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Burma - Union of

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Update to Law Regarding Retailing and Wholesaling

Report Categories:

FAIRS Subject Report
Agriculture in the News
Retail Foods
Trade Policy Monitoring

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Report Highlights:

As part of Burma's ongoing market liberalization, the Ministry of Commerce (MOC) published a notification allowing 100% foreign-owned businesses that meet certain criteria to conduct retailing and wholesaling activities, with MOC permission.

General Information:

As part of Burma's ongoing economic reforms, the government published Directive 25/2018 on May 9, 2018 which allows foreign companies to conduct wholesaling and retailing activities in Myanmar if they meet certain minimum size and investment criteria, with Ministry of Commerce approval. The details, such as which industries will be excluded, are still being worked out.

Here is an unofficial translation of the announcement.

Ministry of Commerce**Notification No. 25/ 2018****May 9, 2018**

Procedures to permit foreign businesses to establish and conduct wholesale and retail services in Myanmar

Background

1. Myanmar is liberalizing its trade restrictions in order to increase job opportunities and to benefit from technology transfer through foreign businesses while implementing economic reforms. In the process, to comply with free trade agreements (e.g., ASEAN), foreign businesses must be allowed to participate in wholesale and retail trade services, which will result in competitive advantages for consumers in price and quality. To benefit local consumers and not to create conditions that have a negative effect for small and medium enterprises in the country, Myanmar will allow foreign businesses to carry out wholesaling and retailing, which falls under the category of trading related distributions.

Objectives

1. The objectives of the wholesale and retail procedures are as follows.
 - a. To increase competition in wholesale and retail distribution, to reduce costs and increase choices for consumers.
 - b. To improve technology, quality of services, quality and quantity of the products by supporting the input of local goods and services in distribution businesses.
 - c. To increase market opportunities for local goods and to further develop small and Medium enterprises.
 - d. To impose appropriate conditions to protect consumers from the distributors through unfair or illegal competition.
 - e. To encourage foreign investment.
 - f. To increase employment opportunities.

Definitions

1. The definitions are as follows.
 - a. "Retail" means the sale of goods to the public in relatively small quantities for use or consumption rather than for resale.

- b. “Wholesale” means the selling of goods in large quantities to be retailed by others or used by businesses in production.

Permission to sell

1. Myanmar owned companies, Foreign owned companies and Joint venture companies are permitted to operate wholesale and retail businesses as follows -
 - a. In accordance with the procedures, the wholesale and retail distribution businesses can distribute both local and imported products, excepting the restricted or prohibited goods.
 - b. In accordance with the procedures, the Wholesale and Retail distribution businesses will allow to operate in any city or town in the States and Regions.

Stipulations

1. Foreign companies or Joint venture companies that are permitted to operate the wholesale and retail distribution businesses shall comply with the following conditions –
 - a. 100% foreign owned wholesale and retail distribution businesses shall –
 - i. For wholesale business, invest the initial investment amount of US\$ 5 million and above, not including land leasing cost;
 - ii. For retail distribution businesses, invest the initial investment amount of US\$ 3 million and above, not including land leasing contract.
 - b. Joint venture Wholesale and Retail distribution businesses shall –
 - i. Comply with the following if the equity participation ratio of the Myanmar business is at least 20 percent of the joint venture –
 - a. (aa) For joint venture Wholesale distribution businesses, the initial foreign investment amount not including land leasing cost should be US\$ 2 million and above.
 - b. For joint venture Retail distribution businesses, the foreign investment amount not including land leasing cost should be US\$ Seven hundred thousand (700,000) and above.
 - ii. The joint venture company with the equity participation ration of the Myanmar business below 20 percent shall comply with the provisions under section 5 (a).
2. 100% Myanmar owned companies that operate wholesale or retail distribution businesses may decide on the feasible initial investment amount.

Procedures to comply with

1. 100% Myanmar owned companies, 100% foreign owned companies and joint venture companies shall comply with the following procedures to operate domestic wholesale and retail businesses –
 - a. 100% foreign owned, Joint venture or Myanmar owned Wholesale and Retail distribution businesses which are established after the provision of these procedures shall be registered with Ministry of Commerce by submitting the following supporting documents and information.
 - i. Company registration certificate
 - ii. A copy of the approval letter from MIC (the 100% foreign owned and joint

- venture wholesale and retail distribution companies that are required to obtain approval from the Myanmar Investment Commission (MIC))
- iii. Recommendation from the respective States and Regions municipal office
- iv. list of groups of products offered for sale in the wholesale and retail distribution businesses
- v. A business plan which includes detailed information on the investment amount, location and total area of the business premises.
- b. Myanmar owned companies that are already operate Wholesale and Retail distribution businesses before the provision of these procedures shall be registered with Ministry of Commerce by submitting the following supporting documents and information within the 150 days after the provision of these procedures.
 - i. Company registration certificate
 - ii. The items or commodities group list in the wholesale and retail distribution services
 - iii. A business plan which includes detailed information of the investment amount, location, total area of the business premises
 - iv. If the permitted businesses are operating in more than one location, the number of branches, list of products offered for sale in the wholesale and retail distribution businesses, and the business plan which includes detailed information on the investment amount, location and total area of the business premises.
- c. Wholesale and retail businesses that are permitted to operate in Nay Pyi Taw, Yangon, Mandalay shall comply with the procedures set by local government authorities for location, number of stores, space, operating hours and days.
- d. Wholesale and retail distribution businesses should comply in all respects with laws and regulations designed to protect the environment, intended to meet the standardization requirements and the safety of the consumer and to ensure the provision of the guaranteed services post-sale, as well as other existing law, regulations, and procedures.

Prohibitions

1. Myanmar owned businesses, Foreign businesses and Joint venture businesses that are permitted to operate shall not distribute products that are prohibited by the existing laws and regulations of the Republic of the Union of Myanmar.
2. Foreign businesses and Joint venture businesses conducting wholesale and retail distribution such as Mini marts and convenience stores shall not be allowed to operate businesses with the floor area which is less than 929 square meters.
3. Myanmar owned businesses, Foreign businesses and joint venture businesses conducting wholesale and retail distribution businesses shall comply in all respects with the existing laws and regulations and shall not perform the unfair competition.

Tax Compliance

1. Foreign businesses, Joint venture businesses and Myanmar businesses which are permitted to operate the wholesale and retail businesses shall comply in all respects with the existing laws, rules and regulations, procedures, Notifications, Directives which are enforced by the respective

ministries for tax compliance.

Supervision

1. With the collaboration of other respective ministries, as necessary, the Ministry of Commerce will monitor the compliance of businesses with the above stated rules and regulations, including implementation of their business plans and improvement of local distribution businesses. The wholesale and retail distribution businesses are required to cooperate with Ministry of Commerce inspection teams which include officials from other relevant ministries, by providing necessary information and documents for an effective inspection.

Penalties

1. Myanmar owned businesses, Foreign businesses and joint venture businesses conducting wholesale and retail distribution businesses that fail to comply with above stated regulations and procedures or violate to any provisions under the regulations or procedures, shall be punished under the existing laws, rules and regulations, notifications that enforced by the Ministry of Commerce.
2. Myanmar owned businesses, Foreign businesses and joint venture businesses conducting wholesale and retail distribution shall comply in all respects with the rules and regulations or notifications issued by Ministry of Commerce and other existing laws and regulations. Any businesses that fail to comply with these rule and regulations are subject to prosecution.

General

1. This procedure on wholesale and retail distribution shall apply to all Myanmar owned businesses, Foreign businesses and joint venture businesses that are permitted to operate wholesale and retail distribution businesses.
2. However, Myanmar owned companies operating wholesale/retail business with the initial investment amount US\$ Seven hundred thousand (700,000) and below, or equivalent in Myanmar currency equivalent to US\$ Seven hundred thousand, shall be exempt from the wholesale/retail business registration requirement under section 7 (a).
3. The foreign and local wholesale and retail distribution businesses that are intending to expend their businesses or to open new stores shall inform to the Department of Trade, Ministry of Commerce at least 90 days before the expansion or opening the new stores. Any expanded businesses or new stores that open shall comply with the stated regulations and procedures.
4. The regulations and procedures on wholesale and retail distribution are subject to change as the conditions in the country change.

