
United States Lifts Burmese Import Ban in Advance of Visit by President Obama

By Christopher R. Wall and Aaron R. Hutman

On November 16, 2012, the United States lifted its ban on the import of most products of Burma (also known as Myanmar) via General License 18 issued by the Department of the Treasury's Office of Foreign Assets Control (OFAC). In conjunction with the issuance of General License 18, the State Department waived the import ban imposed by the Burmese Freedom and Democracy Act of 2003 (BFDA). However, the import of Burmese rubies, jadeites and jewelry containing such gems remains prohibited under the Tom Lantos Block Burmese JADE Act of 2008. OFAC also added a number of entities to the list of Specially Designated Nationals (SDN) for Burma. These steps were taken in advance of President Obama's landmark visit to Burma in recognition of reform efforts in the fast-opening Southeast Asian country.

The relaxation of the import ban represents another significant step in the revision of U.S. sanctions policy towards Burma. The United States substantially reformed its sanctions policies with regard to Burma in July 2012 in recognition of reforms by the civilian government lead by President Thein Sein. See [Client Alert of July 12, 2012](#). However, the importation of products of Burma had remained prohibited. The Obama administration has been pursuing a step-by-step policy of matching action for action by rewarding political and economic reform in Burma with relaxation of U.S. sanctions. The Burmese regime has continued its reform process, releasing political prisoners, removing pre-publication censorship requirements for the press, entering into negotiations with ethnic minority groups, and passing a new foreign investment law on November 2, 2012.

General License 18 authorizes the import of "any article that is a product of Burma" with two exceptions. The term "product of Burma" is defined to mean "goods of Burmese origin pursuant to rules of origin of U.S. Customs and Border Protection." The first exception is for jadeites and rubies under chapter heading 7103 of the Harmonized Tariff Schedule of the United States (HTS) and articles of jewelry containing rubies and jadeites under HTS chapter heading 7113. Further, importers of rubies and jadeites from

countries other than Burma must continue to obtain certification of the origin of such gems pursuant to the procedures described in 19 C.F.R. § 12.151. This exception does not apply to gems exported from the United States to Burma and then reimported without value-added activities (such as traveling with the gems for personal use). The second exception provides that General License 18 does not authorize import transactions, directly or indirectly, with any blocked parties under the Burmese sanctions regime.

The Treasury Department also updated its SDN list under the Burmese Sanctions Regulations to include seven additional entities and added details for an existing entity. The Obama administration has indicated that it will continue to revise the SDN list for Burma to identify individuals and entities in Burma who perpetrate violence, oppression, corrupt practices or otherwise impede political and economic reform.

Lifting the import ban on Burmese products offers opportunities not only for companies engaged in import/export trade but also investors such as petroleum companies who may now import geological samples for technical evaluation. Companies should, however, continue to proceed with caution in conducting business in Burma and with Burmese parties as the new rules are implemented. The State Department, for example, is in the process of reviewing comments on the reporting requirement for new investment, and the USA PATRIOT Act designation of Burma as a country of money laundering concern remains in place, inhibiting U.S. financial institutions from establishing correspondent relationships with non-SDN Burmese banks in certain instances, although exports of financial services are permitted pursuant to General License 16. It will be important to monitor the evolving SDN list, conduct due diligence on potential business partners, avoid transactions with rubies and jadeites of unclear origin, and act within the scope of authorizations of the several OFAC general licenses for Burma.

General License 18 and OFAC commentary on the actions of November 16, 2012 are available at <http://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20121116.aspx>.

If you have any questions about the content of this alert, please contact the Pillsbury attorney with whom you regularly work, or the authors below.

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