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Myanmar News

Changes for the Use of
Free Trade/Consignment
Warehouses in the Thilawa
Special Economic Zone

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I. Introduction

On 14 July 2017, the Management Committee of the Thilawa Special Economic Zone issued two Instructions in accordance with sec. 11 (f) Myanmar Special Economic Zone Law (2014) and rule 51 (ii) Myanmar Special Economic Zone Rules (2015), making amendments to the previous Instruction on Warehouses and the Procedures for Handling Cargos Held on Account in Special Economic Zones (Instructions No. 05/2016 and No. 06/2016 dated 7 October 2016).

Please find below a short summary of the most important changes.

II. New Instructions

Under Instructions No. 05/2016 and No. 06/2016, “*Cargos Held on Account*” were defined as “*Cargos in transit for storage in a Free Zone Warehouse pertaining to the temporary storage of Cargos from a Foreign Supplier without the payment of duties and other taxes until such time that such Cargos are withdrawn for consumption in Myanmar or shipped to another location outside of Myanmar; (...).*”

Pursuant to the new Instructions No. 01/2017 and No. 02/2017, this definition shall be replaced as follows: “*Cargos Held on Account*” means “*Cargos in transit for storage in a Free Zone Warehouse pertaining to the temporary storage of Cargos from a Supplier without the payment of duties and other taxes until such time that such Cargos are withdrawn to be imported for consumption in Myanmar or shipped to another location outside of Myanmar; (...).*”

“*Supplier*” is forthwith defined as “*a foreign person or entity, whether or not doing business in Myanmar, or a domestic importer who is a Myanmar citizen or a resident entity incorporated in Myanmar, which has shipped Cargos from foreign country into Myanmar for the purpose of storing the Cargos as Cargos Held on Account in a Free Zone Warehouse*”.

Comment Luther: *The Instructions No. 01/2017 and No. 02/2017 further liberalize the cargo market, generally allowing the use of free trade/consignment warehouses in the Thilawa Free Zone (i.e. outside of the customs territory of Myanmar) for both foreign businesses, as well as Myanmar importers.*

Cargo (i.e. chattel, merchandise, consumer goods, food products, raw materials, semi-finished materials, components and packaging materials or otherwise any finished or unfinished goods which are not prohibited by the Law and the Rules and orders made thereunder and which have been brought into Myanmar and which are not otherwise classified as a Regulated Article) may now be shipped from a foreign country to a warehouse in Thilawa's Free Zone by either a foreign person or entity (whether or not doing business in Myanmar), or a domestic importer who is a Myanmar citizen or a resident entity incorporated in Myanmar.

Annexes

1. Instruction No. 01/2017

INSTRUCTION No. 01 /2017

(14 July 2017)

**The Republic of the Union of Myanmar
The Management Committee
Thilawa Special Economic Zone**

Amendment to the Instruction on SEZ Warehouse and the Instruction on the Procedures for Handling Cargos Held on Account

The Management Committee of Thilawa Special Economic Zone (“Management Committee”) hereby issues this Instruction in accordance with Section 11 (f) of the Myanmar Economic Zone Law (“Law”) and Rule 51 (ii) of Myanmar Special Economic Zone Rules (“Rules”) to amend “INSTRUCTION No. 05/2016 on SEZ Warehouse” dated 7 October 2016.

1. The definition of “Cargos Held on Account” as stated in Section 1 of Instruction No. 05/2016 shall be replaced with the following.

“**Cargos Held on Account**” means Cargos in transit for storage in a Free Zone Warehouse pertaining to the temporary storage of Cargos from a **Supplier** without the payment of duties and other taxes until such time that such Cargos are withdrawn **to be imported** for consumption in Myanmar or shipped to another location outside of Myanmar;

2. The definition of “Foreign Supplier” as stated in Section 1 of Instruction No. 05/2016 shall be replaced with the following.

“**Supplier**” means a foreign person or entity, whether or not doing business in Myanmar, **or a domestic importer who is a Myanmar citizen or a resident entity incorporated in Myanmar**, which has shipped Cargos from foreign country into Myanmar for the purpose of storing the Cargos as Cargos Held on Account in a Free Zone Warehouse;

Chairman
The Management Committee
Thilawa Special Economic Zone

2. Instruction No. 02/2017

INSTRUCTION No. 02 /2017

(14 July 2017)

**The Republic of the Union of Myanmar
The Management Committee
Thilawa Special Economic Zone**

**Amendment to the Instruction on SEZ Warehouse and the Instruction
on the Procedures for Handling Cargos Held on Account**

The Management Committee of Thilawa Special Economic Zone ("Management Committee") hereby issues this Instruction in accordance with Section 11 (f) of the Myanmar Economic Zone Law ("Law") and Rule 51 (ii) of Myanmar Special Economic Zone Rules ("Rules") to amend "INSTRUCTION No. 06/2016 on the Procedures for Handling Cargos Held on Account" dated 7 October 2016.

1. The definition of "Cargos Held on Account" as stated in Section 1 of Instruction No. 06/2016 shall be replaced with the following.

"Cargos Held on Account" means Cargos in transit for storage in a Free Zone Warehouse pertaining to the temporary storage of Cargos from a **Supplier** without the payment of duties and other taxes until such time that such Cargos are withdrawn **to be imported** for consumption in Myanmar or shipped to another location outside of Myanmar;

2. The definition of "Foreign Supplier" as stated in Section 1 of Instruction No. No.06/2016 shall be replaced with the following.

"Supplier" means a foreign person or entity, whether or not doing business in Myanmar, **or a domestic importer who is a Myanmar citizen or a resident entity incorporated in Myanmar**, which has shipped Cargos from foreign country into Myanmar for the purpose of storing the Cargos as Cargos Held on Account in a Free Zone Warehouse;

3. The definition of "Delivery Order" as stated in Section 1 of Instruction No. 6/2016 shall be replaced with the following.

"Delivery Order" means a document simultaneously issued by a **Supplier** to an Operator and to the Recipient which contains instructions confirming the release of Cargos Held on Account from an Operator to the Recipient;

4. Section 2 of Instruction No. 06/2016 "Approval of Entry of Cargos Held on Account into TSEZ", shall be replaced with the following.

An Operator who intends to receive Cargos Held on Account from **Supplier** for storage shall submit a report **detailing such cargoes and quantity, together with an information of Supplier**, to the Management Committee and obtain its prior approval of entry of such Cargos into TSEZ.

No used 4-wheel and 2-wheel vehicles shall be allowed to be shipped to and stored in TSEZ as Cargos Held on Account.

5. Section 5 (a) (1) of Instruction No. 06/2016 shall be replaced with the following.

Delivery Order duly signed and executed by the **Supplier**.

6. Section 5 (a) (6) of Instruction No. 06/2016 shall be replaced with the following.

Original Import License duly issued by the Ministry of Commerce either in paper-based or electronic form **if it is required as a condition to import into DTA**.

7. Section 5 (c) (1) of Instruction No. 06/2016 shall be replaced with the following.

Duplicate original copy of the Delivery Order issued by the **Supplier**.

8. Section 6 (a) of Instruction No. 06/2016 shall be replaced with the following.

If the Cargos Held on Account cannot be imported into Myanmar, due to the fact that they do not meet the requirements set out in the relevant prevailing laws, regulations **and policies in the DTA** or any other reasons, these Cargos Held on Account shall be released for Ship-back either at the **Supplier's** or Operator's account.

9. Section 8 (b) of Instruction No. 06/2016 shall be replaced with the following.

Shipments consisting, or partly consisting, of such Regulated Cargos shall be subject to examination by the Customs Section of OSSC as such prior to entry into the TSEZ. To obtain clearance, an Operator (by itself or through its constituted transportation representative, with the cooperation of the **Supplier's** Customs Agent, if necessary) shall present the documents listed in Section 2 (b), with the addition that an Operator (by itself or through its constituted transportation representative, with the cooperation of the **Supplier's** Customs Agent, if necessary) must also submit an undertaking that such Regulated Cargos are packaged, marked, labelled or otherwise prepared, or otherwise that the Cargos will be packaged, marked, labelled and prepared by the Supplier, in accordance with the relevant laws and regulations in Myanmar.

10. Section 8 (c) of Instruction No. 06/2016 shall be replaced with the following.

If such Regulated Cargos cannot be imported into Myanmar, due to incompliance with relevant prevailing laws, regulations **or policies in the DTA**, Operator shall release them for Ship-back either at sole cost of **Supplier** or Operator.

11. Section 10 of Instruction No. 06/2016 shall be replaced with the following.

An Operator shall make an agreement with the Supplier for authorizing him to handle, transport, package, re-package, mark and label to the Cargos Held on Account the submit it to the Management Committee for approval.

12. The following clause shall be added in Section 10 of Instruction No. 06/2016.

For the purpose of this Instruction and the import-related regulations, the date of Delivery Order shall be deemed as the date of arrival of Cargos Held on Account in Myanmar.

Chairman
The Management Committee
Thilawa Special Economic Zone

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