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Myanmar News

New Terms & Conditions
for Retail / Wholesale
Activities in Myanmar

August 2018

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Update on the Liberaliza- tion of Trade Restrictions in Myanmar

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 the import and sale of new motor vehicles. 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. Since June 2017, chemical fertilizers, seeds, pesticides, hospital equipment and construction materials could be imported and sold by any foreign-owned company, including 100% foreign-owned companies. The import of farm equipment by joint ventures was permitted since November 2017.

Independently, the Management Committee of the Thilawa Special Economic Zone announced a broad exemption from the trade prohibition in May 2015, allowing certain wholesale trading activities by 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.

Following several consultation rounds and drafts, the Ministry of Commerce finally issued the new **Terms & Conditions for Retail / Wholesale Trading (Notification No. 25/2018)** on 9 May 2018. While this Notification described in detail which documents and information shall be necessary to apply for a retail/wholesale license, the Ministry of Commerce did, however, not yet accept any applications.

On 26 July 2018, the Ministry of Commerce issued the **Announcement of Goods allowed for Wholesale and Retail Trading (Announcement 3/2018)**, containing a list of priority/preferential goods permitted for trade by foreign companies and joint ventures, which may be reviewed and amended from time to time according to the needs of the Union of Myanmar.

Finally, the Ministry of Commerce issued the **Standing Operating Procedure Concerning Applications for Registration of Retail/Wholesale Business**, describing the process for registration of a retail/wholesale trading business as well as the necessary documents/information and official fees.

Please find below an overview of the most relevant changes.

II. Terms & Conditions for Retail/Wholesale Trading

Notification No. 25/2018 contains terms and conditions for Myanmar-owned companies, foreign-owned companies as well as joint-venture companies between Myanmar citizens and foreigners carrying out retail and wholesale trading activities in Myanmar.

1. Definitions

According to this Notification, “retail” means the sale of goods to the public in small quantities for consumption, but not for re-sale. “Wholesale” is defined as sale of goods in large quantities to retailers for re-sale or to manufacturers for use as input in their production.

2. Company Categories

The new Notification shall apply to the following enterprises:

- 100% foreign-owned companies;
- Joint-venture companies between Myanmar citizens and foreigners; and
- Myanmar-owned companies.

In accordance with the prescribed procedures, any such company shall be allowed to engage in retail/wholesale of domestically produced or imported goods (with the exception of restricted/prohibited goods) in the whole of Myanmar. An enterprise which was granted a retail/wholesale license has the right to import goods under its importer/exporter registration license.

Comment Luther: *It has been clarified, that F&B outlets are not required to obtain a retail/wholesale license for the operation of restaurants, cafes and similar F&B outlets serving customers.*

3. Requirements

Depending on the type of investment, the new Notification provides for different minimum capital requirements.

Comment Luther: *The reference to land rental fees seems to be a remnant from the Thilawa notification.*

Joint-Venture Companies

Joint-ventures between Myanmar citizens and foreign investors, in which the Myanmar shareholder(s) hold at least 20% of the shares are subject to the following minimum capital requirements:

- A joint-venture wholesale company with a minimum of 20% Myanmar-owned shareholding shall have a minimum capital of USD 2,000,000 (excluding land rental fees);
- A joint-venture retail company with a minimum of 20% Myanmar-owned shareholding shall have a minimum capital of USD 700,000 (excluding land rental fees).

Comment Luther: *A joint venture company shall, however, not engage in retail distribution, including mini-markets and convenience stores, in premises of less than 929 square meters in floor area, as already provided in Notification 15/2017 of the Myanmar Investment Commission. Shops in shopping malls are exempted from the floor area requirement, provided that the mall operator holds a valid license.*

Foreign-Owned Companies

For 100% foreign-owned companies and joint-venture companies with less than 20% Myanmar-owned shareholding, the new Notification provides for the following minimum capital requirements:

- A 100% foreign-owned or joint-venture company with less than 20% Myanmar-owned shareholding carrying out wholesale activities shall have a minimum capital of USD 5,000,000 (excluding land rental fees);
- A 100% foreign-owned or joint-venture company with less than 20% Myanmar-owned shareholding carrying out retail activities shall have a minimum capital of USD 3,000,000 (excluding land rental fees).

Comment Luther: *A foreign-owned company shall, however, not engage in retail distribution, including mini-markets and convenience stores, in premises of less than 929 square meters in floor area, as already provided in Notification*

15/2017 of the Myanmar Investment Commission. Shops in shopping malls are exempted from the floor area requirement, provided that the mall operator holds a valid license.

Myanmar-Owned Companies

For Myanmar-owned companies, neither minimum capital nor floor-space requirements shall apply.

Comment Luther: *Based on the latest comments of the Ministry of Commerce, Myanmar owned companies refer to such entities considered "Myanmar Companies" under the Companies Law 2017, allowing for up to 35% foreign participation.*

4. Prohibitions

According to the new Notification, retail/wholesale company shall neither distribute retail/wholesale goods which are restricted or prohibited under any Myanmar law, rules or regulations nor engage in unfair competition in the sale of goods and services.

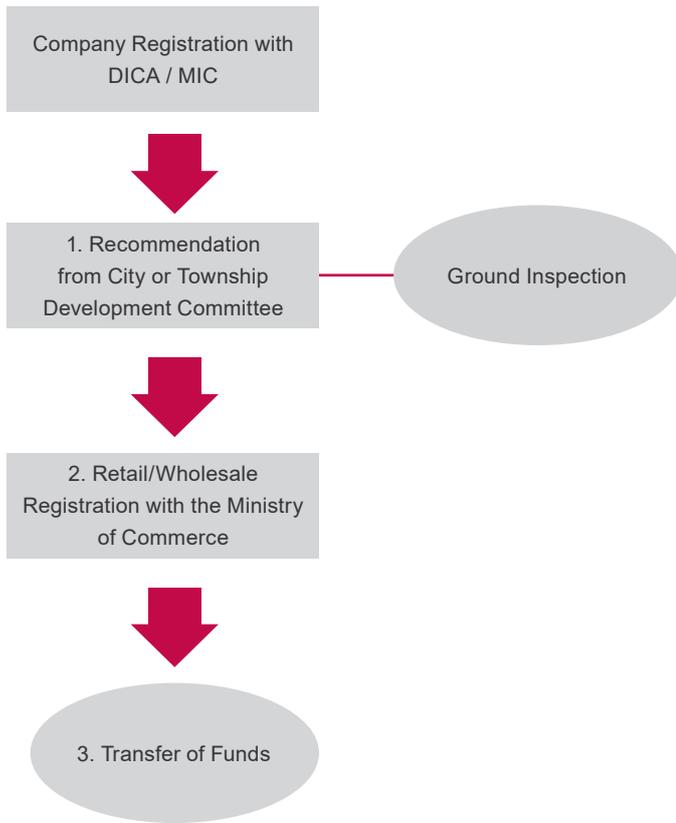
Comment Luther: *We understand, that this list will be limited to goods restricted under existing laws (such as imported alcohol, tobacco, arms, etc.).*

It should further be noted, that the new regulations do not permit mobile and door-to-door distribution services.

5. Non-Compliance

Any company violating the terms and conditions of the new Notification shall be subject to Ministry of Commerce sanctions. Any company found engaged in trading activities without the required license shall receive two (2) warnings, and if the default is not remedied, have its exporter/importer registration and import rights cancelled.

III. Registration Process



1. Recommendation from the relevant City or Township Development Committee

Prior to the application of a retail/wholesale license with the Ministry of Commerce by a foreign or joint venture company, a recommendation from the relevant city development committee or township development committee shall be obtained.

The city or township development committee will confirm the suitability of the company’s premises for the operation of a wholesale or retail business:

- Each outlet of a retail business shall have a size of 929m² or more, inclusive of office and storage areas within the same premises
- Each wholesale business shall have sufficient area. For direct distribution ex-warehouse, the warehouse must be situated at a location appropriate for wholesale (the warehouse may be operated by a third party logistics provider).

It should be noted, that foreign-owned companies and joint-venture companies that are already carrying out retail/wholesale business activities under an MIC Permit or a prior notification shall not be required to obtain a separate recommendation from the city or township development committee.

2. Registration with the Ministry of Commerce

With the exception of Myanmar-owned companies already carrying out retail/wholesale business activities, all retail/wholesale businesses shall submit the following documents and information to apply for a retail/wholesale license:

- Certificate of Incorporation;
- Copy of MIC Permit or MIC Endorsement (if any);
- Recommendation letter from the relevant city or township development committee in the region/state concerned;
- List of goods to be distributed by retail/wholesale; and
- Detailed business plan for five (5) years, including:
 - Investment amount (initial capital and amount to be contributed as working capital);
 - Sales plan, distribution plan and management plan;
 - Location and area; and
 - Company’s plan for implementation of objectives contained in Notification 25/2018 (e.g. job creation, etc.)
- Number and location of planned additional outlets; and
- Credit advice from a domestic bank showing remittance of the initial investment amount from abroad.

Comment Luther: *If an investor has not yet transferred the prescribed funds, the Ministry of Commerce will issue a temporary retail/wholesale license. The permanent license shall be issued upon provision of evidence that the prescribed funding was brought into Myanmar within one (1) month from the issuance of the temporary license.*

Existing Myanmar-Owned Companies

A Myanmar-owned company already carrying out retail/wholesale business prior to the date of issuance of the new Notification with an investment of USD 700,000 or more (or MMK equivalent) shall – within 150 days – register with the Ministry of Commerce and submit the following:

- Certificate of Incorporation;
- List of goods to be distributed by retail/wholesale; and
- Detailed business plan for five (5) years, including:
 - Amount of working capital utilized in the retail/wholesale business within the previous year;
 - Sales plan, distribution plan and management plan; and
 - Location and area
- Number of branch outlets (if any), list of goods sold at these outlets and retail/wholesale business plan.

Comment Luther: *Myanmar-owned companies with an initial investment capital of less than USD 700,000 (or equivalent in MMK) are exempted from registration.*

3. Funding Requirements

The new Standing Operating Procedure distinguishes between companies that are already carrying on trading activities under existing notifications, and such companies that will commence trading only upon approval of their license.

Comment Luther: *The Ministry of Commerce does not explicitly request equity contributions. As it is only necessary to provide evidence that the investment was remitted from abroad into a domestic bank account, any contributions permitted under Myanmar financial and corporate laws should be sufficient (e.g. also an approved loan from abroad).*

It should be noted that a company may apply for a retail license or wholesale license or both. A company applying for both licenses shall invest the sum of the minimum amount stipulated for a retail license and the minimum amount stipulated for a wholesale license.

Companies not yet engaged in the Sale of Goods

For companies which are not yet engaged in the sale of goods, the prescribed investment shall be contributed as follows:

Prescribed Period	Minimum Contribution
Within 30 days after license approval	At least 50% of the initial investment shall be remitted from abroad to a domestic bank (evidence of such remittance must be presented)
Year-2	At least 80% of the initial investment shall be remitted from abroad to a domestic bank (evidence of such remittance must be presented within the last month of Year-2 of operations)
Year-3	100% of the initial investment must have been remitted from abroad to a domestic bank (evidence of such remittance must be presented within the last month of Year-3 of operations)

Companies already engaged in the sale of domestically manufactured goods

For manufacturing companies already engaged in the sale of domestically produced goods that wish to distribute other goods (e.g. imported goods), the prescribed investment shall be contributed as follows:

Prescribed Period	Minimum Contribution
Year-1	At least 50% of the initial investment shall be contributed within the first year in two installments as follows: <ul style="list-style-type: none"> ■ Within 30-days of applying for the license, the investor shall present evidence of the value of domestically manufactured goods sold within Myanmar and evidence that at least 20% of the minimum initial investment have been remitted from abroad to a domestic bank; and ■ Evidence of the remaining 30% of the minimum initial investment remitted from abroad to a domestic bank must be presented within the last month of Year-1 of operations
Year-2	At least 80% of the initial investment must have been remitted from abroad to any domestic bank (evidence of such remittance must be presented within the last month of Year-2 of operations)
Year-3	100% of the initial investment must have been remitted from abroad to a domestic bank (evidence of such remittance must be presented within the last month of Year-3 of operations)

Companies already engaged in the sale of goods

For companies already allowed to carry out retail/wholesale business activities (e.g. under an MIC Permit or previous Notification), the capital shall be contributed as follows:

Prescribed Period	Minimum Contribution
30 days prior to the application for a RWB License	At the time of application for a RWB license, evidence of the amount invested in the inventory during the prior operations shall be presented
Year-5	100% of the initial investment must have been remitted to a domestic bank (evidence of such remittance must be presented within the last month of Year-5 of operations when applying for renewal)

Comment Luther: Investors that do not meet the minimum investment amount prior to application of the new retail/wholesale license shall – within five years after registration – remit/contribute the full minimum initial investment amount stipulated in Notification 25/2018.

4. License Term and Renewal

Licenses shall be issued for a term of five (5) years and may be renewed with not less than two (2) months prior application upon submission of the company's corporate documents and a business plan for the next five (5) years.

5. Opening of New Outlets

Any license holder desiring to establish additional outlets shall submit an application 90 days prior to opening, detailing:

- Location(s) and area(s) of additional outlet(s);
- If different from the original application, the name and business plan of the new outlet; and
- Recommendation from the relevant city or township development committee.

Companies shall comply with the initial investment and floor space requirements stipulated in Notification 25/2018.

IV. Preferential Goods

Pursuant to Announcement 3/2018, the following categories of goods shall be allowed for distribution by retail/wholesale companies:

- Personal items (including clothing, watches, cosmetics);
- Agricultural products, aquatic products, animal products, ready-to-eat food, soft drinks, and domestically produced beverages;
- Household items (including ceramics, earthenware, glass and glassware);
- Kitchen-use items;
- Medicine, medical equipment, and hospital equipment;
- Animal feed and veterinary medicines;
- Stationery;
- Furniture;
- Sports equipment;
- Communication equipment (including cameras and phones);
- Electronic goods
- Construction equipment and materials;
- Electrical goods;
- Industrial chemicals;
- Seeds, agricultural inputs and materials/equipment;
- Farming machinery equipment;
- Machines (all kinds) and auxiliary equipment/materials;
- Bicycles (all kinds);
- Motorcycles and auxiliary equipment/materials (all kinds);
- Spare parts for motor-vehicles and machinery;
- Toys;
- Home decoration items (including flowers and plants);
- Gift items and handicrafts (all kinds); and
- Art materials/equipment, musical instruments and auxiliary materials/equipment (excluding antiques).

Comment Luther: We understand, that the list provides for goods that enjoy preference, but is not necessarily conclusive. It has further been verbally confirmed that the retail and wholesale trade of domestically produced tobacco and alcohol will be permitted (subject to the relevant excise licenses, if any).

V. Special Cases

1. Prevailing Notifications

Certain goods, such as motor-vehicles, may already be imported under various notifications issued by the Ministry of Commerce. If such notifications provide for additional requirements and conditions, e.g. for the establishment of car showrooms requiring the construction of a showroom and application of a showroom license, such requirements shall prevail and no separate retail/wholesale license shall be required.

2. Shopping Malls

Operators of shopping malls with an appropriate floor size exceeding 929 m² may apply for a retail license with the Ministry of Commerce.

Once obtained, individual shops within the shopping mall are not required to obtain a separate retail license, but may carry out their activities under the umbrella license of the mall operator. Companies operating shops within the shopping mall may import their goods either in the name of the mall operator, or in their own name (providing the authorities with a recommendation from the mall operator holding the retail license).

Annex 1

Unofficial English Translation of Notification No. 25/2018

Minister's Office
Notification No. 25/2018
9 May 2018

In exercising the powers conferred by section 13 (b) of the Export Import Law ("EIL"), the Ministry of Commerce ("MoC") of the Government of the Republic of the Union of Myanmar ("RUOM") hereby issues this Notification.

Allowing retail/wholesale within the country by foreign companies and joint-ventures between foreigners and Myanmar citizens

1. With the objectives of increased choices and reduced prices for consumers due to development of fair competition among retail/wholesale distributors; improvement in quality of goods and services, and in technology employed in sales and distribution; increased development of Small-and-Medium Enterprises ("SME") through greater market share for domestically produced goods, foreign companies, and joint-ventures between foreigner and Myanmar citizens are allowed to engage in retail/wholesale enterprises within the country with effect from the date of issuance of this Notification.
2. Any fully Myanmar citizen-owned company, fully foreigner-owned company or any joint-venture company engaged in retail/wholesale enterprise shall comply with and perform according to the attached terms and conditions ("T&C").
3. The T&C will be amended as needed.

(by)
Dr Than Myint
Union Minister
MoC

Letter No.: SaKa-11/2-18/2018(5)

Date: 9 May 2018

By order
signed
Toe Ag Myint
Permanent Secretary ("PS")

T&C for Retail/Wholesale

Justification

1. In the economic reforms of the Union of Myanmar ("UoM"), relaxation [of rules] in being provided in commercial sectors in order to increase employment opportunities and improvement in technology through foreign investment. In doing so, it has become necessary to allow foreigners to carry out sale and distribution services in the domestic market, not only to provide better prices and more choice in quality to consumers, but also to be in accordance with regional treaties. Hence, to bring about conditions favorable to the interest of the consuming public and also not detrimental to the domestic SMEs, retail/wholesale from among commercial activities related to distribution and sale, will be allowed to foreigners.

Aim

2. The aim of these T&C are as follows:
 - a. To afford better prices and more choice to consumers through increased competition among retail and wholesale distributors;
 - b. To improve quality and volume of goods and services, and technology through increased inputs to domestic goods and services of sale and distribution enterprises;
 - c. To further stimulate the development of SMEs due to capturing of more market share by domestic goods;
 - d. To enable operation under rules and regulations to prevent uncompetitive practices between distributors in exploitation of consumers;
 - e. To invite more foreign investments;
 - f. To increase employment opportunities for Myanmar citizens.

Definitions

3. Definitions are as follows:
 - a. **Retail** means the sale of goods to the public in small quantities for consumption and not for re-sale;
 - b. **Wholesale** means the sale of goods in large quantities to retailers for re-sale, or to manufacturers to use as input in production.

Right to sell

4. A fully citizen-owned company, fully foreigner-owned company, joint-venture between citizens and foreigners shall be allowed to carry out retail/wholesale as follows:
 - a. The company may engage in retail/wholesale in accordance with prescribed procedures of domestically produced or imported goods, other than restricted/prohibited goods;
 - b. The company may engage in retail/wholesale in accordance with prescribed procedures in any town within region/states.

Prescribed Conditions

5. A fully citizen-owned company, fully foreigner-owned company, joint-venture between citizens and foreigners, shall comply with the following in carrying out retail/wholesale activities within the country:
 - a. A foreign company, which on its own is desirous of engaging in:
 - (1) Wholesale - shall make an initial investment, excluding land rent, of USD 5 million or more in goods to be sold;
 - (2) Retail - shall make an initial investment, excluding land rent, of USD 3 million or more in goods to be sold.
 - b. A company which engages in retail/wholesale under a joint-venture system between citizen and foreigner:
 - (1) Where the equity ratio of citizen is 20 per cent or more:
 - (aa) In case of wholesale - shall make initial investment, excluding land rent, of USD 2 million or more in goods to be sold.
 - (bb) In case of retail - shall make initial investment, excluding land rent, of USD 700.000 or more in goods to be sold.

(2) Where the equity ratio of citizen is less than 20 per cent - it shall comply with conditions of section 5 sub-section (a) above.

6. A fully citizen-owned company may engage in retail/wholesale enterprise with the initial investment amount that it can afford.

Compliance

7. A fully citizen-owned company, fully foreigner-owned company, joint-venture between citizen and foreigner, shall comply with the following in carrying out retail/wholesale within the country:

a. Any of the above types of companies established subsequent to the issuance of these T&C, shall apply to the MoC with the following supporting documents in order to register a retail/wholesale enterprise:

(1) Certificate of incorporation;

(2) MIC's Endorsement (copy), MIC's Permit (copy) (those companies which are required to procure MIC's endorsement);

(3) Recommendation of the city development committee concerned or the township development committee in the region/state concerned;

(4) List of commodity classification of goods to be distributed retail/wholesale;

(5) Detailed business plan including initial investment amount, location of distribution, dimensions et cetera.

b. A fully citizen-owned companies, which had made initial investment of USD 700,000 or more (or MMK equivalent), prior to the date of issuance of these T&C, shall within 150 days after such date, register the retail/wholesale enterprise at the MoC, with the following supporting documents:

(1) Certificate of incorporation;

(2) List of commodity classification of goods being distributed retail/wholesale;

(3) Detailed business plan including working capital, location of distribution, dimensions et cetera;

(4) In case of having more than one business, the number of branches, and detailed business plan of each business including list of commodity classification of goods being distributed.

c. Retail/wholesale companies shall abide by rules and regulations of the NPT / Yangon / Mandalay City Development Committees, or the township development committee in region/state concerned, and local authorities, and open for business at prescribed locations, dimensions and number of outlets, at prescribed days and hours.

d. Retail/wholesale companies shall comply with and perform according to relevant laws, rules, procedures and regulations in order to ensure that the goods distributed are safe and of specified quality, and to provide after-sale service in accordance with warranties, and to avoid damage to the environment.

Prohibitions

8. Any company allowed to engage in retail/wholesale shall not distribute retail/wholesale goods restricted, prohibited under prevailing laws, notifications and regulations.

9. A fully foreigner-owned company or a joint-venture between citizen and foreigner, shall not engage in retail distribution, including mini-markets and convenience stores, in premises of less than 929 square meters in floor area.

10. A retail/wholesale company shall comply with and perform according to the laws, rules, regulations prescribed by the UoM, and shall refrain from unfair competition in the sale of goods and services.

Payment of stipulated taxes

11. A company allowed to engage in retail/wholesale shall, in the import and distribution of goods pay taxes in accordance with the prevailing laws, rules, regulations, procedures, orders and directives of departments concerned.

Oversight

12. The MoC, in cooperation with relevant departments, will oversee as needed compliance of the aforementioned T&C, and adherence to their business plan, and for improvement in domestic distribution and sale industry. Retail and wholesale operators shall cooperate and provide necessary data and evidence toward effective oversight.

Sanctions

13. Any retail/wholesale operator found to be in violation of these T&C shall have action taken against it under rules and regulations contained in laws, rules, orders and directives issued by the MoC.
14. In addition to laws and regulations issued by the MoC, a retail/wholesale operator shall also comply with and perform according to other prevailing laws and regulations related to sale, distribution and provision of services, and in case of failure to do so, will have action taken against it under applicable law, rules and regulations.

Miscellaneous

15. These T&Cs shall be applicable to all fully citizen-owned companies, fully foreigner-owned companies and citizen-foreigner joint-venture companies engaged in retail/wholesale distribution.
16. However, fully citizen-owned companies engaged in retail/wholesale with initial investment capital of USD 700,000 or less (or equivalent in MMK), are exempted from requirement for registration under Section 7 sub-section (a) of these T&C.
17. Companies registered as retail/wholesale enterprises, which are desirous of opening additional branches or extending them, shall within 90-days prior to such opening or extension, shall notify the MoC, and such additional/extended branches shall also comply with the prescribed T&Cs.
18. These T&Cs for retail/wholesale distribution will be amended in accordance with the needs of the Union.

Annex 2

Unofficial English Translation of the Standing Operating Procedures concerning the Application for the Registration of a Retail/Wholesale Business

1. This SOP describes the process for registration as a RWB, as well as document requirements and fees. The Ministry of Commerce (“MoC”) will amend this SOP as needed.

Chapter 1. Company Classes

2. The RWB registration process may be carried out according to company class applied for. The four classes are companies are as follows:

- a. **New foreign companies (“NFC”) or joint-ventures with nationals (“NJV”)**

Cent-per-cent foreigner owned companies to be registered for the first time as RWB in the Union of Myanmar and foreign joint-ventures between foreigner and national come under this class.

- b. **Existing foreign companies (“EFC”) or joint-ventures with nationals (“EJV”)**

Existing companies already incorporated in the Union of Myanmar, but which are not licensed to engage in RWB, with cent-per-cent foreigner owned companies, and foreign joint-ventures between foreigner and national come under this class.

- c. **Companies already licensed to engage in RWB (“RWFC” and “RWJV”)**

Existing cent-per-cent foreigner owned companies (“RWFC”) , and foreign joint-ventures between foreigner and national (“RWJV”), which are already licensed, under MIC Permit or previous notifications permitting RWB to foreigners, to engage in RWB in the Union of Myanmar come under this class.

- d. **Existing RWB citizen companies (“CRWB”) relevant to this Notification**

Existing citizen companies already engaged in RWB with investment over USD700,000 or more (or MMK equivalent) are relevant to this class. Citizen companies carrying on under USD700,000 are not required to register for RWB with the MoC.

Chapter 2. RWB Registration Process

3. This process is only concerned with R/W sale of commodities at a permitted outlet/location, and is not relevant to mobile distribution, door-to-door distribution. Furthermore, it is also not relevant for other services including food and beverages [provision] such as restaurants, cafes, tea-shops.

Rights of a RWB Licensee

4. A RWB Licensee has the right to import commodities for its business under importer/exporter registration. It has the right to sell RW anywhere in the entire country the commodities contained in the List of Priority/preferential Commodity Groups issued by the MoC.
5. The application form for RWB Registration may be downloaded freely at www.commerce.gov.mm. The application must be completed and submitted together with two copies, attaching prescribed supporting documents.
6. A company may apply for retail license or wholesale license or both. In case of applying for both retail and wholesale licenses, initial investment amount must be the sum of the minimum stipulated for retail license and the minimum stipulated for wholesale

license.

Priority Commodity List

7. The MoC has issued the List of Priority/preferential Commodities permitted for FC and JVs involving foreigners.

Place of Registration

8. In case of companies of Classes “a”, “b” and “c” - application for registration must be submitted at Department of Trade (“DoT”), MoC, Office-3, NayPyiTaw (“NPT”).
9. A company of Class “d” may apply at any one of the following places:
- a. Export/Import Office (Yangon), DoT, MoC, Yangon.
 - b. Export/Import Office (Mandalay), DoT, MoC, Mandalay.
 - c. DoT, MoC, Office-3, NPT.

Supporting Documents to be Presented

10. Companies of Classes “a”, “b” and “c” must attached the following documents:
- a. Certificate of Incorporation;
 - b. (copy of) MIC Permit/Endorsement;
(Only for FC or Foreigner involved JVs requiring MIC Permit or Endorsement)
 - c. Recommendation from the relevant City Development Committee, or the Township Development Committee in the region/state;
 - d. List of commodity groups to be sold RW;
 - e. Business Plan for 5-years, including the following data:
 - (1) Investment Amount (initial capital, and amount to be contributed as working capital)
 - (2) Sales Plan, Distribution Plan and Management Plans;
 - (3) Location and area;
 - (4) Summary of company’s plan for implementation of objectives contained in the RW Permission Notification such as job creation, upgrading of technology, quality and cost-effective choice for consumers, promotion of domestic Small and Medium Enterprises et cetera.
 - f. Number and location of planned additional outlets (to give exact site if known)
 - g. Document issued from a domestic bank, showing evidence of remittance from abroad of the initial investment amount ;
(if unable to present this bank document, only a provision RWB license will be issued, and the actual RWB license will be issued only if the required remittance evidence can be submitted within one month).

NOTE. In carrying out RWB, citizens must be given priority in recruiting.

11. Companies of Class “d” shall apply for RWB license within 150 days after notification, with the following documents attached:
- a. Certificate of Incorporation;
 - b. Business Plan for 5-years, including the following data:
 - (1) List of commodity groups to be sold RW;
 - (2) Amount of working capital utilized in the RWB within the previous year;
 - (3) Sale, distribution and management plans;
 - (4) Location and area;
 - c. Number of branch outlets (if any), and the list of commodity groups sold at those outlets, and RWB plans.

Chapter 3. Minimum Initial Investment Amount Stipulation

12. RWB Licensees shall comply with Initial Investment Amount stipulated on the commodities in notification, and shall carry out with prescribed methods for minimum contributions according to class of company:

a. The Minimum Investment Amount, exclusive of Land-Rent, for companies of class “a” and “b” are as follows:

Prescribed Period	Minimum Contribution
Within 30 days after RWB License application	At least 50% of sum of initial investment amounts by commodities to be sold must have been remitted from abroad to any domestic bank, and evidence of such remittance must be presented
Year-2	At least 80% of sum of initial investment amounts by commodities to be sold must have been remitted from abroad to any domestic bank, and evidence of such remittance must be submitted within the last month of SECOND year of operations
Year-3	100% of sum of initial investment amounts by commodities to be sold must have been remitted from abroad to any domestic bank, and evidence of such remittance must be submitted within the last month of THIRD year of operations

b. If a company of class “b” is manufacturing and distributing commodities within the country, and will also sell imported commodities, the Minimum Investment Amount, exclusive of Land-Rent, is as follows:

Prescribed Period	Minimum Contribution
Within 30 days after RWB License application, and Year-1	At least 50% of sum of initial investment amounts by commodities to be sold must have been contributed within the first year after commencement of business, and contributions may be made in two installments as follows: <ul style="list-style-type: none"> ■ (within 30-days of applying for RWB license), to present evidence of value of domestically manufactured commodity to be sold RW, and evidence that at least 20% of the minimum initial investment amount stipulated for FCs have been remitted from abroad to a domestic bank; ■ to remit the remaining 30% from abroad to any domestic bank, and to present evidence of such remittance by the last month of first year of operations;
Year-2	At least 80% of sum of initial investment amount by commodities to be sold must have been remitted from abroad to any domestic bank, and evidence of such remittance must be submitted within the last month of SECOND year of operations;
Year-3	100% of sum of initial investment amounts by commodities to be sold must have been remitted from abroad to any domestic bank, and evidence of such remittance must be submitted within the last month of THIRD year of operations

c. The Minimum Investment Amount, for companies of class “c” is as follows:

- (1) To present at the time of application for license, the evidence of the amount invested in commodities in the inventory during the period from the commencement of the RWB and 30-days prior to the date of application .
- (2) Companies that do not meet the minimum investment amount, will, within 5-years after the RWB registration, remit/contribute the full minimum initial investment amount stipulated for FC and foreigner involved JV in accordance with Noti-2018/25. The schedule of contributions to make up that amount within the first 5-years of license must be presented;
- (3) Upon completion of the first RWB license term, evidence of full remittance/contributions of the minimum initial investment amount within the first 5-year term, must be presented when applying for renewal.

d. Companies of class “d” just have to register for RWB, and may carry out without limits on minimum initial investment amount.

13. If companies of class “a”, “b” or “c” have within the first year already invested 100% of the remittance/ contribution stipulate, evidence of additional remittance/contributions are not required. Remittance/contribution from abroad may be made any government or (citizen/foreign) private bank allowed in the Union of Myanmar by the Central Bank of Myanmar.

Chapter 4. Floor Area

14. Companies of class “d” may carry on without restrictions on floor area of each outlet.

Retail

15. The area of each outlet shall be 929 sq.m or more, inclusive of office and storage areas internal to the outlet building, but exclusive of office, storage area and car park areas external to the outlet building.

16. In case of a Shopping Mall, the area must be greater than 929 sq.m and appropriate for a shopping mall. The owner or operator of the Shopping Mall shall register for retail sale, but each outlet within the Shopping Mall need not register individually. However, if outlets within a shopping mall desires to import their commodities they may do so under the name of the mall which has received the retail license. If they desire to import on their own, they may procure exporter/importer registration with the recommendation of the mall in-charge holding the retail license.

Wholesale

17. The outlet must have sufficient area for wholesale depending on the commodity group to be sold. In case of direct distribution ex warehouse, the warehouse must be situated at a location appropriate for wholesale.

18. In conducting scrutiny in respect of location, area, suitability for RWB, if there is discrepancy between particulars in the Business Plan presented and recommendations of the relevant city development committee, or if there is doubt concerning location, area, a team comprised of competent departments will conduct field inspections.

Chapter 5. Additional Outlets

19. RWB licensees of any class desirous of opening additional outlets shall within 90-days prior to opening, submit in person or by document addressed to the DG, DoT at the following offices with the respective particulars:

a. Office:

- i. Export/Import Office (Yangon), DoT, MoC, Yangon.
- ii. Export/Import Office (Mandalay), DoT, MoC, Mandalay.
- iii. DoT, MoC, Office-3, NPT.

b. Particulars:

- i. location(s) and area(s) of additional outlet(s)
- ii. if different from existing, name of new outlet and Business Plan;
- iii. recommendation from the relevant city or township development committee;

20. Companies of class “a”, “b” or “c” shall comply with initial investment amount and outlet size stipulated by Noti-2018/25 when opening additional outlets.

Chapter 6. RWB License Term

Registration Term

21. RWB license shall have a valid term of 5-years from the date of issue.

License Fees

22. Fee for registration of RWB is MMK50,000 (fifty thousand).

Renewal and Extension Fees

23. Application for renewal shall be submitted two months in advance of expiry under company letterhead, attaching directors list, shares list, business plan for next 5 years (without need for evidence of additional investment). Fees for extension are MMK50,000 (fifty thousand).

Penalty for Invalid Term

24. Penalties for applying for extension after expiry are as follows:

Extension Applied For	Penalty (MMK)
Within two months after expiry	20,000
Within four months after expiry	30,000

Suspension of RWB License

25. If no extension application is made four months after the license has expired, the RWB license will be suspended, as well as right to import thereunder.
26. If an RWB licensee does not present evidence of remittance/contribution from abroad to a domestic bank of the minimum prescribed amount within 30-days from date of issuance of a provisional license, the said provisional license shall become void.

Sanctions

27. Any person found to be engaged in RWB without license when required to be licensed:
- a. warning notice in the first and second instances for registration;
 - b. if still not registered after the period specified in the notice, cancellation of exporter/importer registration and import rights of FC or foreigner involved JV concerned.
28. If companies of class "a", "b" or "c" fail to present evidence of required remittance/contribution within prescribed time:
- a. warning notice in the first and second instances for presentation of evidence;
 - b. if still not presented after the period specified in the notice, cancellation of exporter/importer registration and import rights of the company concerned.

Annex 3

Unofficial English Translation of Announcement of Goods permitted for Sale

Government of the Republic of the Union of Myanmar
Ministry of Commerce
Department of Trade
26 July 2018

Announcement of priority/preferential commodity groups permitted to be sold retail/wholesale (“R/W”) by foreign companies (“FC”) and joint-venture companies (“JVC”) between Myanmar citizens and foreigners

1. The MoC has with Notification-2018/25 already announced permission for FC and JVCs to engage in R/W activities within the country, together with the terms and conditions to be complied with.
2. In order that the FC and JVCs may clearly know the commodity groups allowed to be sold R/W within the country under the said Notification, they are hereby prescribed as attached.
3. It is announced that the list of priority/preferential commodities permitted to be sold R/W will be reviewed and amended from time to time according to the needs of the Union.

(by)
Department of Trade

Newsletter 3/2018

Date: 26 July 2018

List of Priority/preferential Commodity Groups

allowed to be sold R/W

by FC & JVCs

1. Personal items (including clothing, watches, cosmetics)
2. The following also come under foodstuff:
 - a. agricultural produce (other the commodities prohibited from import according to needs of the Union)
 - b. aquatic products;
 - c. animal products;
 - d. ready-to-eat foodstuff;
 - e. soft drinks, all kinds; and
 - f. domestically produced beverages;
3. Household items (including ceramics, earthenware, glass and glassware)
4. Kitchen-use items;
5. Medicine, medical equipment, hospital equipment;
6. Animal feed and veterinary medicines;
7. Stationery;
8. Furniture;
9. Sports equipment;
10. Communication equipment (including cameral and phones)
11. Electronic goods
12. Construction equipment and materials;
13. Electrical goods;
14. Industrial chemicals;
15. Seeds, agricultural inputs, materials/equipment;
16. Farming machinery equipment;
17. Machines all kinds, and auxiliary equipment/materials;
18. Bicycles, all kinds;
19. Motorcycles and auxiliary equipment/materials, all kinds;
20. Spare parts for motor-vehicles and machinery;
21. Toys;
22. Home decoration items (including flowers and plants);
23. Gift items and handicrafts, all kinds;
24. Art materials/equipment, musical instruments and auxiliary materials/equipment (excluding antiques);

NOTE:

- (1) In the sale of above commodities under R/W license, priority/preference shall be given value-added domestic products.
- (2) Imports shall comply with the laws, rules, procedures, terms and conditions of the ministry concerned according to the type of commodity.
- (3) The List of Commodity Groups for Priority/preferential Sale will be amended according to the needs of the Union.

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