Myanmar produces about 71% of its power from hydropower, with 20% from natural gas and 9% from coal. The Ministry of Electric Power has identified 300 potential new large-scale hydropower projects on the country's four main river basins with an estimated capacity of approximately 46,331 MW (against installed capacity of approximately 2,520 MW). In the third ASEAN Energy Outlook in 2011, Myanmar specified a target of 15-20% share of renewable energy generating capacity by 2020 and 8% road transport fuels to come from biofuels.

Transport accounts for the largest share of Myanmar's energy demand (approximately 9% in 2010), with this share expected to increase dramatically in the future. Total GHG emissions from the energy sector in 2005 are estimated at 8,212Gg CO2e; however traditional biomass burned for energy is not included in national GHG inventory calculations (in 2005 traditional biomass was estimated to produce an additional 30,811Gg of GHG CO2e). A 2005 energy strategy to expand

Jatropha Curcas plantations to over 3.2 million hectares for bio-diesel production for export and for rural household energy needs by 2010 was abandoned by the government in 2013.

The Energy Planning Department (EPD) within the Ministry of Energy co-ordinates the activities of Myanmar's three energy enterprises, which are central to the country's economic development strategy: Myanmar Oil and Gas Enterprise operates oil and gas fields both on and offshore; Myanmar Petrochemical Enterprise operates LPG, methanol and urea fertiliser plants as well as transporting crude oil and petroleum products; and Myanmar Petroleum Products Enterprise distributes petroleum products. The oil and gas industry accounts for approximately 50% of government revenues. The EPD is also co-ordinating a compressed natural gas vehicle conversion programme that began in 1986 and aims to build 45 refuelling stations within the next 25 years.

Energy demand

In 2012-13 Myanmar produced nearly 11 billion kilowatt hours of electricity; however, this is not enough to meet demand – it is estimated that production for domestic use would need to increase by 42% to equal expected demand. The situation is expected to worsen as electricity demand is set to grow by 12% per year and total energy demand is predicted to grow by 6.6% per year from 2010 to 2035 under a business-as-usual scenario. An alternative policy scenario suggest that a 10.8% saving in terms of primary energy consumption by 2035 could be achieved. Natural gas reserves are significant (proven reserves of 7.8 trillion cubic feet); however, export contracts entered into by the previous government have limited the amount available for domestic use.

A National Energy Management Committee (NEMC) and an Energy Management Committee (both ministerial-level) were established in 2013 to oversee the energy sector. The NEMC was tasked with formulating national energy policy, changing the ratio between state-owned and private-owned sectors through privatisation, developing the electricity sector by laying down short-and long-term plans, and inviting foreign and domestic investments in energy development. Myanmar is drafting a national energy policy to guide the development of its energy and electricity sectors and a draft electricity bill (to replace the 1984 Electricity Law) is in the final stages of development. The bill was due to be deliberated in the Lower House in February 2014 after discussions about specific clauses to prevent environmental damage between ministers, the Attorney General's office and the Natural Resources and Environmental Preservation Committee of the Lower House. However, the bill is now on hold so that the Ministry of Electric Power can receive additional comments from the President's Office, based on suggestions from the World Bank.

Myanmar aims to reduce energy consumption by 5% by 2020 and 8% by 2030, from 2005 levels. It also aims to improve energy efficiency by 16% in all sectors by 2030. The EPD has specified that these goals could be achieved by 2020 by: improving energy efficiency in the industrial sector by 10% against business as usual, replacing at least 8% of the energy in the transport sector with biofuels, increasing the proportion of renewable energy to 15% and improving energy efficiency in the commercial/residential sector by 8%.

REDD+ and LULUCF

GHG emissions for the forestry sector (biomass burning following land clearing) in 2000 were estimated at 40,405Gg CO2e. Land use change and the forestry sector are a major source of GHG emissions, mainly due to deforestation, shifting cultivation and land clearance. A 30-year National Forest Master Plan was finalised in 2001, with a target of 10% of the country being protected areas of forest by 2030.

The country joined the UN-REDD programme in 2011 and as a result of technical support from the programme and the Center for People and Forests, has developed a REDD+ Readiness Roadmap. The roadmap, published in July 2013, comprises three phrases; Phase I: Preparation, Phase II: Results-based demonstration activities, and Phase III: Positive incentives for verified performance. Myanmar is in the early stages of Phase I (due to take four years overall) and is focusing on building

capacity and planning for REDD+. The NECC has established a REDD+ Taskforce under the interministerial guidance of the NECC and the immediate supervision of MOECAF.

Transportation

In 2010, the transport sector accounted for 51.5% of total final energy demand, and this is projected to grow to 57% by 2035. Presently, no overall transport sector strategy exists; however, documents such as a Ministerial Statement on Global Environment and Energy in Transport highlight concerns about air pollution from increasing urbanisation and accompanying traffic emissions. The government is encouraging the use of biofuels and electricity in the transport sector to reduce oil dependency and reduce GHG emissions and it aims to develop high-capacity and more fuel-efficient public transport systems (focusing in particular on a shift from road to rail transport) with greater freight and passenger capacity.

Adaptation

Cyclone Nargis, which hit the lower part of Myanmar in 2008 and killed over 100,000 people, has been an important catalyst in adaptation preparedness, as well as bringing climate change on to the political agenda. A National Adaptation Programme of Action (NAPA) to Climate Change was published in 2012. Potential high-risk hazards include floods/storm surges, intense rainfall, drought, sea-level rise, and cyclones. Agriculture, water resources, forestry, public health and biodiversity are all highly vulnerable as a result. The 2011 National Biodiversity Strategy and Action Plan identifies a link between degradation of mangrove habitats, increases in rat populations and subsequent infestations of paddy fields which aggravated food insecurity in cyclone-affected villages. The precautionary principle has been highlighted in the National Biodiversity Strategy and Action Plan as a way to increase the potential for adaptation, with specific initiatives including the conservation of local seeds that are potentially adaptive to climate change. In addition, mangrove plantations have been identified as a priority in the National Forest Master Plan.

Due to resource constraints, there has been limited implementation of adaptation projects. However, Myanmar is participating in a number of regional projects focused on knowledge-sharing, capacity-building and policy development, particularly in the agriculture and natural resources management sectors. These include the 'Knowledge Center on Climate Change: Adaptation and Best Practices in Agriculture and Natural Resources Sectors' project funded by the Southeast Asian Regional Center for Graduate Study and Research in Agriculture (SEARCA) and the 'Adaptation Knowledge Platform' funded by the Swedish International Development Corporation (SIDA).

Name of Law	Law No. 21/2013, The Disaster Management Law
Date	31 July 2013
Summary	 The Law's five objectives are to: Implement natural disaster management programmes systematically and expeditiously in order to reduce disaster risks; Form the National Committee and Local Bodies in order to implement natural disaster management programmes systematically and expeditiously; Co-ordinate with national and international government departments and organisations, social organisations, other non-government organisations or international organisations and regional organisations in carrying out natural disaster management activities; Conserve and restore the environment affected by natural disasters; Provide health, education, social and livelihood programmes in order to bring about better living conditions for victims.

Myanmar: Legislative portfolio

The law enables the formation of a National Natural Disaster Management Committee (and sub-committees) and specifies 31 specific roles and duties of the committee, including the establishment of a Natural Disaster Management Centre. The law primarily focuses on the committee's functions in response to a natural disaster but also outlines the need for the Natural Disaster Management Centre to monitor and screen information to enable early warning, and for the committee to educate and motivate the public for better readiness in the face of a natural disaster. The law identifies several required preparatory measures including "enhancement of the capacity of the public for emergence of a disaster resilient community compatible with reduction of damage and losses due to unforeseen disaster risk caused by climate change".

The law also states that region and state-level Natural Disaster Management Bodies are to be formed to respond to and manage natural disasters at the local level. The law allows for the President to declare an area a Natural Disaster Affected Area, specifies what emergency responses are to be enacted should a natural disaster be declared, and what rehabilitation and reconstruction activities are to be carried out. The law also specifies that a Natural Disaster Management Fund be established, as well as region or state-level funds.

Name of Law	Law No. 9/2012, The Environmental Conservation Law
Date	30 March 2012
Summary	The Law has eight objectives, including conserving natural and cultural heritage for the benefit of current and future generations, reclaiming ecosystems starting to degenerate and disappear, and promoting international, regional and bilateral co-operation focused on environmental conservation.
	The law enables the formation of an Environment Conservation Committee and the establishment of an Environmental Management Fund to enable environmental conservation works. The law also identifies several duties and powers of the Ministry of Environmental Conservation and Forestry, one of which is to create guidance related to mitigation and adaptation of climate change. Others include stipulating environmental quality standards (e.g. noise, water quality, solid waste) and establishing monitoring programmes for the conservation and enhancement of the environment.

Myanmar: Executive portfolio

Name of Policy	Myanmar Action Plan for Disaster Risk Reduction
Date	2012
Summary	The Action Plan, developed by the Relief and Resettlement Department within the Ministry of Social Welfare, Relief and Resettlement, describes the institutional framework for disaster preparedness in Myanmar and details the regional and global commitments made by Myanmar such as the 2005 Hyogo Framework for Action and the ratification of the ASEAN Agreement on Disaster Management and Emergency Response. The overall goal of the action plan is to "make Myanmar safer and more resilient against natural hazards, thus protecting lives, livelihood and developmental gains" and it lists numerous projects to achieve this goal such as multi-hazard early warning systems and public awareness, education and training.
	The action plan notes that climate change is likely to increase the incidence of floods and droughts (in both the coastal and dry zones of the country), as well as the intensity of windstorms in Myanmar, and that disaster risk planning must therefore take these factors into account. The action plan also specifically identifies linkages with climate change adaptation as important in the development of a Forest Fire and Haze Monitoring System.

Name of Policy	National Biodiversity Strategy and Action Plan
Date	3 May 2012
Summary	 The Plan, developed by the National Environmental Conservation Committee, contains 10 strategic directions on the following themes: Strengthening conservation of priority sites; Mainstreaming biodiversity into other policy sectors; Implementing focused conservation actions for priority species; Supporting local NGOs and academic institutions; Creating capacity to coordinate conservation investment in Myanmar; Scaling up the implementation of in situ and ex situ conservation of agriculture, livestock and fisheries biodiversity and genetic resource management; Expediting the process of implementing the national biosafety framework; Promoting the initiative to manage invasive alien species; Facilitating the legislative process of environmental protection and environmental impact assessment; Enhancing communication, education and public awareness on biodiversity conservation.
	The plan identifies a direct relationship between global climate change and biodiversity loss, and notes that climate change poses a major threat to the continued existence of traditional and wild agro-ecosystems, particularly at high altitudes. In addition to agriculture and biodiversity, it also identifies forestry, water resources, natural disaster and human health as areas that will be potentially affected by climate change. The plan states that precautionary approaches and measures are required for biodiversity conservation to increase the country's potential for adaptation in response to climate change.

Name of Policy	National Environment and Health Action Plan
Date	2010
Summary	 The National Environment and Health Action Plan (NEHAP), developed by the then-National Commission for Environmental Affairs and the Department of Health within the Ministry of Health, aims to increase capacity in environmental health management. The NEHAP lists six priority areas of environmental concern: Air quality; Water supply, sanitation and hygiene; Solid and hazardous waste; Toxic chemicals and hazardous substances; Climate change, ozone depletion and ecosystem changes; and Contingency planning, preparedness and response in environmental health emergencies.

Name of Policy	National Sustainable Development Strategy
Date	August 2009
Summary	The Strategy, published by the Ministry of Forestry, has as an overall goal of "wellbeing and happiness for Myanmar people" and lists three main areas necessary to achieve that goal: Sustainable management of natural resources Integrated economic development Sustainable social development
	Climate change is specifically discussed under 'Environmental quality management and enhancement', a sub-category under Sustainable management of natural resources. The NSDS outlines numerous activities to be completed within five, 10 and 15 years, including the need to establish a sustainable national inventory system on persistent organic pollutants (within five years), that the government needs to improve its participation in the global efforts to mitigate climate change (within 10 years), and that industries need to reduce their energy consumption, increase their overall process efficiency, and specifically reduce their greenhouse gas emissions (within 15 years).

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