

REGIONAL

DECHA&CO



Develop and **Change** with us.

www.dechaco.com

Myanmar Law Updates 2023

Pakpoom Vetvitayanuwat

Partner, Decha & Co (Myanmar) Limited



YOUR REGIONAL PARTNER IN ASEAN FOR LEGAL AND BUSINESS SOLUTIONS

Myanmar Law Updates 2023

Topic: Import and Export - Myanmar

Registration
of Exporter
and
Importer

Import/
Export
Licenses

Fund and
Payment

Sanctions

Agenda

Registration
of Exporter
and
Importer

Import/
Export
Licenses

Fund and
Payment

Sanctions

Registration of Exporter and Importer

A. **Membership of UMFCCI**

(Union of Myanmar Federation Chambers of Commerce and Industry)

Membership of UMFCCI is a prerequisite to application for the Certificate of Exporter and Importer (Registration of Exporter and Importer). Companies in Myanmar cannot apply for import permit and export permit without such certificate.

To apply for membership of UMFCCI, application fee and recommendation of two existing members are required.

After being a member of UMFCCI, yearly subscription fee payment is required.

B. **Commercial Tax Registration**

Certain types of goods subject to commercial tax require registration of commercial tax before conduct export and import of goods.

Registration of Exporter and Importer

C. Registering as Exporter/Importer

For companies aiming to engage in import or export activities in Myanmar, the Ministry of Commerce mandates a registration process. There are two primary categories of registration:

- Export/Import Business Owner/Operator Registration
(for trading business)
- Business Registration with Export/Import Capabilities
(for non-trading business)

All businesses must ensure compliance with these registration requirements before initiating any import or export transactions in Myanmar. Certificate of Exporter and Importer will be an evidence of complete registration.

**Ministry of Commerce Notification No. 35/2023 dated 10 May 2023*

** Ministry of Commerce Exporter and Importer Registration Order dated 10 May 2023*

Registration of Exporter and Importer

D. **Mandatory Registration for Online Sales Business**

Online Sales has been declared as essential services on 4 July 2024 and registration of online sales business operator requirement has been imposed on 21 July 2023. The deadline for registration of the existing online sales business is by 21 January 2024.

Applicants must provide the necessary documents when applying for the registration certificate, and the Department of Trade will conduct a thorough examination, including on-site inspections, in coordination with the Department of Consumer Affairs.

The registration certificate is valid for two years. The registration fees are yet to be officially released.

** Ministry of Commerce Online Sales Business Registration Order dated 21 July 2023*



Agenda

Registration
of Exporter
and
Importer

Import/
Export
Licenses

Fund and
Payment

Sanctions

Import/Export Licenses

A. Import / Export Permits

Import and Export of certain types of goods specified by Department of Trade must be permitted only after obtaining relevant licenses. Currently more than 7,000 items require import license for importation. One permit can be used for only one shipment of export/import.

Application can be made online through Ministry of Commerce's system (Tradenet 2.0).


[ABOUT US](#)
[HOW TO APPLY](#)
[FAQs](#)
[CONTACT](#)

TradeNet 2.0 Login

TradeNet 2.0 တွင် လိုင်စင်များ လျှောက်ထားနိုင်ရန် အောက်ဖော်ပြပါ Registration

Welcome! To access
login with your ID

Develop and Change with us. www.dechaco.com

Import/Export Licenses

B. Other Permits

To import, we need not only an import permit but also other essential permissions and documentation, e.g. FDA, License related to Hazardous Products, License related to Petroleum Products, Telecommunication Equipment License, Phytosanitary Certificate, etc.

Beyond securing the appropriate permits, obtaining customs clearance is essential to successfully retrieve goods from the port and facilitate their entry into the country.

Import/Export Licenses

C. Validity Prior Arrival (VPA)

The term "Validity Prior Approval" pertains to the retroactive recognition of an import license for goods that have entered a country before the acquisition of the necessary import license. After obtaining the license, the goods can be cleared through customs.

The grace periods for VPA without penalties are as follows:

1. CMP (Cut, Make, Pack): 45 days
2. Vehicles and Machinery: 30 days
3. General Goods: 20 days

Beyond these periods, delays in securing the import permit might incur penalties (in addition to other relevant costs) or lead to the confiscation of goods, contingent on the duration of the delay.

** Ministry of Planning and Finance Notification No. 40/2023 dated 9 June 2023*

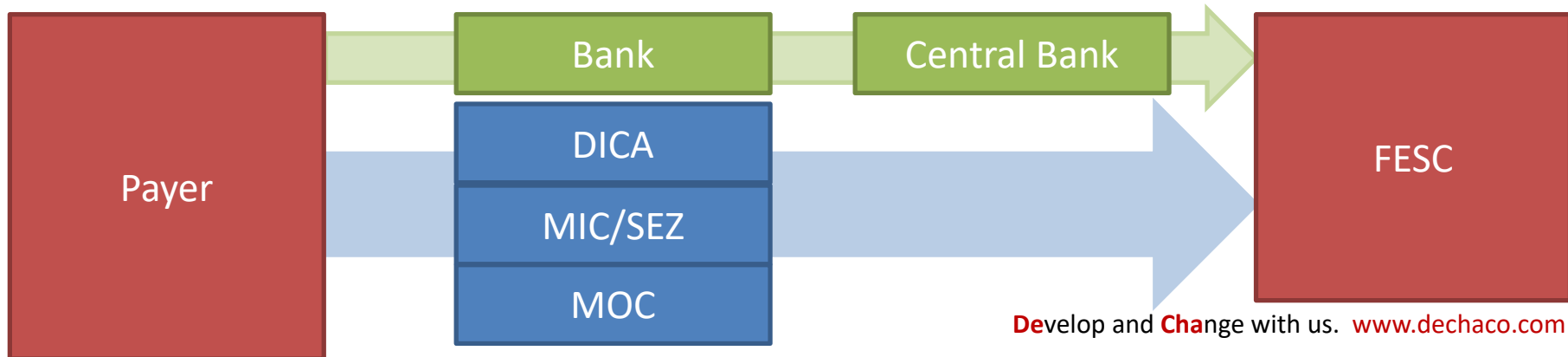
Develop and **Ch**ange with us. www.dechaco.com

Import/Export Licenses

D. Permit to Transfer Payment Abroad

Transfer of foreign currency out of the country for imports is subject to permission of the Foreign Exchange Supervisory Committee (FESC) e.g. payments for import, services, dividends, return of capital, offshore investment.

** Central Bank of Myanmar Notification No. 12/2022 dated 3 April 2022 and Central Bank of Myanmar Directive No. 6/2022*



Agenda

Registration
of Exporter
and
Importer

Import/
Export
Licenses

Fund and
Payment

Sanctions

Fund and Payment

A. **Bank statement is required for import**

Companies seeking an import license from the Department of Trade must provide credit advice as well as original bank statements proving the receipt of export earnings or other earnings into their bank account.

Importers must include the necessary information for the Customs Department when filing an import declaration for items that do not require import licenses by attaching the credit advice and original bank statement showing receipt of export earnings or other earnings into their account.

** the Department of Trade Import/Export Newsletter No. 10/2022, dated 31 October 2022*

Fund and Payment

B. Sources of Fund

- Importers are required to pay for imported goods by using export earnings through bank account in Myanmar
- Exporters are required to receive export earnings through bank account in Myanmar as well.

They are unable to use other sources of income or establish alternative settlements which exclude bank transactions.

Fund and Payment

B. Sources of Fund (Continued)

- (a) Export earnings
 - Self export earnings
 - Export earnings traded through the bank
- (b) Foreign exchange permitted by FESC
- (c) Capital

Retrieved export earnings has short-term validity period (30 days after receipt at the bank). It needs to be used or traded through the commercial bank within such period before the forced conversion.

** the Department of Trade Import/Export Newsletter No. 10/2022, dated 31 October 2022*

Fund and Payment

C. Payments Receivable from Export

Earlier, the Advanced Telegraphic Transfer (TT) system was exercised in exports of pulses, beans, sesame and peanuts to neighbouring countries via land borders. It means that 100% payment is required before the export of such goods.

** Foreign Exchange Supervisory Committee Meeting No. 32/2022*

Effective from 1 July 2023, exporters will no longer be required to prepay export revenue. Instead, a security deposit based on the export value and the company's operational duration will be implemented:

- Companies operating for less than 3 years: 20% of the export value.
- Companies with at least 3 years of operation: 35% of the export value.

**the Department of Trade Import/Export Newsletter No. 11/2023, dated 28 June 2023*

Fund and Payment

C. **Payments Receivable from Export (continued)**

After the Export, export earnings have to be deposited into the company's bank account. Such period is extended to 15 days from 7 working days, after making an export declaration. Additionally, deposits for export items can be paid in local currency according to the over-the-counter rate in respective border areas.

**the Department of Trade Import/Export Newsletter No. 13/2023, dated 6 July 2023*

D. **Customs**

- On 1 October 2022, Myanmar Customs Department adopted the eight-digit HS codes of the ASEAN Harmonized Tariff Nomenclature for goods identified by six-digit international classification codes.
- Reduction of customs duty on import of SKD and CKD of vehicle until 31 May 2024 (Motorcycle reduced from 3% to 1.5%)
- Import of CBU vehicle has been suspended since 30 September 2021

Agenda

Registration
of Exporter
and
Importer

Import/
Export
Licenses

Fund and
Payment

Sanctions

Sanctions

A. Overview of Major Sanctioning Authorities and their Actions on Myanmar

1. United Nations (UN):

- Sanctions are primarily imposed through the United Nations Security Council.
- Notably, countries like China and Russia are not willing to impose the country-wide sanctions on Myanmar, and there is a possibility that they might exercise the right of veto such against such measures.

2. United States of America (USA):

- As of the current date, the USA has chosen to implement targeted sanctions on specific entities in Myanmar, rather than blanket sanctions on the entire country.
- Recent sanctions have been placed on institutions such as Myanmar Investment and Commercial Bank (MICB) and Myanmar Foreign Trade Bank (MFTB).

Sanctions

A. Overview of Major Sanctioning Authorities and their Actions on Myanmar

3. European Union (EU):

- Similar to the USA, the EU has, as of now, opted for targeted sanctions on particular entities or individuals in Myanmar instead of whole-country measures.

4. United Kingdom (UK):

- The UK's stance also mirrors that of the USA and EU, with targeted sanctions currently in place rather than full-country ones against Myanmar.

Sanctions

A. Overview of Major Sanctioning Authorities and their Actions on Myanmar

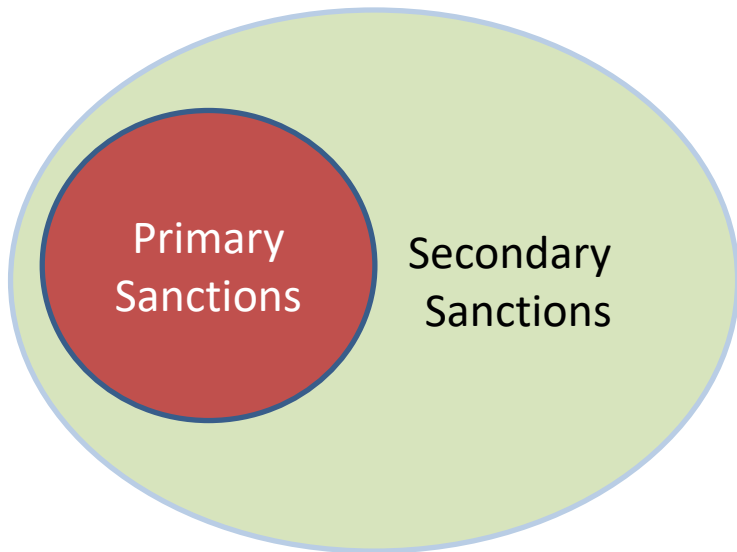
5. Thailand:

- Thailand have an autonomous sanctions list. Most of them are under the Designated List released by the Anti-Money Laundering Office of Thailand, however, Thailand usually implements UN sanctions as well.
- Currently, Thailand has no issue to impose sanctions on Myanmar.

Note that diplomatic and international relations are complex and can evolve based on various factors. It is essential to be updated with the latest actions and stances of countries concerning such matters.

Sanctions

B. Levels of Sanctions



1. Primary Sanctions

Target: Directly target the sanctioned country, entity, or individual. For example, if the U.S. imposes primary sanctions on a nation, it means that U.S. entities (companies, individuals, etc.) are prohibited from conducting certain business activities with that nation or the designated entities/individuals within that nation.

Example: If Country A imposes primary sanctions on Country B, businesses from Country A cannot do business with or invest in Country B.

Sanctions

B. Levels of Sanctions

2. Secondary Sanctions

Target: Target third parties (entities or individuals) that are not direct subjects of the primary sanctions but have business engagements or other relationships with the sanctioned entities or individuals.

Example: If Country A imposes secondary sanctions related to its primary sanctions on Country B, it means that even businesses from Country C will face penalties if they engage in certain activities with Country B.

Secondary sanctions can be particularly powerful because they force third-party countries or entities to choose between doing business with the sanctioned country or maintaining their economic

Sanctions

C. Preventive Actions

1. **Stay Updated:** Regularly monitor updates from major sanctioning bodies such as the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC), the European Union, and the United Nations.
2. **Limit Exposure:** Diversify your business partnerships to reduce dependency on potentially sanctioned parties or venues.
3. **KYC:** Ensure that your KYC procedures include checks against international blacklists or watch lists.

Sanctions

C. Preventive Actions

4. **Transaction through Commercial Bank:**

- Engage with reputable commercial banks known for their stringent screening processes.
- These banks often have built-in measures to red-flag any transactions or entities related to sanctioned countries.
- Ensure to maintain open communication with your bank regarding your transactions to avoid sudden freezes or blocks.

5. **Agreement – Sanction Clause:** Incorporate a 'Sanction Clause' in all your contracts and agreements. This clause can provide an exit strategy or renegotiation terms if a partner/customer/supplier becomes sanctioned or if doing business with them exposes your company to sanctions. – 'Political Force Majeure' Clause is also useful in certain cases.

Sanctions

C. Preventive Actions

6. **Company Constitution – Qualification of Directors:**

- Establish (jointly with all partners) a set of qualifications for directors that emphasizes the importance of clean financial and political backgrounds.
- Periodically review the qualifications and backgrounds of your board members to ensure none have ties to sanctioned entities or regions.

Q&A



Mr. Pakpoom Vetvitayanuwat

Partner, Decha & Co (Myanmar) Limited

Email: pakpoom@dechaco.com

Direct: +(66) 839876155 (TH)
+(95) 9420118642 (MM)

Line ID: +(66) 839876155
Whatsapp: +(66) 839876155
Viber: +(95) 9420118642

Thank you for your attention.



www.dechaco.com
information@dechaco.com

Decha & Co (Myanmar) Limited

22 (C), Lane of Kabaraye
Pagoda Road, Ko Min Ko Chin
Ward, Bahan Township,
Yangon 11201
Myanmar

Tel. (+95) 94-5523-7324

Tel. (+95) 94-5523-7325

Tel. (+95) 97-6152-7123

Fax. (+95) 1-552-845

 Decha&Co Limited