

Newsletter

In this edition of our newsletter, we provide the following legal updates:

- **Announcement of new special economic zone development plan in Mon State** – State Counselor Aung San Suu Kyi announced at the Japan-Myanmar Investment Dialogue on Economic Recovery After COVID-19 and New Investment Opportunities on 29 July 2020 that the Government planned to develop a new special economic zone in Mon State in the east of the country to connect the East-West Economic Corridor ([further details here](#)).
- **Recent updates from the Ministry of Commerce** – the Ministry of Commerce (“MOC”) recently:
 - released a draft Plan for E-Commerce Online Shop Registration (following its recent publication of draft Guidelines on the Operation of E-Commerce) ([further details here](#));
 - issued Notification No. 50/2020 on 8 July 2020, regarding the import of goods which require import licences ([further details here](#)); and
 - issued Notification No. 51/2020 dated 9 July 2020 updating the list of export-controlled items ([further details here](#)).

In addition, we recently published a chapter on project finance in Myanmar – we contributed the Myanmar chapter of the latest *Getting the Deal Through* volume on project finance ([further details here](#)).

LEGAL UPDATES

1. ANNOUNCEMENT OF NEW SPECIAL ECONOMIC ZONE DEVELOPMENT PLAN IN MON STATE

State Counsellor Daw Aung San Suu Kyi delivered the keynote presentation to the Japan-Myanmar Investment Dialogue on Economic Recovery After COVID-19 and New Investment Opportunities held on 29 July 2020. One of the initiatives she announced during her address to attract investment into Myanmar is a plan to develop a new special economic zone (“SEZ”) in Mon State. The proposed SEZ is expected to cost US\$117 million and take at least five years to complete. Among others, a deep-sea port is expected to be constructed as part of this project.

Thilawa SEZ, located in a suburb of Yangon, is the first SEZ developed under Myanmar’s Special Economic Zone Law, and is operating effectively, and is a significant destination for foreign investment into Myanmar. SEZs are also currently being developed in Dawei, in Tanintharyi Region, and Kyaukphyu, in Rakhine State.

The new SEZ in Mon State has the potential to further boost investment into Myanmar due to its connectivity with countries in the East-West Economic Corridor. It would be worthwhile to see how this new SEZ develops in the future.

2. RECENT UPDATES FROM THE MINISTRY OF COMMERCE

(1) Publication of a Draft Plan for E-Commerce Online Shop Registration

The MOC released the Draft Plan in July 2020, following the release of the Draft Guidelines on 8 May 2020, described in our [August 2020 Newsletter](#). The Draft Plan is understood to form part of the MOC’s efforts to promote e-commerce businesses in Myanmar.

Under the Draft Plan, an online shop operator will be required to register with the MOC. However, as with the Draft Guidelines, the legal grounds for the Draft Plan and the registration regime it establishes are unclear. According to MOC officials, the MOC is further developing the Draft Guidelines and other legislation and regulations relating to e-commerce, and these are expected to be finalised in the near future.

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(2) Publication of Notification on Import of Goods into Bonded Areas

The MOC has issued Notification No. 50/2020 dated 8 July 2020 prescribing regulations regarding the import of goods which require import licences.

Under Notification No. 93/2015 issued by the MOC on 22 October 2015, a person wishing to unload imported goods which require an import licence must obtain the import licence from the MOC in advance of the goods arriving at the port. However, Notification No. 68/2019 issued by the Ministry of Planning, Finance and Industry on 20 August 2019 provides that for imports intended to be stored in bonded areas, import licences need to be obtained only prior to the goods entering Myanmar for domestic use, not prior to their arrival at the port. The actual customs clearance practice in Myanmar is based on Notification No. 68/2019.

Notification No. 50/2020 amends the requirements under Notification No. 68/2019 based on the actual customs clearance practice conducted in accordance with Notification No. 93/2015 and provides that, in case of goods for domestic use being stored in bonded areas, an import licence required for such goods is only required before entering Myanmar from the bonded areas. Although this does not seem to have any impact on the current practice of import licensing in Myanmar, it shows the Government is moving to develop and harmonise its regulations to improve clarity and avoid confusion.

(3) Revision of the Export-Controlled Items

The MOC has issued Notification No. 51/2020 dated 9 July 2020 updating the list of export-controlled items (the "New Export Negative List"). Under the New Export Negative List, the number of items which require export licences have been reduced to approximately one-third of the items listed on the previous negative list (the "Previous Export Negative List"). The items removed from the Previous Export Negative List in accordance with the New Export Negative List include seeds, rice, vehicles, and large machinery.

Businesses involved in import and export in Myanmar must register with the MOC as an exporter/importer and, if importing or exporting any items which require an import/export licence, obtain the applicable import or export licence. Until recently, with certain exceptions, foreign companies were not allowed to register as an importer or exporter with the MOC. While foreign companies are now permitted to register as an importer, they continue to be restricted from registering as an exporter. There is a possibility that the restriction on foreign companies registering as an exporter will continue, regardless of whether the items sought to be exported are listed in the New Export Negative List or not due to the MOC's internal policy. However, the MOC updates their regulations regularly, and it is recommended that businesses in Myanmar confirm the latest regulations with the MOC before undertaking any import or export activities in Myanmar.

FIRM UPDATE – PUBLICATION OF ARTICLE ON PROJECT FINANCE

Myanmar Legal MHM contributed the Myanmar chapter of the 14th edition of the *Getting the Deal Through* volume on project finance, published in August 2020. This chapter provides our insights based on our on the ground experience advising on project financing transactions in Myanmar.

We trust this publication will be helpful to your business in Myanmar. You can access the publication at the link [HERE](#)



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