

Dear Sirs

We refer to the meeting dated 10th January 2019 requesting five key points that create difficulties for business operation or business approvals. It was proposed by UMFCCI that they would take matters raised and bring to the attention of the relevant authority or ministry. We have also presented salient details of two live case studies in the appendix of this document. Actual project names have been removed for the present, however with consent of the project owners will offer further information.

1. Company Shareholding – Companies Law

- a.** Clarification is needed under the Companies Law for foreign investors taking a shareholding position in local companies that foreign companies may own is up to 35% shareholding in local companies that own land including but not limited to:
 - i.** Freehold
 - ii.** Grant
 - iii.** long lease etc.
- b.** Such shareholding, in accordance with the regulation remains without transgressing the Transfer of Immoveable Property Restriction Act 1987. DICA is clear however other ministries are less clear how to understand or interpret the Companies Law when land issues are involved.
- c. Recommendation**
 - i.** We recommend that DICA provide guidelines and training to ministries to ensure that there is a consistent understanding as well as implementation of the laws.
- d. Benefit**
 - i.** Remove doubt, reduce investor cost, increase investor confidence to participate in the Myanmar market.

2. DICA & MIC Approvals & subsequent process

- a.** There have been several cases where DICA/MIC approve in principal a business type/activity (various ownership structures), however when seeking the approval from the respective or responsible Ministry the outcome is very different. The Ministry will refuse to issue recommendation letter/s or recognize that there has been any change to company law.
- b. Recommendation**
 - i.** We recommend that DICA/MIC provide guidelines and training to responsible ministries to ensure that there is a consistent understanding to support smooth ministry approvals.
- c. Benefit**
 - i.** Remove doubt, reduce investor cost, increase investor confidence to participate in the Myanmar market.

3. Yangon Stock Exchange

- a. Members would like to understand the process for foreign investors wishing to invest in YSX listed companies as our understanding is that foreign companies will be able to invest however there is no clarity on when this will be fully implemented.
- b. **Recommendation**
 - i. That foreign investors be allowed to invest into local companies via means of share transactions through the YSX
- c. **Benefit**
 - i. Having foreign investors involved with the exchange will improve liquidity for the YSX listed companies. Given the insurance liberalization process, there may soon be new investors willing to consider the YSX for some investment.

4. **Bonded Warehouse & Customs Inspections**

- a. Bonded warehouse for licensed goods
 - i. A bonded warehouse allows companies to safely and legally store products under Customs control and defer the payment of duties and taxes until the goods have been removed. Such facilities in Myanmar can be used by the automotive business to store non-licence items (e.g. Replacement parts), but not licence items (e.g. imported vehicles), with the inevitable consequence of slowing down the process of delivering new vehicles to clients.
- b. **Benefits**
 - i. **Consumers** will benefit from improved access to newer-model cars and trucks, as will businesses. For example, a logistics business will be able to have faster access to new trucks from a bonded facility, rather than waiting for goods to be ordered or delivered from a third country or factory. This will allow for faster business expansion and growth in infrastructure development, leading to stronger tax revenues and accelerated economic development for the country.
 - ii. **Importers** will benefit from being able to store products close to the end consumer, which will reduce overall logistics costs whilst enhancing revenues for locally-based logistics providers.
 - iii. **The associated savings** can, in turn, be passed on to end users. This will also enable importers to stock a wider range of products, providing an enhanced range of choices to businesses and consumers alike.
 - iv. **Customs Authority** will be able to track and monitor stocks of vehicles and ensure that only proven products are imported and stored in Myanmar. This enhances control and security for Customs Authority, as well giving greater assurances to importers and consumers.

c. Recommendations:

- i. With the existing SEZ infrastructure already in place, changes to regulations could allow licensed goods to be stored in bonded facilities. This applies equally to other industries providing goods to consumers, businesses and infrastructure.
- ii. Existing controls and logistics capacity make this a relatively seamless transition, with customs retaining the ability to fully monitor bonded facilities. This will streamline the import process and lead to a more immediate availability of products which helps grow the economy and build much-needed infrastructure in line with growing consumer demand.

5. Consolidated clearance for goods with more than one Ministry oversight.

- i. All imported goods are checked at point of entry to ensure that they comply with the customs import requirements and match the import license that was raised against the import of these goods.

b. Recommendation

- i. To **reduce** duplicate inspections and avoid unnecessary movement of goods, it is recommended that all inspections of goods are carried out simultaneously at point of entry, be that for food standards or other checks (e.g. RTA inspection for automotive and commercial vehicles).
- ii. Using the example of commercial vehicles, a single point of inspection will avoid additional transportation of the goods to a separate inspection point, reducing traffic, pollution and business/government resources.
- iii. This will speed up delivery of vehicles for infrastructure development that is much needed across Myanmar as the vehicles can be shipped directly to the purchasers.

c. Benefit

- i. By creating a single point of inspection at port of entry, all the regulatory requirements can be managed with each importer and clearance given at that point. This will mean a 'one stop shop' concept that reduces multiple inspections and speeds up processing, especially for perishable goods.

We thank you for your review of our issues and we will keep UMFCCI appraised and updated. However we appreciate your efforts to bring such matters to the attention of the relevant authority or Ministry as we believe that taking such steps will improve the overall business environment and not least the competitive edge for Myanmar and improving ranking on Doing Business.

Yours faithfully
British Chamber of Commerce in Myanmar

Peter J Crowhurst
Chief Executive Officer

Appendix 1/1

Direct Commentary from Member or Companies Being supported by Member Companies

Case 1

Live Hospitality Project	MANDALAY
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- We were pleased to receive our MIC permit for this project in February 2018 last year
- We saw the endorsements on the back of the permit by all the relevant Ministries and local authorities as very important for the ongoing smooth process of the project
- Despite signing the MIC permit the MCDC departments have been totally uncooperative in finalising our approvals
- We still are waiting on our final approval from the Hotel Ministry who are waiting for the township approval.
- **Such bottom up approval process seems to make the MIC approval moot.**
- **It appears that the local authorities don't believe the MIC has the power to approve a project and have done everything in their power to slow or stop the project**

Case 2

Live Resort Project	DAWEI
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- We have demonstrated incredible patience in waiting for more than four years for approval
- Our landlord encountered difficulties obtaining land use approved and his ownership was challenged in the Land Court; this matter was resolved in court,
- We presented to the MIC in Dawei
- 12 of the 13 attendees (Hotel Ministry excluded) seemed more intent on preventing the project rather than asking what they could do to help us spend \$4million in their region.
- One officer even told us to find another site
- The next meeting was scheduled for 24th December – cancelled
- Then 10th January- Cancelled
- **There is no next meeting scheduled**
- **If we are delayed another month, we will miss the next peak season delaying the project for another 18 months**