

Luther.

Myanmar News: Trading in the construction sector

July 2016

Legal and Tax Advice | www.luther-lawfirm.com
Corporate Services | www.luther-services.com

After several sector-specific relaxations of the Ministry of Commerce's trade prohibition last year, the Ministry has recently issued Notification No. 56/2016 concerning the trade of construction materials.

Notification 56/2016 on the import of construction materials

To address the domestic construction companies' demand for high quality construction materials, the new notification allows for import and sale of construction materials by foreign-Myanmar joint venture companies. Upon enquiry with the Ministry of Commerce concerning the foreign-Myanmar ownership ratio stipulated in paragraph 2.b. and the import restriction stipulated in paragraph 2.c. of the notification, we were informed that a revised notification may be issued to clarify ambiguities in the wording.

Import and sale of heavy machinery

The Ministry of Commerce is further drafting a similar notification that shall enable foreign-Myanmar joint-venture companies the establishment of showrooms for the import and sale of heavy machinery. While the notification is not yet finalized, the current draft provides that showrooms for heavy machinery have to be established outside of Yangon's downtown area and must include full servicing capabilities. Depending on their capacity, showrooms will be able to import and sell more than one brand of heavy machinery. Any heavy machinery imported shall be of international quality manufactured in a developed country and manufacturers must have at least 20 years of experience and must be able to guarantee provision of spare parts for a minimum of ten years. The draft further sets out the specifications for various types of heavy machinery approved for import. We will update you once the final notification has been issued.

Please find here below an unofficial translation of Notification No. 56/2016.

**Government of the Republic
of the Union of Myanmar**
Ministry of Commerce
Minister's Office
Notification No. 56/2016
July 7, 2016

Exercising the powers conferred by Section (13b) of the Export Import Law, the Ministry of Commerce, Government of the Republic of the Union of Myanmar, hereby issues this Notification.

Permission for foreign joint-venture companies to trade in construction materials

1. In accordance with international trade practices and regulations of the World Trade Organization, and due to increase in potential foreign investors and businessmen in accordance with current changing economic conditions, and with the objective of enabling domestic construction enterprises to utilize better quality construction materials, the Ministry of Commerce has granted permission to foreign joint-venture companies to trade in construction materials.
2. In carrying on trading of construction materials, a foreign joint-venture company shall abide by the following:
 - a. the joint-venture company must be a company with permission to engage in trading.
 - b. permission will be granted according to the equity ratio of the joint-venture companies at the time of company registration.
 - c. foreign companies in the joint-venture may engage in trade only to the amount of foreign currency they have brought in officially.
 - d. the joint-venture company may engage in wholesale or retail sale of construction materials.
 - e. on applying for Exporter-Importer Registration License, Form 6/26 issued by the Department of Investments and Company Administration, as well as Bank Statement must be submitted.
 - f. construction materials imported shall accord with standard specifications prescribed by relevant departments.

3. In permitting foreign joint-venture companies to trade in goods currently allowed hereunder, they will be dealt with under the same procedures as used for domestic companies.
4. The list of goods permitted to foreign joint-venture companies to trade will be amended as needed according to the domestic demand, market situation and condition of domestic businesses.

(by) Dr Than Myint
Union Minister
Minister of Commerce
Letter No.: SaKa-26/5/2016(2570)
Date: July 7, 2016

Background

Since late 2001, trading activities have effectively been prohibited for foreign companies in the Republic of the Union of Myanmar. Exempted from this prohibition was only the sale of goods produced by a foreign company in the Republic of the Union of Myanmar.

The ban of trading activities has been implemented by the Ministry of Commerce under the powers conferred to it pursuant to the Export and Import Law 2012, which allows the Ministry to regulate the import and export of goods, as well as Order No. 2/89 on the Registration of Business Representatives, which had been issued pursuant to the Control of Imports and Exports (Temporary) Act (1947).

Since 2001, the restriction on import and export of goods has consequently been treated as a general prohibition of trading activities by foreign companies in the Republic of the Union of Myanmar. It is enforced by restricting the issuance of Trade Permits and Import/Export Registration Certificates to foreign investors intending to carry out trading activities. In practice, new foreign companies were only incorporated upon execution of an undertaking not to carry out trading activities, and Import/Export Registration Certificates only issued upon execution of an undertaking not to trade the imported goods.

Since early 2015, the Ministry of Commerce has allowed selective relaxations of this general trade prohibition, e.g. by allowing foreign-Myanmar joint venture companies to import and sell of new automobiles, certain agricultural products and medical devices. Separately, the Management Committee of the Thilawa Special Economic Zone has allowed certain

wholesale trading activities for eligible companies incorporated in the Thilawa Special Zone.

Notification No. 56/2016 is the latest step on the way to a free and open market in line with the intentions and principles of the ASEAN Economic Community.

For further guidance and information, please feel free to contact us anytime.

Luther Law Firm Limited



Alexander Bohusch
Rechtsanwalt/Attorney-at-law (Germany)
Luther Law Firm Limited
Myanmar
Phone +95 1 230 1609/+95 1 230 1917
alex.bohusch@luther-lawfirm.com

Imprint

Luther Rechtsanwalts-gesellschaft mbH, Anna-Schneider-Steig 22,
50678 Cologne, Phone +49 221 9937 0, Fax +49 221 9937 110,
contact@luther-lawfirm.com

Editor: Alexander Bohusch, Rechtsanwalt/Attorney-at-law (Germany), Luther Law Firm Limited, Luther Corporate Services Limited, Myawaddy Bank Luxury Complex, 4th floor, Apt. 401, Bo Gyoke Road cnr. Wa Dan Street, Lanmadaw Township, Yangon, Myanmar, Phone: +95 1 230 1609/+95 1 230 1917, Fax: +95 1 230 1353, HP (MM): +95 9 425 0136 00, HP (SG): +65 9 829 1829, alexander.bohusch@luther-lawfirm.com

Copyright: These texts are protected by copyright. You may make use of the information contained herein with our written consent, if you do so accurately and cite us as the source. Please contact the editors in this regard
contact@luther-lawfirm.com

Disclaimer

Although every effort has been made to offer current and correct information, this publication has been prepared to provide information on recent regulatory and legal developments in Myanmar only. It is not exhaustive and thus does not cover all topics with which it deals. It will not be updated and cannot substitute individual legal and/or tax advice. This publication is distributed with the understanding that Luther, the editors and authors cannot be held responsible for the results of any actions taken on the basis of information contained herein or omitted, nor for any errors or omissions in this regard.

Luther Rechtsanwaltsgesellschaft mbH advises in all areas of business law. Our clients include medium-sized companies and large corporations, as well as the public sector.

Berlin, Brussels, Cologne, Dusseldorf, Essen, Frankfurt a. M., Hamburg, Hanover, Leipzig,
London, Luxembourg, Munich, Shanghai, Singapore, Stuttgart, Yangon

Luther Corporate Services: Delhi-Gurgaon, Kuala Lumpur, Shanghai, Singapore, Yangon

Your local contacts can be found on our websites www.luther-lawfirm.com and www.luther-services.com.

