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Myanmar News

Update on the
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, 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, 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. 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 was 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 shall be generally allowed. Such trading activities shall, however, require the approval of the Ministry of Commerce.

For further details, please refer to our June 2017 - News Alert.

II. Wholesale and Retail Regulations

The Ministry of Commerce is currently discussing the necessary requirements for foreign investors to conduct retail and wholesale trading in Myanmar.

1. Requirements

Based on a draft of the new Wholesale and Retail Regulations, the requirements for foreign-owned trading companies are currently limited to certain minimum capital requirements:

- For a 100% foreign-owned wholesale business, the investment capital shall be USD 5,000,000 and above (not including land rental fees);
- For a 100% foreign-owned retail business, the investment capital shall be USD 3,000,000 and above (not including land rental fees);
- For a joint venture wholesale company (minimum shareholding of Myanmar-owned party: 20% Myanmar), the investment capital shall be USD 2,000,000 and above (not including land rental fees); and
- For a joint venture retail company (minimum shareholding of Myanmar-owned party: 20% Myanmar), the investment capital shall be USD 700,000 and above (not including land rental fees).

Comment Luther: *It comes as a surprise, that the capital requirements for wholesale trading are higher than for retail trading, and these numbers may be adjusted in the final regulations, or further differentiate between companies trading their own products, or third-party goods.*

Assuming, that the implementation will follow the Thilawa example, we expect that the minimum investment may be used as working capital, i.e. also to purchase stock, in which case the requirements should be acceptable for many investors.

2. Registration

Pursuant to the draft regulations, any trading company shall apply for registration as a Retail/Wholesale Business with the Ministry of Commerce by submitting the following documents:

- Certificate of incorporation;
- Recommendation from the relevant township development committee;
- List of distributed products for retail/wholesale; and
- Detailed business plan including investment capital, place and area of the trading premises.

Foreign investors should, however, be reminded, that apart from the above registration as a Retail/Wholesale Business, existing service companies would be required to amend their business objectives to allow for trading activities. Further, additional registrations such as an Importer/Exporter Registration Certificate, a Business Representative registration or product-specific registrations with authorities such as the Food and Drug Administration of Myanmar may be required.

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