

Dear Readers,

1. Procedures at customs to protect trademarks

The Ministry of Planning and Finance under the SAC issued “customs rules concerning the protection of mark rights” (“Rules”) on 14 July 2023. Please contact us if you wish to receive an English translation of the Rules and the forms annexed to them (for a fee).

The rules set out the procedures and forms for a trademark owner to (i) have his trademarks recorded with the Customs Department to make customs officers aware of them so as to enable the officers to spot and seize counterfeited goods, and (ii) apply for a suspension order if he has become aware of a shipment of counterfeited goods taking place.

The Customs Department apparently does not charge a recordation fee. The recordation is valid for 2 years and may be renewed 30 days before expiry.

The Customs Department shall, either following its own investigation or after having been prompted by a trademark owner, temporarily seize goods if there are reasons to suspect that they are counterfeited. This is done with a suspension order. If the trademark owner does not follow up within 15 days by requesting the Kyauktada District Court to determine whether his claim has any merit, the suspension order is lifted again. Alternatively, the importer may request the High Court of Yangon Region to review the suspension order.

A trademark owner may apply for a suspension order irrespective of any recordation of his trademarks with the Customs Department. Applying is not entirely without financial risk as the Customs Department requests a deposit from the applicant from which it will, if the importer does not pay, deduct all costs associated with storing and possibly destroying or removing from circulation the incriminated goods.

The new Rules are silent about what happens in the current interim situation in which the Intellectual Property Department accepts applications for the registration of trademarks, but has not registered any trademarks yet.

The Rules require prior registration of the trademarks with the Intellectual Property Department if their owner wishes to solicit the help of the Customs Department against infringements in the shape of a trademark recordation or suspension order. It was longstanding administrative practice of the Customs Department to provide similar assistance before the new Rules came out (without



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mark registration with the Intellectual Property Department), but whether this is still available is not clear.

2. Exporters to exchange 50% of their export earnings to MMK

On 13 July 2023, the Central Bank under the SAC issued a notification ([English translation](#)) requiring exporters to exchange 50% of their export earnings to MMK at the Central Bank rate within one day (previously it was 65%). Exporters may trade the remaining 50% for MMK at the market rate (but nowadays presumably through the Central Bank's "[online trading platform](#)") or use them to pay for own expenses; they have to convert any balance remaining after 30 days to MMK (presumably at the Central Bank rate).

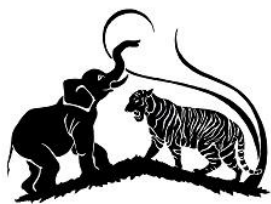
3. Standard operating procedure for foreign remittances amended

On 28 June 2023, the Ministry of Planning and Finance under the SAC amended its standard operating procedure according to which banks have to check whether remitters of foreign currency have any tax debts ([English translation](#)).

We hope that you have found this information useful.

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About Lincoln Legal Services (Myanmar) Limited

Lincoln Legal Services (Myanmar) Limited provides the full range of legal and tax advisory and compliance work required by investors. We pride ourselves in offering result-oriented work, high dependability and a fast response time at very competitive prices. Please do not hesitate to contact us:

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