



SOUTH ASIA
CENTRE

OCCASIONAL PAPER 4

DETERRENCE ON IMPORT GOODS IN ILLEGAL TRADE IN MYANMAR

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June–September 2023

EXECUTIVE SUMMARY

MANUFACTURING AND TRADE ARE CRUCIAL FOR BOOSTING A STATE'S ECONOMY. ILLEGAL TRADE ACTIVITIES FREQUENTLY DISRUPT PRODUCTION AND TRADE PROCESSES, JEOPARDISING THE ECONOMIC STABILITY OF THE STATE. IT HAS BEEN A PERSISTENT CONCERN IN MYANMAR THROUGHOUT THE DECADES, REQUIRING STRICT LEGAL MEASURES AGAINST OFFENDERS. THIS PAPER DISCUSSES THE OBSTACLES TO ADDRESSING UNLAWFUL COMMERCE THROUGH SYSTEMATIC ENFORCEMENT IN COMPLIANCE WITH THE LAW, FOCUSING PRIMARILY ON ENSURING THE SAFETY OF THE PEOPLE AND THE NATIONAL ECONOMY BY EXAMINING LIMITS ON IMPORTING HARMFUL OR RISKY PRODUCTS, HAZARDOUS COMMODITIES AND TRADE PRACTICES TO ELIMINATE UNLAWFUL.



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INTRODUCTION

Every country deals with illegal commerce to some degree, and governments globally are committed to fighting these unethical activities. The goal is to not only decrease illegal trading but to also lower inflation rates and keep commodity prices at a fair level. The government of Myanmar is actively improving trade processes for private businesses, both within the country and beyond. Import taxes are being imposed while private enterprises are conducting trade activities that reach international markets via maritime and land routes. To ensure a seamless and efficient flow of goods, business owners import products and transport them to various regions and states, navigating toll gates and checkpoints. In a bid to expedite this process, the Ministry of Commerce (MoC) has implemented various measures to facilitate the smooth movement of commodities.¹

The MoC is responsible for trade regulations, policy coordination, implementation of trade-related matters, and matters relating to export and import licences. Departments under the MoC regularly coordinate trade policies and practices; representatives from the private sector, including the Union of Myanmar Federation of Chambers of Commerce and Industry (UMFCCI) and other allied associations are invited to participate.² This paper is organised in two parts: the first looks at the registration, licensing process, customs regulations, and import declaration; and the second discusses trade remedy measures in Myanmar.

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This paper is based on a qualitative research design with grounded theory and illustrative case studies. It relies largely on a legal analysis of data from the World Trade Organization (WTO) and others institutions like the General Agreement on Tariffs and Trade (GATT); other international and national frameworks and standards pertinent to illegal trade (such as the guiding principles on imported goods) are used as secondary sources. Interviews with stakeholders including officers from the Department of Trade Policy (DoTP), Department of

¹ *The Global New Light of Myanmar*, 21 October 2023, p. 8, www.gnlm.com.mm (accessed on 8 January 2025)

² [Trade Policy Review: Myanmar](#), Report by the Secretariat, Trade Policy Review Body, World Trade Organization, 21 December 2020, p. 25 (accessed on 8 January 2025).

Export and Import Licence and members of UMFCCI were conducted for primary data (Table 1). A cross-sectional analysis of data gathered at a single point in time is employed here as the research design.

Table 1: Profile of Interviewees

Interview/ Place	Status	Organisation/Date of Interview	Age	Sex
Interviewee 1 Naypyitaw	Officer	Department of Trade Policy 18 January 2024	56	Female
Interviewee 2 Naypyitaw	Officer	Department of Trade Policy 18 January 2024	53	Female
Interviewee 3 Naypyitaw	Officer	Department of Import/ Export Licence 18 January 2024	49	Male
Interviewee 4 Naypyitaw	Officer	Department of Import/ Export Licence 18 January 2024	36	Female
Interviewee 5 Naypyitaw	Member	UMFCCI 14 February 2023	58	Male
Interviewee 6 Naypyitaw	Member	UMFCCI 16 February 2023	47	Male
Interviewee 7 Naypyitaw	Member	UMFCCI 20 February 2023	57	Male

The aim of this research is to consider the progress being made in tackling illegal trade, and what barriers hinder the effectiveness of current legislation (especially import regulations on tracked items). How does the Myanmar government enforce safeguarding measures to ensure the efficacy of processes connected to illegal trade? It also examines how specific legal provisions are designed in national laws to determine whether or not such an approach deals with specific issues related to the illegal trade of imported goods.

IMPORTING GOODS INTO MYANMAR

Myanmar joined the WTO on 1 January 1995, and became a member of GATT on 29 July 1948, being one of its original members. It officially approved the WTO-Trade Facilitation Agreement (WTO-TFA) on 16 December 2015, informed the WTO about its Category A, B and C obligations, as well as the expected time frames for fulfilling its Category B commitments. The Myanmar National Trade Facilitation Action Plan was endorsed by the Co-Chairs of the National Trade Facilitation Committee in 2018, and was updated in February 2019.³

³ [Trade Facilitation Agreement: Myanmar](#), World Trade Organization (accessed on 8 January 2025).

The Import Policy of Myanmar specifies preference to import commodities given priority as capital goods required by the State, raw materials for production, other important essential goods, and goods which support public health and export promotion.⁴ Myanmar is currently importing various goods — from consumer goods like palm oil to construction materials and petroleum products.⁵ According to Export/Import Business Owner Registration Order No. 35/2023, Myanmar permits foreign companies, and joint ventures between foreign nationals and citizens of Myanmar, to provide retail and wholesale services within the nation (Notification No. 25/2018); it also permits foreign companies, international non-governmental organisations and their branches to import office supplies and other items needed for their operations (Notification No. 57/2018).⁶ Table 2 shows Myanmar’s trade status, including import and export, during the annual fiscal years from 2019–24.

Table 2: Trade in Myanmar, 2019-10 to 2023-24 (November)

NO.	SECTOR	EXPORT			IMPORT			TRADE VOLUME in US\$m		
		OVERSEAS	BORDER	TOTAL	OVERSEAS	BORDER	TOTAL	OVERSEAS	BORDER	TOTAL
1	2019-20	10493.150	7187.939	17681.089	15603.360	3447.496	19050.856	26096.510	10635.435	36731.945
2	2020-21	8454.400	6908.884	15363.284	11427.249	3258.809	14686.058	19881.649	10167.693	30049.342
3	2021-22 (Mini Budget)	5620.634	2687.788	8308.422	7037.735	927.260	7964.995	12658.369	3615.048	16273.417
4	2022-23	10508.094	6112.083	16620.177	14868.298	2484.424	17352.722	25376.392	8596.507	33972.899
5	2023-24 Till Nov.	5848.497	3779.196	9627.693	9008.355	2015.466	11023.821	14856.852	5794.662	20651.514

Source: Myanmar Customs Department

Myanmar receives three types of unlawful imported goods: surplus cargo, restricted cargo and miscarriage. Legal import is characterised by restrictive foreign exchange controls and import permit limitations, a complex regulatory environment which leads, on the one hand, to friction and inefficiencies in the legal import process, and the emergence of an illegal import market on the other.

⁴ Ministry of Commerce, Government of Myanmar, 2012: <https://commerce.gov.mm/en/node/141> (accessed on 9 January 2025)

⁵ Daw Zin Zin Naing, ‘Trade Policy Reform in Myanmar’, ESCAP–UN, 2014, p. 7.

⁶ Interviewee 2, Officer, Department of Trade Policy, Naypyitaw, 18 January 2024.

Most imported goods are illegal due to their lack of adherence to government stipulations;⁷ it is currently estimated at around 10 per cent of total imports according to data from neighbouring countries and government sources. While apprehending smuggled goods and penalising illegal imports may indeed serve as deterrents, it is crucial to acknowledge the potential unintended consequences of such measures. Illegal imports are sometimes driven by price distortions resulting from scarcity. This, and restricted legal import channels, can result in higher costs for imported products. This price disparity creates an economic incentive for individuals and businesses to seek alternative means, albeit illegal, of acquiring these goods.⁸

REGISTRATION

The Export/Import Business Registration Order (Notification No. 35/2023) establishes two distinct types of registration: Exporter/Importer Registration, and Export/Import Business Registration. Exporter/Importer Registration is granted and authorised by the Department of Trade (DoT) and enables individuals or entities to trade goods by either exporting goods from the country or importing goods into the country.⁷ The Export/Import Business Registration (also authorised and conferred by the DoT) allows individuals or entities to export goods from the country or import goods into the country without intending to engage in trading activities.⁸

According to the MoC, the MyCo system has been instituted to assist businesses to establish companies and business organisations.⁹ Foreign importers can apply to the Myanmar Investment Commission as a joint venture with a Myanmar company, they are not allowed to register for a 100 per cent import licence.¹⁰ Thus, Exporter/Importer Registration enables the trading of goods, whereas Export/Import Business Registration allows for the import or export of items without engaging in trading operations. An organisation seeking to import equipment for their factory must file for Export/Import Business Registration.

Eligibility for Exporter/Importer Registration

Companies and cooperative societies intending to engage in trading activities involving the export and import of goods, and that meet the criteria mentioned below, are eligible to apply for Exporter/Importer Registration:

- Companies incorporated under the Special Companies Act, 1950, and the Myanmar Companies Law, 2017.
- Cooperative Societies established under the Cooperative Societies Law.¹¹

Eligibility for Export/Import Business Registration

Organisations and individuals intending to export and import goods for non-trading purposes can apply for an Export/Import Business Registration with the DoT. The following categories of organisations can apply this type of registration:

- Government departments and organisations
- State-owned enterprises

⁷ Interviewee 5, Member, Union of Myanmar Federation of Chambers & Commerce Industry (UMFCCI), Naypyitaw, 14 February 2023.

⁸ Interviewee 6, Member, UMFCCI, Naypyitaw, 16 February 2023.

⁷ Export/Import Business Owner Registration Order, § 1(a), Ministry of Commerce, Government of Myanmar, Notification No. 35/2023 (<https://www.myanmartradeportal.gov.mm/legal/412>; accessed on 9 January 2025).

⁸ *Ibid.*, § 1(b).

⁹ *The Global New Light of Myanmar*, 3 January 2024, p. 8, www.gnlm.com.mm (accessed on 8 January 2025)

¹⁰ Interviewee 1, Officer, Department of Trade Policy, Naypyitaw, 18 January 2024.

¹¹ Export/Import Business Owner Registration Order, § 2(a)(b) (<https://www.myanmartradeportal.gov.mm/legal/412>; accessed on 9 January 2025).

- Associations that are registered with the relevant departments
- Religious officials and diplomatic personnel

The Rights of Export/Import Business Owners

Export/Import business owners are granted two rights. They can trade goods through export or import by sea, air or designated trading stations in the border area. These activities must adhere to specified legal procedures, and can be conducted within conventional or border trade systems.¹² They are privileged to export or import a wide range of goods, subject to specific terms and conditions. However, it is essential to note that any goods prohibited from export or import under applicable laws, regulations, notifications, directives, orders, and procedures are exempt from these rights.¹³

Term and Fees for the Exporter/Importer Registration

For companies, the registration period is five years from the approval date, and the registration fee is Myanmar Kyat (MMK) 200,000 (US\$95 approx.).¹⁴ If the registration period for a Cooperative Society (Ltd) is up to five years, the validity of the Exporter/Importer Registration will correspondingly be valid for the same duration. However, if the registration period exceeds five years, the Exporter/Importer Registration will be limited to a maximum of five years.¹⁵ The registration fee for a Cooperative Society (Ltd) varies based on the duration of the Exporter/Importer Registration, as follows:

- Up to 1 year: MMK 50,000 (US\$24 approx.)
- Up to 2 years: MMK 100,000 (US\$48 approx.)
- Up to 3 years: MMK 150,000 (US\$71 approx.)
- More than 3 years, up to 5 years: MMK 200,000 (US\$95 approx.)¹⁶

As mentioned, associations registered with government departments, government organisations, state-owned enterprises, and relevant departments (including religious officials and diplomatic personnel) are granted a one-year registration term. The registration fee for these organisations/individuals is waived or exempted.¹⁷

Exporter/Importer Verification Card

Companies or Cooperative Societies (Ltd) can apply for a maximum of five Exporter/Importer Verification Cards per company or Society. These Cards grant them the necessary authorisation to manage administrative responsibilities associated with their export and import activities in collaboration with the DoT under the MoC.¹⁸

Denial of Application, Temporary Suspension or Permanent Cancellation

If the DoT determines that the evidence provided by an organisation or individual seeking Exporter/Importer Registration or by a company or Cooperative Society applying for the renewal or modification of their Exporter/Importer Registration does not meet the requirements outlined in the Order, it reserves the right to reject or revoke the application. Additionally, the DoT has the power to temporarily suspend the Exporter/Importer Registration or Export/Import Business Registration for a period ranging from three months

¹² *Ibid.*, § 4(a).

¹³ *Ibid.*, § 4(b).

¹⁴ *Ibid.*, § 8.

¹⁵ *Ibid.*, § 9(a).

¹⁶ *Ibid.*, § 9(b).

¹⁷ *Ibid.*, § 10.

¹⁸ Export/Import Business Owner Registration Order, § 18 (<https://www.myanmartradeportal.gov.mm/legal/412>; accessed on 9 January 2025)

to one year. In more serious cases where the organisation or individual fails to comply with the requirements stated in the Order, the DoT can cancel the registration.¹⁹

Appeal

If an organisation or individual faces rejection, suspension or cancellation of their registration application, they have the right to file an appeal with the MoC within 30 days of receiving the notice from the DoT. The final decision on such Appeals rests with the Management Committee of the MoC, presided over by the Union Minister, and their decision is considered final. If the DoT determines that the trading activities of an Exporter/Importer Registration holder are not in the best interest of the public, the Management Committee of the MoC, led by the Union Minister, holds the authority to decide whether to suspend or cancel the Exporter/Importer Registration.²⁰

Allowing Re-submission of Application for Exporter/Importer Registration

After the suspension period ends or an exemption is granted, firms or individuals with suspended Exporter/Importer Registration or Export/Import Business Registration can submit a new application. In order to continue, they need to obtain a recommendation from the appropriate agency and meet the obligation of paying stipulated fines. The DoT will assess the applications and reinstate the registration if the information provided is accurate.²¹ The Myanmar Directorate of Investment and Company Administration (DICA) offers a generally efficient registration and service process for import procedures, boasting a completion time of two days in the absence of errors.²²

The name of the Company must be clearly stated in the export/import business registration form, and the account must have a balance of at least MMK 100m (US\$47,650 approx.) in 2004; it is currently between MMK500m (US\$238,250 approx.) and MMK100bn (US\$47,650,000 approx.). Brokers assist with the registration process, with the application procedure taking up to 10 days.²³

LICENSING PROCESS

National import licensing procedures can adversely affect the flow of imports, particularly if these procedures are not transparent or if they unnecessarily delay the issue of licences. The Agreement on Import Licensing Procedures divides licences into two categories: automatic and non-automatic. Automatic licences should be issued within a maximum period of 10 working days after the receipt of applications; non-automatic licences, which are generally used to administer quantitative restrictions, must be granted within a maximum period of 30 days from receipt of application where licences are issued on a first-come first-served basis and 60 days if all applications are considered simultaneously. The Agreement further lays down certain principles and rules to ensure that the flow of international trade is not impeded by the inappropriate use of import licensing procedures and that procedures are administered fairly and equitably.²⁴

In respect of import and export licences, the Government of Myanmar has so far adopted two important trade liberalisation measures to facilitate trade transactions. Prior to May 2012, Myanmar's export–import licensing system was not automatic. Instead, every licence application was reviewed by the MoC and could be rejected for various reasons. Since June 2012, however, the licence regime has become automatic, with most licences

¹⁹ *Ibid.*, § 28–30.

²⁰ *Ibid.*, § 31.

²¹ *Ibid.*, § 34.

²² Interviewee 6.

²³ Interviewee 5.

²⁴ 'Business Guide to the World Trading System', Second edn, Geneva: International Trade Centre, Geneva, 2003, p. 121 (accessed on 8 January 2025).

issued within 24 hours. Further, on 28 February 2013, the MoC removed licence requirements from a selection of 152 exported commodities and 166 imported commodities. For a range of non-sensitive goods, licensing obligations were effectively removed, resulting in the elimination of import licences for items covered under the 1,928-Harmonized System (HS) tariff lines. As a result, it is estimated that government revenue from import licence fees dropped by 40 per cent.²⁵ Prior to 2012–13, both importers and exporters in Myanmar required licences obtained through the UMFCCI. However, this requirement was streamlined in the following years, eliminating the need for UMFCCI involvement.²⁶

Additionally, the Myanmar Trade Net (MTN) 2.0 system enables businesses to register for exports and imports, as well as apply for necessary licences. The Ministry has also introduced the Myanmar Automatic Cargo Clearance System (MACCS) for those involved in the trade sector to facilitate export and import declaration.²⁷ All importers must register their company using the online automated method of MTN 2.0.²⁸ In compliance with cargo restriction, the Foreign Exchange Supervisory Committee (FESC) issued a directive to examine the export–import licence. A total of 36,131 companies had export–import company licences recorded, 26,250 of which still hold valid licences.²⁹ In accordance with the policy and the stipulated goods, an import licence is permitted. Licence validity is three months after issuance; after three months, the importer can apply for an extension of the licence for two months. On further application, a second extension is provided for one month.³⁰

After a company applies for registration, the DoT’s inspection board verifies the companies’ actual existence. Depending on how satisfied they are, the inspection period can last anywhere from one to six months.³¹ The licence process does not permit all importing goods or being late. In addition, there are many changes in policy that are not easy to import. Some importers were cognisant of historic illegal trade practices.³²

Myanmar’s import landscape presents a complex and cumbersome environment for businesses. Traditional import procedures are laden with restrictive regulations, necessitating the involvement of broker intermediaries. This increases transaction costs and encourages informal practices to circumvent the opaque licensing process. Additionally, the bureaucratic red tape within governmental departments further complicates obtaining licences, creating unnecessary delays and uncertainty. Importers navigate a risky environment due to extended processing times for licences and multiple payment restrictions. This poses a significant challenge to profitability projections.³³

IMPORT DECLARATION

The WTO-TFA came into force in 2017. The TFA contains provisions for expediting the movement, release and clearance of goods, including goods in transit. It also sets out measures for effective cooperation between customs and other appropriate authorities on trade facilitation and customs compliance issues. In 2019, Time Release Study (TRS) conducted in Myanmar followed the World Customs Organisation (WCO) TRS methodology.³⁴ As mentioned earlier, Myanmar had ratified the WTO Agreement on Trade Facilitation on 16 December 2015, and had notified its category A, B, and C commitments to the WTO and indicative and

²⁵ Naing, ‘Trade Policy Reform in Myanmar’, p. 12.

²⁶ Interviewee 6.

²⁷ *The Global New Light of Myanmar*, 3 January 2024, p. 8, www.gnlm.com.mm (accessed on 8 January 2025).

²⁸ Interviewee 1.

²⁹ Interviewee 2.

³⁰ Interviewee 4, Officer, Department of Export/Import Policy, Naypyitaw, 18 January 2024.

³¹ Interviewee 5.

³² Interviewee 3, Officer, Department of Export/Import Policy, Naypyitaw, 18 January 2024.

³³ Interviewee 7, Member, UMFCCI, Naypyitaw, 20 February 2023.

³⁴ Guide to Measure the Time required for the Release of Goods, Version 3, 2018, p. 9 (<https://tinyurl.com/bdaxcjis>; accessed on 9 January 2025).

definitive dates of the Category B commitments. Myanmar does not impose pre-shipment inspection requirements on imports.³⁵

Imports and exports from Myanmar are governed by the Sea Customs Act (1878), the Land Customs Act (1924), the Tariff Law (1992), and the Export and Import Law (2012). These laws are administered by the Ministry of Planning and Finance, Myanmar Customs, and the MoC.³⁶ Imports into Myanmar are controlled by the Customs Department of the Ministry of Finance. Customs is responsible for assessing and collecting applicable customs duties and taxes on imports and carrying out other regulatory and law enforcement responsibilities relating to imports.³⁷

The Department of Customs (DoC) in Myanmar plays a pivotal role in serving the nation's interests by generating revenues for the State. Department staff members emphasise the importance of levying deserved taxes on import cargo. Businesses involved in custom-related measures are urged to follow government, ministry and DoC policies to enhance facilitation by simplifying customs procedures and ensuring the proper collection of duties and taxes.³⁸

Myanmar Customs is currently developing Myanmar Automatic Cargo Clearance System (MACCS), designed to automate a number of customs operations. These include user registration, clearance of goods, cargo management, payment, information technology, and the helpdesk. MACCS will connect with shipping and airlines, the Port Authority, warehouse operators, brokers and importers/exporters, and also with other government agencies. It will initially be installed in Yangon and later in other customs offices throughout Myanmar. It is expected that MACCS will significantly reduce the time for customs processing of imports and exports and also improve the collection of revenue and enforcement of import restrictions.³⁹

The government's implementation of MACCS is intended to streamline and accelerate the collection of export and import duties, enabling revenue to be collected within a week. However, importers have reported significant difficulties in meeting this objective due to the very detailed requirements of the import declaration process. At the same time, the introduction of risk management allows Customs to select identified high risk cargo for examination.⁴⁰ For the release of commodities, the DoC issues the Release Order (RO) and Cargo Delivery Order (CDO). Within 15 minutes of receiving an Authorised Economic Operator (AEO) from Customs, the importers can release the products. The importers have to follow all guidelines and policies in order to be granted this opportunity.⁴¹ The current system utilises Customs Clearance Agents who facilitate the import process. While their services are generally considered effective, leading to completion within a week, some challenges persist: notably, concerns arise regarding accurate declaration of import details by these agents, potentially creating issues during customs clearance.⁴²

The decisions taken by Customs can be appealed by the importer with the Revenue Appellate Tribunal. If sufficient cause is shown, the period of appeal can be extended from a month to a period not exceeding three months. The Tribunal may alter, annul or uphold the original decision; however, it cannot impose a greater penalty or confiscation amount than assigned in the original order. Additionally, a Customs Officer or the Director-General of the DoC or the Ministry of Planning and Finance (MOPF) may, of their own accord or in response to a petition by any party, modify, reverse or uphold their own decisions or those taken by their predecessors. Furthermore, the Director-General of Customs and the Minister of Planning and Finance may

³⁵ 'Trade Policy Review: Myanmar', p. 39.

³⁶ <https://www.customs.gov.mm/>; <http://www.oag.gov.mm/>; <http://www.commerce.govmm/> (accessed on 8 January 2025).

³⁷ 'Guide to Importing Goods into Myanmar' (accessed on 8 January 2025).

³⁸ *The Global New Light of Myanmar*, 28 January 2024, p. 8, www.gnlm.com.mm (accessed on 8 January 2025).

³⁹ <https://www.myanmartradeportal.gov.mm/en/guide-to-import> (accessed on 8 January 2025).

⁴⁰ 'Guide to Measure the Time required for the Release of Goods', p. 1. (<https://tinyurl.com/bdaxcijs>; accessed on 9 January 2025).

⁴¹ Interviewee 5.

⁴² Interviewee 6.

summon the record of any case disposed of by an officer subordinate to them. Fines vary according to the case.⁴³

TRADE REMEDY MEASURES

Trade policy is the entire set of laws, regulations, international agreements, and negotiation strategies that a government uses to secure market access for domestic businesses through legally enforceable means. Trade policy is to establish regulations that offer stability and protection for businesses. The key elements of trade policy include Most Favoured Nation (MFN) treatment, national treatment, transparency, and exchange of concessions. An efficient trade policy requires support from domestic policies that promote innovation and international competitiveness. It should also be carried out with flexibility and pragmatism. Hoekman and Kostecki, in *Political Economy of the World Trading System* (2009), note that trade policy inherently discriminates against foreign producers, making it a nationalist policy. In other words, it signifies how national policies are adjusted for domestic purposes on an international scale.

Under WTO rules, all member countries have the right to apply trade remedies (also known as ‘trade defence instruments’), including running anti-dumping and countervailing investigations and applying safeguard measures.⁴⁴ A number of developing countries applied, in addition to high tariffs, quantitative restrictions on imports in both the agricultural and industrial sectors. Such use of restrictions was, however, in most cases justifiable from the legal point of view, under exceptions to GATT rules which permit countries in balance-of-payment difficulties to impose quantitative restrictions on imports. Countries are considered to be in balance-of-payment difficulties when their external earnings from trade in goods and services and the flow of investment and loans are far from adequate for their external payment’s liabilities, and when monetary reserves for meeting immediate liabilities are declining. GATT rules provide developing countries in balance-of-payment difficulties greater flexibility to use quantitative restrictions on imports (i.e., non-observation of the rule against quantitative restrictions).⁴⁵

Trade remedies usually refer to anti-dumping measures, countervailing duties and safeguards to deal with the effects of trade actions by others. In the United States, it is also a term for a measure applied under a trade law to deal with the effects of perceived unfair trade practices by other countries or injuries caused by rapidly increasing imports. The selection of available trade remedy depends on the section of the trade law applicable to each case, and can include tariff increases, import quotas, countervailing measures, or retaliation.⁴⁶

Anti-dumping, countervailing and safeguard measures are not enforced in Myanmar, so no such measures are currently used.⁴⁷ It has not participated in any WTO dispute settlement procedure as a complainant, respondent or third party. Myanmar’s goal in regional trade agreements, particularly those relating to the Association of Southeast Asian Nations (ASEAN), is to support the ASEAN region’s free, open, transparent, and integrated investment system. Notification No. 83/2020 on 1 July 2020, announced that the ‘Law to Prevent an Increased Quantity of Imports’ will come into force from 1 July 2021. The measure was approved by the government in December 2019. It aims to assist and protect local manufacturers’ and Small and Medium-Sized Enterprises’ (SMEs) competitiveness in the face of increased import amounts into Myanmar, and allows the MoC to conduct an examination into the risk and impact of increased imports on the domestic market; it

⁴³ [The Sea Custom Act](#), 1878, § 188, 189 and 191.

⁴⁴ [‘The UK Trade Remedies System: A Guide for Small and Medium-sized Businesses’](#), United Kingdom: Trade Remedies Authority, 2023, p. 61 (accessed on 8 January 2025).

⁴⁵ ‘Business Guide to the World Trading System’, Article XII & XVIII: B, [General Agreement on Tariffs and Trade](#) (GATT), 1994, p. 56.

⁴⁵ *Ibid.*

⁴⁶ Walter Goode (comp.), *Dictionary of Trade Policy Terms*, Fourth edn, Cambridge: Cambridge University Press, 2003, p. 370.

⁴⁷ Interviewee 1.

defines increased imports as ‘a quantity of any kind of import into Myanmar that is significantly greater than the amount of domestically produced goods that are imported’.⁴⁸

The very limited foreign currency reserves in Myanmar presents a complex challenge for policy-makers seeking to balance the need for import regulation with economic growth. While imposing restrictions may seem like a necessary step to conserve foreign currency, it is crucial to recognise the potential negative consequences of such a strategy. Excessive restrictions can lead to economic inefficiencies. This is evident in the inflated product prices resulting from restricted imports which ultimately harm consumers and businesses alike. Therefore, it is essential to move beyond focusing solely on restrictions and explore alternative solutions. One promising avenue lies in supporting SMEs. By providing these smaller businesses with access to technology, market access initiatives and streamlined import policies, the government can foster domestic production and export. This, in turn, can reduce reliance on imports and generate valuable foreign currency.⁴⁹

In addition, it is important to recognise the government’s role as a facilitator of economic activity. Instead of solely restricting imports, the government should adopt a more proactive approach by streamlining import procedures, reducing unnecessary tariffs and creating a transparent and predictable regulatory environment. Addressing the issue of limited foreign currency reserves requires a multifaceted approach that goes beyond simply imposing restrictions. Further, the Central Bank’s currency exchange controls and the discrepancy between buying and selling rates lead to inflated product prices. While the UMFCCI may not directly influence import policies, foreign delegations often misinterpret the organisation’s role, leading to confusion regarding the source of issues. A major concern for importers is the frequent and unpredictable changes in import policies, sometimes occurring on a weekly basis. This volatility hampers economic predictability and hinders effective planning of business. The absence of clear and transparent guidelines further exacerbates these difficulties. To facilitate efficient and transparent imports, Myanmar needs to streamline its licensing process, reduce corruption and establish clear communication channels with all stakeholders. Financial regulations should be reviewed, ensuring fair and transparent currency exchange practices.

Additionally, implementing stable and predictable economic and trade policies will foster a more conducive environment for businesses and foreign investment.⁵⁰

Myanmar’s adherence to WTO trade remedies has been inconsistent, raising concerns about its commitment to multilateral trade rules. Despite the policy’s focus on seven essential goods categories, only a limited number of items within these categories are actually allowed for import. This selective application, where only oil and fertiliser are permitted for import, deviates from the WTO’s principles of non-discrimination and fair trade. Recognising these challenges, the UMFCCI plays a crucial role in mitigating the impact of such restrictions. Their efforts to fulfil market demand through imports are commendable, highlighting the importance of private sector engagement. However, technical and other challenges currently impede their full realisation.⁵¹

Recognising these challenges, the UMFCCI plays a crucial role in mitigating the impact of such restrictions. Their efforts to fulfil market demand through imports are commendable, highlighting the importance of private sector engagement. On the other hand, the government’s attempt to contain import quantities through strict customs duties can lead to unintended consequences. While aimed at managing foreign exchange reserves, such measures can increase import costs, ultimately reducing access to essential goods for the population. Therefore, striking a balance between protecting domestic industries, managing foreign exchange reserves, and ensuring access to essential goods is crucial for Myanmar.⁵²

The successful e-lock system will contribute to the ASEAN Customs Transit to facilitate the movement of goods across ASEAN borders. The system will provide real-time monitoring of cargo movements, track and detect

⁴⁸ ‘Trade Policy Review: Myanmar’, p.25.

⁴⁹ Interviewee 7.

⁵⁰ *Ibid.*

⁵¹ Interviewee 6.

⁵² *Ibid.*

⁵² *Ibid.*

⁵² *Ibid.*

the activity and whereabouts of the trucks, ensure safe and secured logistics and smooth trade flow, combat illicit trade, raise the State's revenue, minimise cargo delays and reduce risks of loss of goods, and save certain fees.⁵³

The battle against illegal trade is being vigorously pursued by the Illegal Trade Eradication Steering Committee, which has established specialised Task Forces at various levels to address the issues in different regions and states of Myanmar. These Task Forces collaborate closely with relevant departments and security agencies on the ground to ensure a seamless process of identifying, seizing and apprehending offenders involved in illegal trade activities. Personnel deployed at key checkpoints and toll gates play a crucial role in inspecting and searching for illegal trade and contraband.

On 21 and 23 October 2023, the on-duty team seized 2,760 tonnes of illegal teak, 1,852 tonnes of other timbers worth MMK 2,241,864 (US\$1,068 approx.) in Patheingyi district, 1,762 tonnes of illegal timber worth MMK 123,354 (US\$59 approx.) in Pyawbwe district and unregistered Honda Civic Cars (estimated value of MMK 4mn; US\$1,906 approx.) in Patheingyi Township. These actions were taken under Forest Law and Export–Import Law.

The combined on-duty teams under the supervision of the task Force conducted inspections on 7 and 8 November 2023 and seized three vehicles with a trailer (approximately MMK150mn), headed to Yangon from Myawady, carrying six kinds of goods worth MMK 66.85mn including 9,900 pairs of SOHOU men's slippers and 14,400 bottles of Omega milk without official documents near Kamawkasin village in Pha-an Township. The action was taken under Customs procedures.⁵⁴

During inspections on 21 and 22 November 2023, the combined teams impounded 30 gallons of illegal petroleum and five gallons of illegal diesel worth MMK 485,000 (US\$231 approx.) in Mogaung Township, 80 bottles of 'Two Shrimps'-brand palm oil (4.5 litres) worth MMK 2.2mn (US\$1,048 approx.) without official documents in Pakokku Township and a Nissan Diesel tractor head with a trailer (MMK70mn approx.; US\$33,355 approx.) carrying seven types of goods estimated at MMK 12.53mn (US\$5,970 approx.) including 64 sets of JBL car speakers that were not declared in the Import Declaration (ID) at Ywathagyi Dry Port. The actions were taken under Petroleum and Petroleum Products Law, the Essential Supplies and Service Law and Customs procedures.⁵⁵

After forming the Illegal Trade Eradication Committee, smuggled and illegal commodities worth MMK 65,056mn (US\$30,996 approx.) were seized in 4,232 cases from January–December 2022 and MMK127,447bn (US\$605,129 approx.) in 5,735 cases from January–November 2023. Hence, smuggled and illegal commodities worth MMK192.503bn approx. (US\$914,828 approx.), were seized in 9,985 cases over 23 months.⁵⁶

CONCLUSIONS

The government's dedication to fostering a conducive climate for legal trade benefits both business individuals and enhances economic progress. Collaboration between government departments and commercial firms is essential for creating a transparent, efficient and lawful trade environment. Enhancing collaboration and cooperation between the union ministry, regional administration and state authorities is essential to effectively combat illegal commerce. Collaborative effort is needed to address the illicit extraction of natural resources within countries. Legal authorities should create information networks to quickly detect and capture individuals involved in illicit economic activities. Officials and personnel from the Task Force must prioritise inspecting, confiscating and apprehending illegal goods and traders while avoiding bribery. They should align their efforts with the state's interests and work together with local authorities and citizens as a national duty.

⁵³ *The Global New Light of Myanmar*, 20 September 2023, p. 7, www.gnlm.com.mm (accessed on 8 January 2025).

⁵⁴ *The Global New Light Myanmar*, 11 November 2023, p. 5, www.gnlm.com.mm (accessed on 8 January 2025).

⁵⁵ *The Global New Light of Myanmar*, 25 November 2023, p. 10, www.gnlm.com.mm (accessed on 8 January 2025).

⁵⁶ *The Mirror*, 15 December 2023, p. 4, <https://www.moi.gov.mm> (accessed on 8 January 2025).

Myanmar's application of the WTO safeguard provisions is inconsistent, causing delays and inefficiencies in the import licensing procedure. This hinders and prolongs the import process, increasing the likelihood of corruption inside the sector. The usefulness of relying solely on financial aid as a cornerstone for Micro, Small and Medium Enterprises (MSME) and Micro and Small Enterprises (MSE) development is being increasingly questioned. This paper contends that a holistic approach, including market entry, technological assistance and raw material provision, combined with specific financing tools, offers more promise for sustainable success of MSEs.

The Department of Customs' attention to its tasks and functions highlights its commitment to national interests and income creation for the state. Customs officials enhance economic welfare by prioritising appropriate tariffs on imported goods, encouraging compliance with trade policies and ensuring accurate revenue collection. Staff must increase their pace to enhance the reputation of the department, avoid accepting bribes while carrying out customs duties and imposing taxes on imported items. If customs service incomes are redirected to the state, they can be utilised for nation-building projects. This initiative benefits the public by guaranteeing equitable prices for products and upholding a consistent inflation rate for the community. The state can ensure a more prosperous economic future, safeguard its local enterprises and offer its residents the stability and affordability they merit by eliminating this threat. It is a collaborative endeavour including both the government and the private sector working together to support a prosperous economy.

ACKNOWLEDGEMENTS

I would like to thank the Charles Wallace Burma (Myanmar) Trust and Tim Butchard, Secretary of the Trust, for funding the Fellowship that allowed me to spend time at London School of Economics and Political Science between June–September 2023, and Dr Nilanjan Sarkar, Deputy Director of LSE South Asia Centre for his advice and support during my Fellowship at the Centre. I am grateful to Dr Nu Nu Lwin and Dr Soe Soe Aung, Pro-Rectors at Naypyitaw State Academy, for granting me permission to undertake this research in the United Kingdom.

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First published April 2026

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