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Myanmar News

Liberalization of Trade Restrictions in Myanmar

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I. Introduction

Trading activities within the Republic of the Union of Myanmar are governed by numerous laws and regulations, as well as ministerial policies and practices. Since late 2001, most trading activities were prohibited for foreign investors in the Republic of the Union of Myanmar, both through limited approval of imports under the Export and Import Law 2012, as well as the enforcement of the unofficial ban on trade by the Ministry of Commerce.

In 2015, the Ministry of Commerce eventually started to change its policy, allowing selective relaxation of this general prohibition. In January 2015, the Ministry of Commerce announced a limited lift of its trade prohibition by permitting joint ventures operating car showrooms as well as the import and sale of new automobiles. In November 2015, the Ministry of Commerce allowed the import and trade of specific products, namely fertilizers, seeds, pesticides and hospital equipment, followed by a similar notification for constructions materials in 2016. Foreign investors interested in engaging in such trading activities were, however, still required to operate as joint ventures with a Myanmar partner. In May 2015, the Management Committee of the Thilawa Special Economic Zone followed by allowing certain wholesale trading activities to 100% foreign-owned companies incorporated in the newly established Thilawa Special Economic Zone.

The recent enactment of the Myanmar Investment Law 2016 is expected to further lift the ban on trade. On 10 April 2017, the Myanmar Investment Commission issued a list of restricted investment activities (Notification No. 15/2017), according to which retail and wholesale trading services are now generally allowed. Such trading activities do however require the approval of the Ministry of Commerce. It is therefore expected that the company in question shall meet certain criteria, such as a minimum investment, minimum warehouse floor space and possibly the provision of aftersales services (potentially monitored through the issuance of a separate “trading license”).

Please find a summary of the most important changes and unofficial translations of the latest Notifications No. 14-17 and Notification No. 36/2017 below.

II. Trade Restrictions

1. Foreign Investment Law 2012

Before the enactment of the Myanmar Investment Law 2016, foreign investments were generally governed by the Foreign Investment Law 2012 and its subordinate regulations and notifications.

Already with the enactment of the Foreign Investment Law 2012, it was expected that foreign investment would be governed by the new law, and ministerial restrictions be limited within the boundaries stipulated in the Foreign Investment Law 2012. Notification No. 1/2013 dated 31 January 2013 provided that retail and wholesale trade would require recommendation from the Ministry of Commerce. However, no foreign investments in the trade sector were approved by the Ministry of Commerce.

Notification No. 49/2014 to the Foreign Investment Law 2012 dated 14 August 2014, which replaced Notification No. 1/2013, no longer provided for any restrictions on trading activities. Furthermore, Notification No. 49/2014 explicitly stipulated that all business activities not listed in the notification should be allowed for 100% foreign-owned companies. In practice, however, this relaxation of the foreign investment restrictions was never adhered to by the Ministry of Commerce, which – with very few recent exceptions – did not allow the incorporation of foreign-owned trading companies. (Similarly, other Ministries continued to impose additional ownership restrictions on activities not listed in Notification No. 49/2014.)

Notification No. 26/2016 of the Myanmar Investment Commission dated 21 March 2016, which replaced Notification No. 49/2014, also did not provide for any explicit restrictions on trading activities, such as distribution and sale of goods.

2. Sale of Goods Act 1937/Contract Act 1872

Neither the Sale of Goods Act 1937 nor the Contract Act 1872 provided for any restrictions on foreign-owned companies to sell goods within the Republic of the Union of Myanmar.

3. Export and Import Law 2012

The Export and Import Law 2012 superseded the Control of Imports and Exports (Temporary) Act 1947. The rules and regu-

lations, notifications and instructions of the Control of Imports and Exports (Temporary) Act 1947 are, however, still exercised as long as they are in compliance with the Export and Import Law 2012.

Pursuant to the Export and Import Law 2012, the import and export of goods require a specific license from the Ministry of Commerce. Until 2001, the Ministry of Commerce did issue Certificates of Exporter/Importer Registration and import permits for the purpose of trading activities within Myanmar to both foreign- and local-owned companies.

In late 2001, the Ministry of Commerce changed its policies and ceased the issuance and renewal of Certificates of Exporter/Importer Registration to foreign-owned companies for the purpose of trade. Foreign-owned companies had to execute an undertaking that they would not resell imported goods in order to be issued a Certificate of Exporter/Importer Registration.

4. Order No. 2/89 – Registration of Business Representatives

In 1989, the Ministry of Commerce issued Order No. 2/89 under the Control of Imports and Exports (Temporary) Act 1947.

Pursuant to the Order, only Myanmar citizens or Myanmar-owned companies may act as agents and facilitate trade with foreign suppliers (i.e. business representatives), and had to register with the Ministry of Commerce. Foreign-owned entities would thus be only allowed to act as a service provider for Myanmar-owned companies involved in distribution and trade.

It should however be noted that the Ministry of Commerce does in practice allow the registration of foreign-owned companies as business representatives of overseas suppliers.

5. Ministerial Restriction on Trade

In practice, the restriction on import and export of goods for the purpose of trade was further expanded by the Ministry of Commerce and consequently has been treated as a general prohibition of trading activities by foreign-owned companies (with certain exceptions, such as the sale of goods locally produced by the foreign-owned company).

Since the prohibition had never been officially decreed, it was enforced by the Ministry of Commerce and the Ministry of Plan-

ning and Finance by restricting the issuance of Trade Permits to foreign investors intending to carry out trading activities.

As a consequence, Trade Permits of foreign-owned companies that were allowed to carry out trading activities were not renewed after 2002, unless the foreign-owned company amended its registered business activities and executed an undertaking not to carry out any trading activities within Myanmar; new foreign-owned companies were only incorporated upon execution of an undertaking not to carry out any such activities.

6. Relaxation since 2015

All of the current relaxations, as well as the relevant criteria to be met, e.g. for car showrooms importing and selling new vehicles, are issued by the Ministry of Commerce under sec. 13 (b) Export and Import Law 2012:

6.1 Notification No. 20/2015 of the Ministry of Commerce

In March 2015, the Ministry of Commerce issued Notification No. 20/2015 concerning the import and sale of motor-vehicles in the Republic of the Union of Myanmar. Pursuant to this notification, foreign- and Myanmar-owned joint venture companies could, subject to certain conditions, be permitted to import and sell new motor-vehicles.

This notification has been revised several times, latest by Notification No. 16/2017.

6.2 Notification No. 96/2015 of the Ministry of Commerce

In November 2015, the Ministry of Commerce issued Notification No. 96/2015 concerning the import and sale of agricultural products and hospital equipment of primary importance to the agricultural sector and public health of the Republic of the Union of Myanmar. According to this notification, foreign- and Myanmar-owned joint venture companies may be permitted to engage in the trading of those particular goods.

6.3 Notification No. 56/2016 of the Ministry of Commerce

In July 2016, a further notification was issued concerning the import and sale of construction materials. This notification also requires foreign investors to enter into a joint venture with a Myanmar partner.

6.4 Notification No. 14-17/2017 of the Ministry of Commerce

In February 2017, before the implementation of the new Myanmar Investment Law 2016, the Ministry of Commerce issued four new notifications with respect to the import and sale of machines, new and used motor-vehicles in sales centers and showrooms, as well as construction machinery and project equipment. However, these notifications also require foreign investors to enter into a joint venture with a Myanmar partner.

7. Instruction No. 2/2015 of the Management Committee of the Thilawa Special Economic Zone

In May 2015, the Management Committee of the Thilawa Special Economic Zone issued the Instruction on the Scope of "Trading" Activities Permitted for Investors in the Thilawa Special Economic Zone (Instruction No. 2/2015). Pursuant to this instruction, foreign investors in the Thilawa Special Economic Zone are permitted to carry out import and wholesale trading activities throughout the country, subject to certain requirements.

Foreign-owned companies intending to trade their own products produced overseas have to meet the following conditions:

Minimum investment of USD 2 Million (excluding leasing costs for the land);

- Establishment of a warehouse at the company's lot in the Special Economic Zone; and
- The provision of value adding services or activities.

Foreign-owned companies intending to act as distributors of third-party manufacturers have to meet the following conditions:

- The parent company or a group company must have established places of business in at least five countries, a minimum of ten years' experience in international trading, minimum three years' average annual consolidated sales of at least USD 500 Million and a paid up capital of at least USD 25 Million;
- The Myanmar-owned company must be appointed as official agent or distributor by the overseas manufacturer;
- Minimum investment of USD 3 Million (excluding leasing costs for the land);
- Establishment of a warehouse at the company's lot in the Special Economic Zone; and
- The provision of value adding services or activities.

Wholesale includes the direct sale to end-users in the case of industrial material in bulk as well as the direct sale of industrial machinery and equipment with a sales price over USD 500,000.

The term "value adding" is defined widely and includes:

- Repacking, labeling and any other form of processing of imported products; and/or
- Quality control, laboratory testing, maintenance and other technical services.

In practice, the trade prohibition has thus effectively been abolished for foreign investors operating in the Thilawa Special Economic Zone.

III. Liberalization of Trade

Recent legal reforms addressed the unofficial ban on trade.

1. Notification No. 15/2017 to the Myanmar Investment Law 2016

On 18 October 2016, the Pyidaungsu Hluttaw enacted the Myanmar Investment Law 2016, repealing and replacing the Foreign Investment Law 2012 and the Myanmar Citizens Investment Law 2013. Pursuant to sec. 100 (b) Myanmar Investment Law 2016, the Myanmar Investment Commission may issue orders, notifications, directives and procedures implementing this law, such as sec. 42 Myanmar Investment Law 2016, according to which certain types of investment businesses shall be stipulated as restricted investment (i.e. investment businesses allowed to carry out only by the Union; investment businesses that are not allowed to carry out by foreign investors; investment businesses allowed only in the form of joint venture with any citizen-owned entity or any Myanmar citizen; and investment businesses to be carried out with the approval of the relevant ministries).

In February 2017, the Myanmar Investment Commission published a draft of the list of restricted investments in accordance with rule 17 Myanmar Investment Rules 2017. The draft list contained sections similar to Notification No. 26/2016, which was previously published under the Foreign Investment Law 2012. One of the most notable changes was a reference to retail trading in the form of a joint venture with a Myanmar resident citizen or citizen-owned entity. Wholesale trading was not mentioned at all.

On 10 April 2017, the final list of restricted investment activities (Notification No. 15/2017 to the Myanmar Investment Law 2016) was issued by the Myanmar Investment Commission, which provides for an even further liberalization. According to this list, both wholesale and retail trading are permitted to foreign investors, subject to the approval of the Ministry of Commerce. The requirement of a joint venture with a Myanmar partner is no longer stipulated.

Upon enquiry with the Ministry of Commerce, it was announced, that it is intended to allow trading for both joint ventures, as well as 100% foreign-owned companies. The criteria for such trading activities are currently being drafted, to be issued within the next months.

Excluded are mini-markets and convenience stores (No B 15 of Notification No. 15/2017 to the Myanmar Investment Law

2016), defined as retail trading business having a floor area of less than (100x100) 10,000 square feet or 929 square meters. Pursuant to the verbal information provided, criteria for the approval of all other trading activities may include the following, with higher thresholds to apply for 100% foreign-owned investments:

- Capital investment;
- Warehouse space;
- Retail floor space;
- International track record;
- After-sales services;
- Etc.

2. Notification No. 36/2017 of the Ministry of Commerce

On 12 June 2017, the Ministry of Commerce issued Notification No. 36/2017, effectively commencing with the implementation of the announced liberalization of trade.

Notification No. 36/2017 provides, that chemical fertilizers, seeds, pesticides, hospital equipment and construction materials as prescribed by the Harmonized System Code (HS Code) in accordance with international trade procedures and regulations of the World Trade Organization may in future be imported and sold by any foreign-owned company, including 100% foreign-owned companies, for wholesale or retail.

Annexes

Unofficial Translation

Notification No. 36/2017

(12 June 2017)

1. In exercising the powers conferred by section (13) sub-section (b) of the Export and Import Law, the Ministry of Commerce, Government of the Republic of the Union of Myanmar hereby issues this Notification.
2. With the objective of enabling the utilization of materials/equipment of better quality in the agriculture, public health and infrastructure sectors of the Union, the Ministry of Commerce hereby grants foreign-owned companies permission to trade chemical fertilizers, seeds, pesticides, hospital equipment and construction materials as prescribed by the Harmonised System Code (HS Code) in accordance with international trade procedures and regulations of the World Trade Organization.
3. Foreign-owned companies trading the afore-mentioned goods shall comply with the following requirements:
 - a. The foreign-owned company shall have received a Permit to Trade issued by the Directorate of Investment and Company Administration;
 - b. The foreign-owned company shall be allowed to conduct wholesale and retail activities of the afore-mentioned goods;
 - c. The foreign-owned company shall apply for an Exporter and Importer Registration Certificate and present a Bank Statement as well as Form 6 and Form 26 issued by the Directorate of Investment and Company Administration;
 - d. Imported goods shall comply with specifications issued by the relevant departments;
 - e. Foreign-owned companies conducting retail/wholesale activities of the afore-mentioned goods shall comply with prevailing laws, regulations, by-laws and procedures; and
 - f. Foreign-owned companies shall establish a bank account and pay up the working capital to be used for the trading activities (specifying the foreign currency as investment capital).
4. Foreign-owned companies shall be allowed to trade the afore-mentioned goods under the same rules and procedures as currently apply to local companies.
5. The list of goods that may be traded by foreign-owned companies will be amended as necessary, depending on circumstances such as domestic needs, market conditions and situation of domestic businesses.

(by)

Dr Than Myint
Union Minister
Ministry of Commerce

Letter No.: Saka-11/2-18/2017(8)
Date: 12 June 2017

Unofficial Translation

Notification No. 14/2017
(17 February 2017)

1. In exercising the powers granted by section 13 (b) Export and Import Law 2012, the Government of the Republic of the Union of Myanmar, Ministry of Commerce, hereby issues this Notification.
2. In order to support the establishment of industrial manufacturing enterprises including small and medium sized enterprises, the Ministry of Commerce permitted the import of used machines since 2015 on a year by year-basis, and hereby continues to do so in the year 2017.
3. Used machines may only be imported by sea route, and in order to avoid the piling up of inappropriate machinery and causing damage to the environment of the country, and in order to raise the productivity of businesses, machines which are directly utilizable after their import shall be imported in accordance with the following prescribed procedures:
 - a. For the application of an Import License, full specifications of the machine must be stated as follows:
 - (1) Brand name;
 - (2) Capacity;
 - (3) Model year;
 - (4) Country of origin; and
 - (5) Type of energy/fuel used (electric, steam, gasoline, diesel, natural gas)
 - b. The utilized age of the machine must not exceed ten years.
 - c. The technical utilizable capacity of the machine shall not be less than 80%.
 - d. A recommendation of the Industrial Supervision and Inspection Department shall be obtained.
 - e. A Pre-Shipment Inspection Certificate of Inspection on Running Condition carried out in the foreign country within six months of arrival shall be attached.
 - f. The machine must have been manufactured with technology from an industrialized nation.
 - g. A recommendation from the Department of Environmental Conservation shall be obtained in respect of compliance with the provisions of the Montreal Protocol on Substances that deplete the Ozone Layer, the Stockholm Convention, and Basel Conventions.
4. If necessary, the imported used machines shall be subject to inspection by the Industrial Supervision and Inspection Department to assess whether or not they are in accordance of the particulars stated in the Import License.

5. In case of failure to comply with prescribed terms and conditions of above Paragraph-4, action will be taken in accordance with the law, regulations and procedures of relevant departments.

6. Policy, procedures and conditions on import of used machines will be reviewed annually.

(by)

Dr. Than Myint
Union Minister
Ministry of Commerce

Letter No.: SaKa-14/2(1)-49/2017(1)
Date: 17 February 2017

Unofficial Translation

Notification No. 15/2017
(17 February 2017)

1. In exercising the powers granted by section 13 (b) Export and Import Law 2012, the Government of the Republic of the Union of Myanmar, Ministry of Commerce, hereby issues this Notification.
2. Imports in the calendar Year 2017 of motor-vehicle for sale in sales centers shall comply with the following terms and conditions:
 - a. Each Company establishing a motor-vehicle sales Center shall carry out its activities under one Business Agent Certificate only.
 - b. Any Company establishing a motor-vehicle sales Center shall deposit a security of Kyats lakhs 1,500 in a separate bank account of any bank recognized by the Central Bank of Myanmar.
 - c. The payment of commercial tax and withholding tax shall comply with the prescribed procedure of the Inland Revenue Department.
 - d. Payment transfers to other countries for cost of vehicles in respect of machineries sold shall comply with relevant financial regulations of the Ministry of Planning and Finance.
 - e. Motor-vehicles to be sold at motor-vehicle sales centers may be imported under Consignment Basis, Letter of Credit, or Telegraphic Transfer systems.
 - f. The motor-vehicles must arrive at Yangon Port within the valid term of the Import License.
 - g. Motor-vehicles for sale at motor-vehicle sales centers must be imported only according to the quantities prescribed from time to time by entities authorized by the Ministry of Commerce, and only the types and model years stipulated annually under the Motor-Vehicle Law 2015.
 - h. The motor-vehicles imported shall be kept only at prescribed motor-vehicle sales Centers and warehouses. Their display and sale at places other than the sales Centers, and operating on roads before selling them to buyers are strictly prohibited.
 - i. Business licenses must be procured in accordance with the procedures of the relevant Region/State governing body and relevant municipal bodies.
 - j. The sales center location and warehouse specifications shall comply with the standards prescribed from time to time by the entities authorized by the Ministry of Commerce.
 - k. The motor-vehicle sales center and warehouse shall be situated in the same Region/State.
 - l. The Company awarded a permit for the establishment of a motor-vehicle sales center shall not its transfer machinery Import Licenses to another party.
 - m. In case of motor-vehicles left unsold after one year at the sales center and motor-vehicles remaining on cessation of business, the Company establishing a motor-vehicle sales center shall settle accounts and either re-export them under the Company's own arrangement.

- n. The security deposit of Kyats lakhs 1,500 may be withdrawn upon completion of the sale of motor-vehicles imported under consignment system, payment transfer, settlement of account balances, and account reconciliation in accordance with by-laws after cessation of business.
 - o. Documents, ledger books, etc. required to be maintained in respect of motor-vehicles imported for sale at the motor vehicle sales center shall be subject to inspection by the Ministry of Commerce or any entity authorized by it.
 - p. Any application for an extension of the Showroom Certificate and Business Agent Certificate shall be submitted one month before expiry.
3. Imports of re-conditioned motor-vehicles shall be limited exclusively to motor-vehicles which comply with the following criteria:
- a. Engine was completely tested and adjusted, including replacement of necessary parts;
 - b. Under chassis including brakes was overhauled and repaired to complete safety condition, including replacement of necessary parts;
 - c. Body was completely repaired and painted;
 - d. Inside room was cleaned;
 - e. Installation of new battery and tires; and
 - f. Compliance with standards of the relevant ministries (example such as ambulance, fire engine & taxi).
4. In case non-compliance with the terms and conditions of above Paragraph-2 and -3, action will be taken in accordance with the legal procedures of the relevant departments.

(by)

Dr. Than Myint
Union Minister
Ministry of Commerce

Letter No.: SaKa-14/2(1)-49/2017(3)
Date: 17 February 2017

Unofficial Translation

Notification No. 16/2017
(17 February 2017)

1. In exercising the powers granted by section 13 (b) Export and Import Law 2012, the Government of the Republic of the Union of Myanmar, Ministry of Commerce, hereby issues this Notification.
2. Imports in calendar Year 2017 of motor-vehicles for sale in motor-vehicle showrooms shall comply with the following terms and conditions:
 - a. The company that wishes to establish a motor-vehicle showroom must be a company holding a certificate of incorporation as a service-provider company issued by the Directorate of Investment and Company Administration, whether the company is a [fully] Myanmar-owned company or is a joint venture between a Myanmar citizen/Myanmar-owned company and a foreigner/foreign-owned company. The company shall have officially appointed a Distributor or Dealer for the distribution and sale of brand new motor-vehicles, either from the foreign-based [manufacturing] company or its Regional Office.
 - b. Each Company establishing a motor-vehicle showroom shall carry out its activities under one Business Agent Certificate only.
 - c. The Company establishing a motor-vehicle showroom shall deposit a security of Kyats lakhs 1,500 in a separate bank account with any bank recognized by the Central Bank of Myanmar.
 - d. The payment of commercial tax and withholding tax shall comply with the prescribed procedure of the Inland Revenue Department.
 - e. Payment transfers to other countries for cost of vehicles in respect of machineries sold shall comply with relevant financial regulations of the Ministry of Planning and Finance.
 - f. Motor-vehicles imported for sale at motor-vehicle showrooms shall be brand new.
 - g. The model year of motor-vehicles to be imported shall be the current year or one year earlier (i.e. 2017 and 2016 respectively), brand new, and with a steering wheel installed on the left side.
 - h. Motor-vehicles to be sold at motor-vehicle showrooms may be imported under Consignment Basis, Letter of Credit, or Telegraphic Transfer systems.
 - i. Motor-vehicles must arrive at Yangon Port within the valid term of the Import License.
 - j. Motor-vehicles for sale at motor-vehicle showrooms must be imported only according to the quantities prescribed from time to time by entities authorized by the Ministry of Commerce, and only the types and model years stipulated annually under the Motor-Vehicle Law 2015.
 - k. The motor-vehicles imported shall be kept only at prescribed motor-vehicle showrooms and warehouses. Their display and sale at places other than the showrooms, and operating on roads before selling them to buyers are strictly prohibited.
 - l. Business license must be procured in accordance with the procedure of the relevant Region/State governing body and relevant municipal bodies.

- m. [The Company concerned] shall have the capacity to establish and operate a quality motor-vehicle showroom.
 - n. [The Company concerned] shall possess the capacity to provide necessary warrantees, spare parts and be able to establish a workshop for the provision of After Sales Services.
 - o. The showroom location and warehouse specifications shall comply with the standards prescribed from time to time by the entities authorized by the Ministry of Commerce.
 - p. The motor-vehicle showroom and warehouse shall be situated in the same Region/State.
 - q. The Company awarded a permit for the establishment of a motor-vehicle showroom shall not transfer its Import Licenses for machinery to another party.
 - r. In case of motor-vehicles left unsold after one year at the showroom and motor-vehicles remaining on cessation of business, the Company establishing a motor-vehicle showroom shall settle accounts and either re-export them under the Company's own arrangement.
 - s. The security deposit of Kyats lakhs 1,500 may be withdrawn upon completion of sale of motor-vehicles imported under consignment system, payment transfer, settlement of account balances, account reconciliation in accordance with by-laws after cessation of business.
 - t. Documents, ledger books, etc. required to be maintained in respect of motor-vehicles imported for sale at the motor-vehicle showroom shall be subject to inspection by the Ministry of Commerce or any entity authorized by it.
 - u. Any application for an extension of the Showroom Certificate and Business Agent Certificate shall be submitted one month before expiry.
3. In case of non-compliance with the terms and conditions of above Paragraph-2, action will be taken in accordance with the legal procedures of the relevant departments.

(by)

Dr. Than Myint
Union Minister
Ministry of Commerce

Letter No.: SaKa-14/2(1)-49/2017(4)
Date: 17 February 2017

Unofficial Translation

Notification No. 17/2017
(17 February 2017)

1. In exercising the powers granted by section 13 (b) Export and Import Law 2012, the Government of the Republic of the Union of Myanmar, Ministry of Commerce, hereby issue this Notification.
2. The following terms and conditions shall be complied with for the import of construction machinery and project equipment to be sold at showrooms during the 2017 calendar year.
 - a. The company that wishes to establish a machineries showroom must be a company holding a certificate of incorporation as a service-provider company issued by the Directorate of Investment and Company Administration, whether the company is a [fully] Myanmar-owned company or is a joint venture between a Myanmar citizen/Myanmar-owned company and a foreigner/foreign-owned company. The company shall also have completed its registration as an exporter/importer and as a Business Agent. The company shall have an officially appointed Distributor for the distribution and sale of brand new machinery, either from the foreign-based [manufacturing] company or its Regional Office.
 - b. Each Company establishing a machineries showroom shall carry out its activities under one Business Agent Certificate only.
 - c. The Company establishing a machineries showroom shall deposit a security of Kyats lakhs 7,500 in a separate bank account with any bank recognized by the Central Bank of Myanmar.
 - d. The provision of machineries including the establishment of a showroom shall be liable for commercial tax as prescribed in accordance with the rules and regulations of the Inland Revenue Department. Pursuant to section 14 Income Tax Law, the buyer shall be liable for income tax under the head of income which has escaped assessment if he is unable to show the source of income on the amount utilized.
 - e. Payment transfers to other countries for cost of vehicles in respect of machineries sold shall comply with relevant financial regulations of the Ministry of Planning and Finance.
 - f. Imported machineries shall be brand new within three years of the arrival date.
 - g. Any Company establishing a machineries showroom will in accordance with the procedures of the Customs Department be permitted to submit Import Licenses for machineries with prices according to pro-forma invoices as presented by the Company, and for assessed value at port.
 - h. Machineries to be displayed and sold at machineries showroom may be imported under Consignment Basis, Letter of Credit, or Telegraphic Transfer systems.
 - i. Machineries must arrive in the Union of Myanmar within the valid term of the Import License.
 - j. Machineries for sale at machineries showroom must be imported only according to the quantities prescribed from time to time by the Motor Vehicle Imports Supervisory Committee.
 - k. Machineries imported shall be kept at the prescribed machineries showrooms and warehouses only. The display and sale any other places than the showrooms, and operating on roads before selling them to buyer are strictly prohibited.
 - l. Business license must be procured in accordance with the procedure of the relevant Region/State governing body and relevant municipal bodies.

- m. Depending on the results of scrutiny of showroom operations, more than one brand of machineries may be allowed.
- n. The quantity of machineries that may be allowed for import and sale at showrooms depends on the scrutiny of the type of machinery.
- o. Once the showroom operator has received an Import License from the Ministry of Commerce for the project machineries which have arrived at the showroom, the buyer shall apply for a purchase permit and registration with the Department of Road Transport.
- p. In accordance with the load capacity of the roads and bridges in the Union of Myanmar, the maximum weight of imported project machineries will be limited to not more than 60 tons.
- q. Although the maximum weight of imported project machineries will be limited to not more than 60-tons as prescribed by the Ministry of Construction, the Company shall submit a request for permission on a case-by-case basis with recommendations from the relevant departments in case of excess due to operational needs.
- r. In addition to sea routes, project machineries may be imported from border areas.
- s. An Annual Report must be submitted to the Department of Road Transportation showing the vendor company, brand name of machinery, quantity sold, site of deployment, type of enterprise the equipment was sold to (mining, construction, etc.).
- t. When transporting chain-track vehicles from Yangon port to warehouses, from warehouses to showrooms, and from showrooms to the respective project sites after purchase, transporters shall be used exclusively in order to avoid damages to roads and bridges.
- u. The combined weight of any chain-track machinery shall not exceed 60 tons. In case of excess, the machinery shall be disassembled and transported component by component in separate vehicles (for example, backhoe arm, shovel, etc.).
- v. [The Company concerned] shall possess the capacity to provide the necessary warrantees, spare parts and establish a workshop for the provision of After Sales Services.
- w. The machineries showroom compound must have a minimum of three acres (145,200 sq. ft.). The display yard of the showroom (where the machinery will be laid out in display) shall have a minimum of 30,000 sq. ft. The showroom display yard must be made of concrete.
- x. The service workshop with full facilities for servicing of machinery shall have minimum of 5,000 sq. ft.
- y. The showroom shall be situated outside of the downtown zone.
- z. If the company owns the land, it must hold the original grant deed bearing the title of a director in the Company.
- aa. If it is leased land, the original land lease agreement must have a remaining valid term of a minimum of three years, registered at the Office of Registration of Deeds, stamp duty paid and stamps duly affixed, to be presented as evidence.
- ab. The showroom location and warehouse specifications shall comply with the standards as prescribed from time to time by the Motor Vehicle Imports Supervisory Committee.
- ac. The machineries showroom and warehouse shall be situated in the same Region/State.

- ad. The Company awarded a permit for the establishment of a machineries showroom shall not transfer its machinery Import Licenses to another party.
 - ae. In case of machineries left unsold after three years at the showroom and machineries remaining on cessation of business, the Company establishing a machineries showroom shall settle accounts and either re-export them under the Company's own arrangement, or carry out a final registration with the Department of Road Transport.
 - af. The security deposit of Kyats lakhs 7,500 may be withdrawn upon completion of sale of machineries imported under consignment system, payment transfer, settlement of account balances, account reconciliation in accordance with by-laws after cessation of business.
 - ag. Documents, ledger books, etc. required to be maintained in respect machineries imported for sale at the machineries showroom shall be subject to inspection by the Motor Vehicle Imports Supervisory Committee or any entity authorized by it.
 - ah. Any application for extension of the Showroom Certificate and Business Agent Certificate shall be submitted one month before expiry.
 - ai. In case of non-compliance with the above terms and conditions, the Showroom Certificate may be withdrawn and the Exporter/Importer Registration may be terminated.
3. In case non-compliance with the terms and conditions of above Paragraph-2, action will be taken in accordance with the legal procedures of the relevant departments.

(by)

Dr. Than Myint
Union Minister
Ministry of Commerce

Letter No.: SaKa-14/2(1)-49/2017(5)
Date: 17 February 2017



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