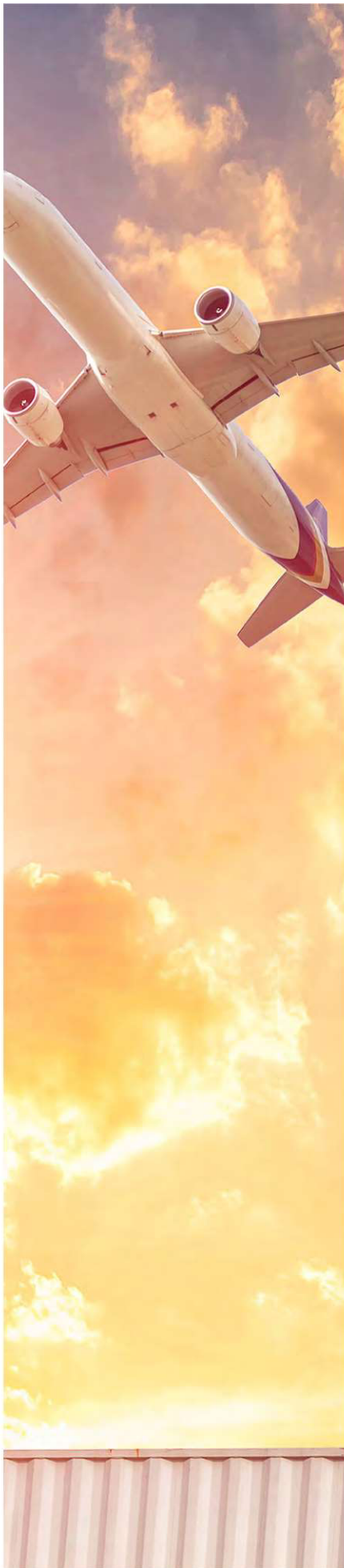


eBook on East Asia Customs Procedures

Malaysia





eBook on East Asia Customs Procedures

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MESSAGE FROM CHAIRMAN

Blessed with geographical proximity, cultural affinity, close business ties and natural advantages for trade and economic cooperation, East Asia is one of the regions in the world with the most potential and development prospects. Since its establishment in 2004, East Asia Business Council (EABC) has always held the belief that cross-border trade, investment liberalization and facilitation are the prerequisites and foundations for East Asian countries to



promote industrial advancement, reduce unemployment and improve the quality of economic development. EABC has long been devoting to reducing trade and investment barriers and facilitating enterprises to carry out cross-border trade and investment.

In 2018, EABC agreed to compile eBook on East Asia Customs Procedures and listed it as a top priority in the Council's annual work in 2019. Today, the eBook is officially launched, with the expectation to strengthen regional economic and trade information sharing and further improve trade facilitation and connectivity among East Asian countries.

The eBook on East Asia Customs Procedures covers the guides of Customs procedures in 13 countries in East Asia, with 24 major items related to the Customs clearance of goods such as legal system, clearance procedures,

prohibitions and restrictions, duty collection (including classification, valuation, rules of origin), trade statistics, violations and sanctions, FTAs, AEOs and etc. The eBook is published electronically in English, providing companies with practical reference for international trade.

I believe that the eBook will help enterprises in the region, especially small and medium-sized enterprises, improve their capabilities in business management, investment and financing, and international market development. We hope that enterprises will take full advantage of the eBook to actively explore the regional market and achieve development goals.

Lu Pengqi
EABC Chairman 2019

ACKNOWLEDGEMENTS

Heartfelt gratitude and sincere respects should be addressed to China Committee, East Asia Business Council (in short EABC China, also China Council for the Promotion of International Trade - CCPIT), to organize, support and sponsor the edition and publication of the eBook on East Asia Customs Procedures to provide manufactures, trader and related service-providers with comprehensive information and elaborate references on Customs procedures in 10 ASEAN member countries and China, Japan and the Republic of Korea, which is a unique, innovative and significant contribution to regional and even international trade community.

Cordial appreciations should be extended to the Trilateral Cooperation Secretariat (TCS) for supporting and partially sponsoring the eBook of China, Japan and the Republic of Korea and CCPIT Guangxi Sub-council for supporting the project.

Dedicated gratitude should also be expressed to all members of the editing team, proofreading team, project team for their arduous and continuous efforts during the process.

EDITOR'S STATEMENT

Customs procedures in almost every country are usually very professional, diverse, technical, abstruse, ambiguous, and even trapped for cross-border manufactures, traders and related service-providers, sometimes even cause significant invisible “barriers” to trade. Thus all the stakeholders imminently need information, materials and references as comprehensive, elaborate and concrete as possible in different countries to enhance the effectiveness and efficiency of cross-border trade.

This eBook on East Asia Customs Procedures aiming to provide a general picture involves in almost all aspects of Customs procedures in 10 ASEAN member countries and China, Japan and the Republic of Korea. For each eBook, a framework of 24 parts of contents is basically followed with certain flexibility of adjustments according to specific situation of each individual country.

It is not an easy task to edit this panorama-type of eBook and during the process the editors are facing significant challenges including English language proficiency, professional competence and most importantly very limited information and materials in English for references.

The contents of each eBook are based on current publicly available information and materials in English, mainly contained in the publications and on the websites of related Customs administrations, government departments and agencies, international organizations and private professional institutions. The editors believe the selection and use of publicly available information will not affect the interests of the above-mentioned organizations and sincerely appreciate those organizations having their information and publications publicly available.

During the editing process, the biggest and greatest challenge is the lack of information and materials in English, which are very limited in almost all countries and even very deficient, very scarce in some countries. Therefore some citations from the official websites and excerpts from legal documents do exist in the eBook.

As a first remarkable pilot project in the fields, this eBook on East Asia Customs Procedures are not perfect and flawless and we are satisfied with the qualities of the majority and will keep on improving the rest.

ABBREVIATIONS

AANZFTA	ASEAN-Australia-New Zealand Free Trade Agreement
ACFTA	ASEAN-China Free Trade Agreement
ACTS	ASEAN Customs Transit System
AELB	Atomic Energy Licensing Board
AEO	Authorized Economic Operator
AHTN	ASEAN Harmonized Tariff Nomenclature
AIFTA	ASEAN-India Free Trade Agreement
AJCEP	ASEAN-Japan Comprehensive Economic Partnership
AKFTA	ASEAN-Korea Free Trade Agreement
AKMAL	Royal Malaysian Customs Academy
APEC	Asia-Pacific Economic Cooperation
ASEAN	Association of Southeast Asian Nations
ASW	ASEAN Single Window
ATIGA	ASEAN Trade in Goods Agreement
CA	Cost of Analysis
CCC	Customs Consultation Center
CEA	Customs Examination Area
CIDB	Construction Industry Development Board
CO	Certificate of Origin
D8 PTA	Developing Eight Preferential Tariff Agreement
DOA	Department of Agriculture
DSM	Department of Standards

FCZ	Free Commercial Zone
FIZ	Free Industrial Zone
FTA	Free Trade Agreement
GST	Goods and Services Tax
HS	Harmonized Commodity Description and Coding System
IEC	International Electrotechnical Commission
IPPC	International Plant Protection Convention
ISO	International Organization for Standardization
ITU	International Telecommunications Union
LMW	Licensed Manufacturing Warehouses
MAFTA	Malaysia Australia Free Trade Agreement
MAQIS	Malaysian Quarantine and Inspection Services
MCFTA	Malaysia-Chile Free Trade Agreement
MCMC	Malaysia Communication and Multimedia Commission
MDTCC	Ministry of Domestic Trade, Cooperatives and Consumerism
MICECA	Malaysia-India Comprehensive Economic Cooperation Agreement
MICECA	Malaysia-India Comprehensive Economic Cooperation Agreement
MITI	Ministry of International Trade and Industry
MJEPA	Malaysia-Japan Economic Partnership Agreement
MNZFTA	Malaysia-New Zealand Free Trade Agreement
MPCEPA	Malaysia-Pakistan Closer Economic Partnership Agreement
MTFTA	Malaysia-Turkey Free Trade Agreement
NCC	National Clearance Center
NSW	National Single Window
NTC	National Targeting Center
PCA	Post-clearance Audit
PCO	Preferential Certificate of Origin

PIA	Permit Issuing Agencies
POS	Point of Sales System
RMCD	Royal Malaysian Customs Department
SIAT	Special Inter Agency Taskforce
SPS	Sanitary and Phytosanitary
TAD	Transit Accompanying Document
TBT	Technical Barrier to Trade
TRIP	Trade-related Intellectual Property
WCO	World Customs Organization
WIPO	World Intellectual Property Organization
WTO	World Trade Organization

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eBook on East Asia Customs Procedures

Malaysia

1. INTRODUCTION OF MALAYSIA CUSTOMS

The Malaysia Customs Administration was firstly established in 1948 with the formation of the Federation of Malaya. Following independence of Malaysia in 1957, the Royal Malaysian Customs Department (RMCD) has gone through a few rounds of reshuffling and fallen under the Ministry of Finance.

The vision of RMCD is to be a world class Customs Administration from improving rating on trading across borders, improving world ratings and standards, exhibiting transparency and surging RMCD integrity.

1.1 Mission

The mission of RMCD is to collect revenue and provide trade facilitation through enforcement of and compliance with applicable law to spur economic growth, maintain national security and public welfare.

1.2 Objectives

The objectives of Malaysia Customs mainly include:

- to collect duties and taxes on any imported and exported goods;
- to ensure compliance with legislation to safeguard economic, security and social interests;
- to boost international trade through Customs facilitation.

1.3 Functions

Major functions of Malaysia Customs can be generalized as follows:

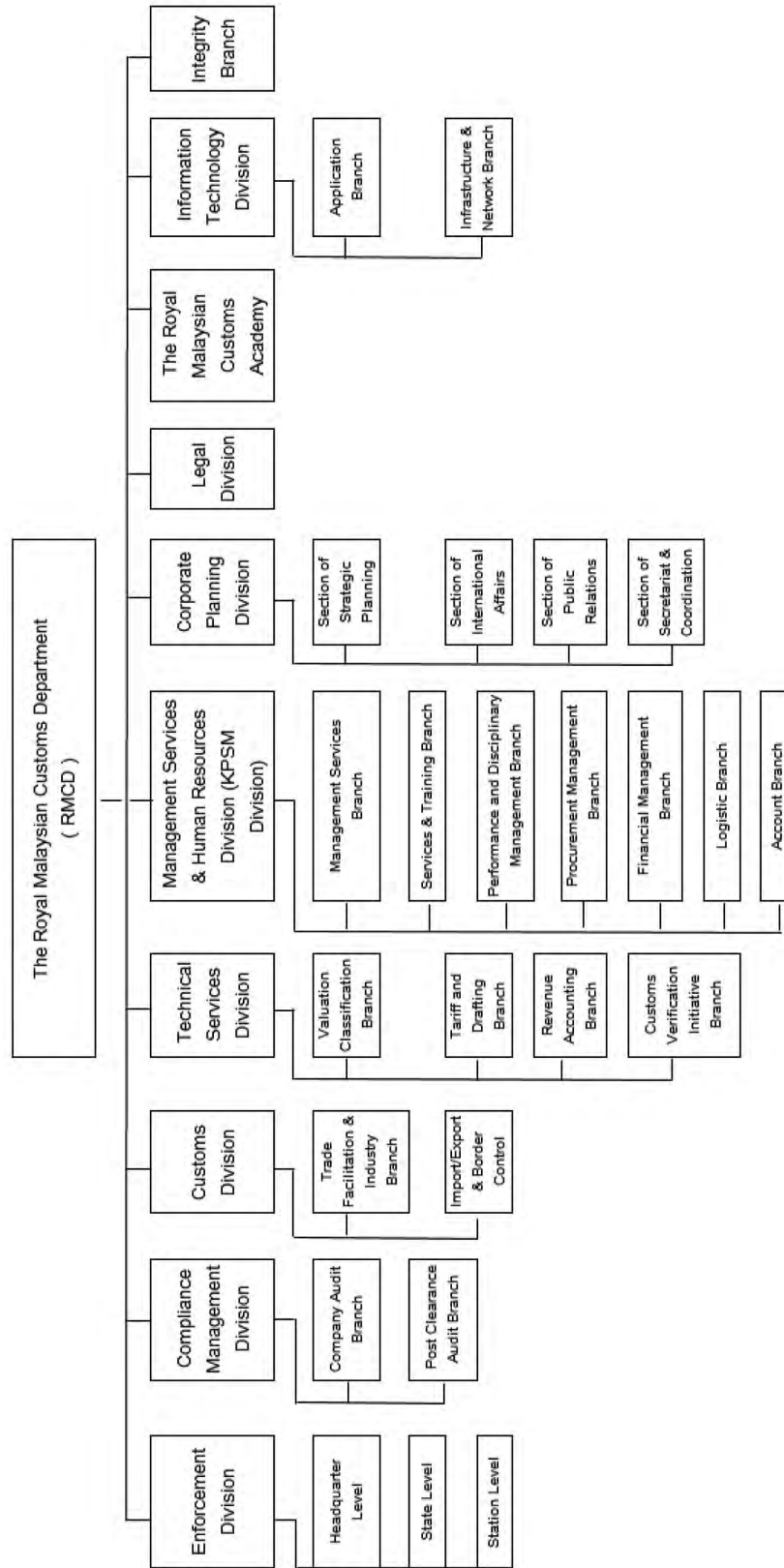
- to establish, implement policies and procedures pertaining to industries, import, export and border control;
- to plan and conduct audits on the licensees / importers to ensure the tax/Customs duties collection;
- to offer technical services including valuation, classification, tariff and drafting, revenue accounting, and Customs verification initiatives;
- to combat all forms of smuggling and fraud to ensure compliance with all Customs laws and regulations
- to conduct civil/criminal trial, appeal and judicial reviews in courts and give legal advice;
- to cooperate with World Customs Organization (WCO), Association of Southeast Asian Nations (ASEAN), World Trade Organization (WTO) and Asia-Pacific Economic Cooperation (APEC) as well as to implement Free Trade Agreements with other countries.

1.4 Organizations

Now RMCD has 8 divisions, 1 academy and 1 branch including: Enforcement Division, Compliance Management Division, Customs Division, Technical Services Division, Management Services & Human Resources Division (KPSM Division), Corporate Planning Division, Legal Division, Information Technology Division, the Royal Malaysian Customs Academy (AKMAL) and Integrity Branch. The number of RMCD staffs is about 13,000.

The organizational structure of RMCD is as below:

Figure 1 Organizational Chart of Malaysia Customs



1.5 International Memberships

Malaysia joined ASEAN and WTO in 1967 and in 1995 as one of the founding and originating members. RMCD has become a member of World Customs Organization (WCO) in June 1964.

1.6 Resources for Importers and Exporters

This website of the National Trade Promotion Agency (<http://www.matrade.gov.my/en>) provides all regulatory information relevant to traders who intend to import goods into Malaysia or export to other countries.

Asides from it, the official websites of Ministry of International Trade and Industry (<https://www.miti.gov.my>) and RMCD (<http://www.customs.gov.my>) can also offer information on trade and Customs both in English and Malay.

2. CUSTOMS LEGAL SYSTEM

In recent years, Malaysia has made continuous efforts to improve its Customs legal system and align them with international standards and best practice. In total RMCD implements 7 major laws and 39 subsidiary laws, as well as 18 laws for other government agencies.

2.1 Customs Act

The Customs Act 1967 of Malaysia, which was first enacted in 1967 as Act No.62 and was then revised in 1980 as Act 235, consists of 21 parts and 169 sections, covering the following topics:

- preliminary;
- appointment and powers of officers;
- levying of Customs duties;

- importation and exportation;
- port clearances;
- general provisions affecting vessels in territorial waters;
- manifests;
- warehousing;
- declaration of goods;
- drawback;
- miscellaneous provisions;
- inspection, investigation, search, seizure and arrest;
- provisions as to trials and procedures;
- offences and penalties;
- regulations;
- general;
- special provisions dealing with Labuan;
- special provisions dealing with Sabah and Sarawak;
- special provisions dealing with Langkawi;
- special provision dealing with the joint development area;
- special provisions dealing with Tioman;
- Singapore preventive vessels;
- repeal.

2.2 Other Related Acts and Regulations

Asides from Customs Act 1967, other relevant Acts and regulations are listed below:

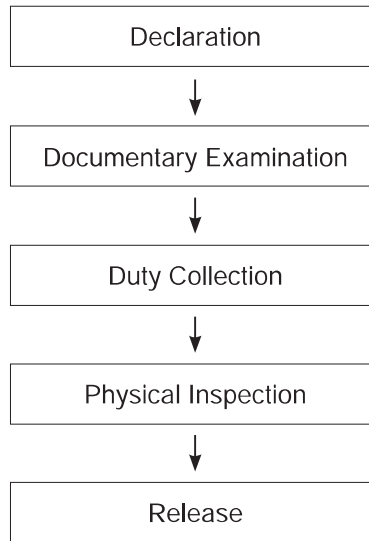
- Countervailing and Anti-dumping Duties Act 1993;
- Countervailing and Anti-dumping Regulations 1994;
- Free Zone Act 1990;

- Free Zone Regulations 1991;
- Excise Act 1976;
- Customs Duties (Exemption) Order 1988;
- Excise Duties (Exemption) Order 1977;
- Sales Tax (Exemption) Order 2008;
- Customs (Prohibition of Exports) Order 2017;
- Customs (Prohibition of Imports) Order 2017;
- Standards of Malaysia Act 1996;
- Plant Quarantine Act 1976;
- Rules of Plant Quarantine 1981;
- Animal Act 1953 (revised 2006);
- Fisheries Act 1953;
- Food Act 1953;
- Food Regulations 1985;
- Food Hygiene Regulations 2009;
- Malaysian Quarantine and Inspection Services Act 2011;
- Strategic Trade Act 2010;
- Biosafety Act 2007.

3. CUSTOMS CLEARANCE PROCESS

Import and export of cargo must undergo a 5-step Customs operation, i.e. declaration, documentary examination, duty collection, physical inspection and release.

Figure 2 Customs Clearance Procedures by Malaysia Customs



3.1 Declaration

All exported or imported cargo by air, sea or rail, whether or not exempt from duties and taxes must be subject to Customs declaration. In Malaysia, authorities have developed a web-based portal named uCustoms to integrate Customs-related business. Customs declaration can be made via uCustoms by importers, exporters, or their agents.

3.1.1 Declaration for Import

In Malaysia, import includes final import, provisional import, temporary import, re-import and under special regimes (inward processing). Import declaration can be made via uCustoms online or Customs Form No.1 (K1) in writing.

Following registration at uCustoms, the trader or agent fills in declaration list accordingly. It mainly consists of creating import declaration, filling up invoice and invoice items, calculating duty and submitting to Customs.

Firstly, in terms of final import-normal import declaration, the steps at uCustoms are:

- View declaration dates;
- Associate warehouse out forms;

- Associate free zone declaration;
- View BL/AWB/WB information;
- View consignee details;
- View transaction history;
- Upload required documents;
- View rulings;
- Create invoice information and item details;
- Associate exemptions;
- Create value declaration form (K1A);
- Calculate duty for declaration;
- Submit declaration to Customs.

Secondly, with regard to provisional import declaration, the steps at uCustoms are:

- View declaration dates;
- View consignee details;
- View transaction history;
- Upload required documents;
- View rulings;
- Create invoice information and item details;
- Associate exemptions;
- Calculate duty for declaration;
- Submit declaration to Customs.

Thirdly, when it comes to final import-Sub declaration, the steps at uCustoms are:

- View declaration dates;
- View BL/AWB/WB information;
- View consignee details;

- View transaction history;
- Upload required documents;
- View rulings;
- Associate tax stamp;
- Associate invoice information and item details;
- Calculate duty for declaration;
- Submit declaration to Customs.

Asides from fulfilling those steps at uCustoms, other supporting documents for imports are listed as below:

- Certificate of Origin if applicable;
- Invoice;
- Packing List;
- Delivery Order;
- Catalogue/Technical Specification;
- Bill of Lading/Air Way Bill;
- Letter of Credit;
- Permits.

Last but not the least, for temporary import, supporting documents are listed as follows:

- Invoice;
- Packing list;
- Bill of Lading/Air Way Bill;
- Verification Certificate by end user (for non-driven-in motor vehicle and motor cycle);
- Sanction Letter issued by MATRADE or other relevant agencies and also a letter by the organizer (for international exhibition);
- Permit/License (if applicable).

3.1.2 Declaration for Export

Exports include final export, provisional export, temporary export, and re-export. For goods to be exported, Customs declaration is also necessary. Export declaration can be made via uCustoms online or Customs Form No.2 (K2) in writing. Following registration at uCustoms, the trader or agent fills in declaration list accordingly.

Firstly, in terms of final export-normal export declaration, the steps at uCustoms are:

- View declaration dates;
- View consignee details;
- View transaction history;
- Upload required documents;
- View rulings;
- Associate/view shipment note;
- Create invoice information and item details;
- Associate exemptions;
- Calculate duty for declaration;
- Submit declaration to Customs.

Secondly, in terms of export provisional declaration, the steps at uCustoms are:

- View declaration dates;
- View consignee details;
- View transaction history;
- Upload required documents;
- View rulings;
- Create invoice information and item details;
- Associate exemptions;
- Calculate duty for declaration;

- Submit declaration to Customs.

Besides, for temporary export, supporting documents are:

- Letter of appointment for agent;
- Goods Invoice;
- Catalogue/Photograph of goods;
- Detail/Full description of goods (Name of goods/Model/Brand and measurement etc.);
- Other relevant documents.

Asides from fulfilling those steps at uCustoms, other supporting documents are listed as below:

- Invoice;
- Purchase Order;
- Letter of Credit;
- Permits;
- Shipping Instruction;
- Loading Instruction.

Last but not the least, in terms of temporary export, supporting documents are listed as follows:

- Letter of appointment for agent;
- Goods Invoice;
- Catalogue/Photograph of goods;
- Detail/Full description of goods (Name of goods/Model/Brand and measurement etc.);
- Other relevant documents.

3.1.3 Declaration for Transit

The ASEAN Framework Agreement on Facilitation of Goods in Transit (AFAFGIT) was reached in Hanoi in 1998. In line with AFAFGIT, the ASEAN Customs Transit System (ACTS), as an electronic Customs

transit management system, offers benefit to good movement across Customs territories outside the normal import and export Customs regimes. Malaysia has joined AFAFGIT and ACTS project. Designated transit transport routes are ASEAN Highway 2 and ASEAN Highway 150; and designated frontier posts are Bukit Kayu Hitam, Tanjong Kupang, Tebedu, Sungai Tujuh and Johor Bahru.

For transit declaration, all traders must submit an electronic ACTS transit declaration to Customs. A single transit barcoded document would be produced by the system known as Transit Accompanying Document (TAD).

Additional documents include licenses or permits in the country of departure, transit and destination. Documents in vehicle for inspection during transit operation are:

- Vehicle Registration Certificate;
- Vehicle Inspection Certificate;
- Third Party Liability Insurance Cover for Vehicle;
- Consignment Note/Waybill;
- Customs Transit Document for the Goods (Transit Accompanying Documents (TAD));
- Carrier's License/Transport Operator's License/Business Registration Certificate;
- Any other documents required by your Customs Administration;
- ASEAN goods vehicle cross-border permit.

3.2 Documentary Examination

After a Customs declaration is submitted, Customs shall review it to verify completeness and correctness of the information declared, including origin, tariff classification, Customs value, Customs regime, and the duty and taxes payable. Also Customs shall check whether the goods are prohibited or restricted or not and the compliance with the corresponding requirements. It is conducted both manually and electronically via uCustoms.

3.3 Physical Inspection

After documentary examination of Customs declaration, Customs will carry out physical inspection of declared goods based on risk management system in Malaysia.

Scanning, as non-intrusive inspection means, is widely applied at Malaysia Customs. Besides, radiation portal monitor is equipped at the port to detect the presence of radioactive materials by sending Gamma alarm/Neutron alarm/Neutron Gamma alarm. It is also equipped with camera/OCR to identify containers. With all these in place, it can scan hundreds of vehicle every hour and cause minimum impact on operation.

Special Inter Agency Taskforce (SIAT) will get involved for further actions if irregularities have been identified at Customs Examination Area (CEA).

3.4 Duty Collection

Once a declaration has been submitted and reviewed smoothly, the system calculates the collections and generates bill and the trader or agent of the goods shall be liable for duties, taxes and other charges.

In Malaysia, there are two payment channels: online payment and Customs counter (passengers). Online payment transaction types include FPX (B2C/B2B), Jom Pay, Auto Debit and payment through RMCD payment gateway. Customs counter payment channel through Point of Sales System (POS) includes cash, cheque, Credit Card and Debit Card.

After successful online duty payment, RMCD will issue a Customs receipt through uCustoms.

3.5 Release

Following the above-mentioned 4 steps (declaration, documentary examination, physical inspection and duty collection), the goods will be released by Malaysia Customs for importation, or exportation or other legitimate purposes. In practice, Gate Pass with QR code will be issued via uCustoms, and then printed and scanned at Customs auto-gate for release.

4. SPECIAL CUSTOMS CLEARANCE OVERSIGHT

4.1 Oversight on Transit

In terms of transit, the principal must first lodge the required guarantee undertaking with the Customs office of guarantee in the country of departure for duties and taxes potentially liable for the declared transit goods.

The guarantee is an amount held by or available to Customs if the terms of the transit approval are not met, such as the loss or improper diversion of the goods. The amount of guarantee is a calculation of the highest rates of duty/taxes potentially payable on those goods (with rates based on AHTN commodity code) in the countries of intended transit.

4.2 Oversight on Temporary Import

Based on section 97 of Customs Act 1967, goods may be temporarily imported for re-export without payment of Customs duty or tax with a sufficient security being given. It is subject to specific conditions stipulated in the Customs Legislation and/or as determined by the Director General of Customs.

In this regard, the goods must be re-exported within 3 months from the date of import. For the extension of this temporary import until 12 months from the date of import, application can be submitted to the Customs office where the first approval of temporary import was issued. If further extension is needed, approval from the Director General of Customs (Customs Division) must be obtained. Besides, for extension, the application must be submitted 2 weeks prior to the date of expiration.

In case of failure to re-export the imported goods within the stipulated period, the Customs duty/tax due must be paid to the relevant state office of Customs.

The temporarily imported goods for re-export cover:

- Research and demonstration;
- Exhibition, drama, music and circus;
- Carnival, sports, meeting, conventions;

- Evaluation and testing;
- Repair;
- Implementation of government projects;
- Cars driven/imported by bona fide traveler;
- Goods from Free Zone/License Warehouse.

Apart from application form, other supporting documents are required as below:

- Invoice;
- Packing List;
- Bill of Lading/Air Way Bill;
- Verification Certificate by end user (for non-driven-in motor vehicle and motor cycle).
- Sanction Letter issued by MATRADE or other relevant agencies and also a letter by the organizer (for international exhibition).
- Permit/License (if applicable).

For more conditions on temporary import, the requirements are:

- Imported within an approved duration and re-exported before the expiry date;
- Goods identified by permanent marks, e.g. serial numbers, Customs label;
- The imported quantity of goods must be reasonable;
- Imported goods cannot be leased, sold, transferred ownership or disposed without the consent of the State Director of Customs;
- Submitting a permit or license for goods subject to the Customs (Prohibition of Imports) Order 2008 and Customs (Prohibition of Exports) Order 2008;
- Additional documents for international exhibitions, such as, approval from MITI or other competent bodies, schedule of exhibition and confirmation letter from organizer;
- International exhibitions must be held in approved or licensed premises;
- Other conditions required by Customs.

4.3 Oversight on Temporary Export

Temporary export of goods may be authorized by Customs for the listed purposes as below:

- For repair;
- For propaganda;
- For research and demonstration;
- Other purposes approved by the Director of Customs.

Apart from application form, the other supporting documents are required as below,

- Letter of Appointment for agent;
- Invoice;
- Catalogue/Photograph of goods
- Detail/Full Description of goods (Name of goods/Model/Brand and measurement etc.)
- Other relevant documents:
 - a) Propaganda/Demonstration: Letter from organizer/host schedule of propaganda/demonstration to be submitted at the time of export;
 - b) Research: Confirmation Letter from research organization/institution abroad to be submitted at the time of export;
 - c) Repair: Confirmation from repairer in the form of report to be submitted at the time of re-import.

The approved period for temporary export is 1 year. For extension of temporary export, the application must be submitted to the Customs office where the approval of temporary export was issued before the expiry date of the existing approval.

It is required to submit written application with relevant supporting documents to the State Director of Customs where the goods will be exported, for the approval of duty/tax exemption under the provision of Item 58 Customs Duty (Exemption) Order 1988 and Item 53 Sales Tax (Exemption) Order 2008. However, duty/tax has to be paid at the time of import if the goods are reimported more than 1 year from the date of export. For repair-related temporary export, if there is new part added, duty/tax on the new part has to be paid to Customs.

In addition, temporary exported goods have to be re-imported via the same route where it was exported. If re-import takes a different route, the endorsed Customs No. 2 declaration is required to submit to the Customs office of import.

4.4 Oversight on Duty Free Shops

In Malaysia, there are 5 types of duty free shops: International Airport Duty Free Shops, Port Duty Free Shops, Downtown Duty Free Shops, Border Duty Free Shops and Domestic Duty Free Shops.

For application to set up duty free shops, Form JKED 1 and the following documents are required to submit to the State Director of Customs:

- Shop/business premise plan (including floor plan) approved by a Chartered Architect;
- Company Registration Certificate/Memorandum and Articles of Association;
- Form 24 and Form 49 endorsed by the Company Registrar;
- Working paper that states the company's 5 year project/plan, sources of finance, target sales turnover etcetera to support the company's application; and
- Premise site ownership or tenancy agreement letter.

In terms of the license for duty free shop, it is issued by the State Director of Customs of the state where the shop will be operated with the payment rate at RM 1200 for 2 years or part thereof.

Besides, a bank guarantee is required to cover the duties of goods kept in their premises. If goods are missing, the licensee shall pay the relevant Customs duty/tax to the Customs Department.

4.5 Oversight on Customs Bonded Warehouses

Please refer to 16. BONDED SYSTEM of this report for details.

4.6 Incentive Treatment for AEOs

Currently, RMCD has approved 57 companies as AEOs, which will be given convenience in terms of Customs clearance. According to Malaysia authorities, AEO may receive a few benefits. For details, please refer to 21. AUTHORIZED ECONOMIC OPERATOR (AEO) of this report for details.

5. UCUSTOMS AND NATIONAL SINGLE WINDOW

5.1 Snapshot of uCustoms

At present, in Malaysia a fully integrated & automatic system for Customs modernized solution (uCustoms) has been put into service, which delivers one single window for end-to-end Customs related processes. The “u” stands for “ubiquitous”, which means “present, accessible and, or found everywhere”. The objective is to improve the efficiency of the highly competitive services and trade facilitation through the secure, customer friendly and promote single access portal.

The scope of uCustoms covers 8 main clusters of Customs operations, namely, registration & licensing, clearance, audit & enforcement, control & prevention, revenue & accounting, knowledge management, system management, and technology. uCustoms has 4 strategic centers: National Targeting Center (NTC), National Clearance Center (NCC), Customs Examination Area (CEA) and Customs Consultation Center (CCC).

In a nutshell, uCustoms offers the electronic processing of Customs declarations and related documents. Processing thereafter is tracked electronically and the declarant or Customs broker will be automatically notified about the declaration status. After reviewing documents, uCustoms calculates the duties, taxes and fees payable.

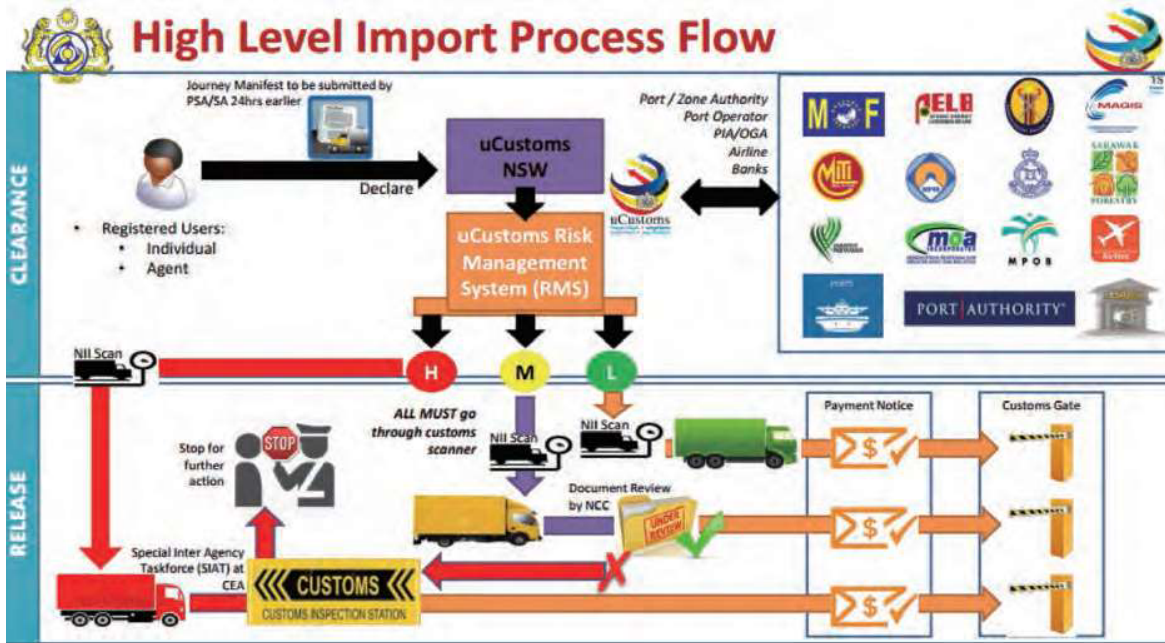
5.2 uCustoms Process

With uCustoms in place, the traders and agents can follow the following steps to facilitate Customs declaration, namely,

- Self-declaration;
- Risk assessment;
- Physical inspection;
- Duty payment;
- Release.

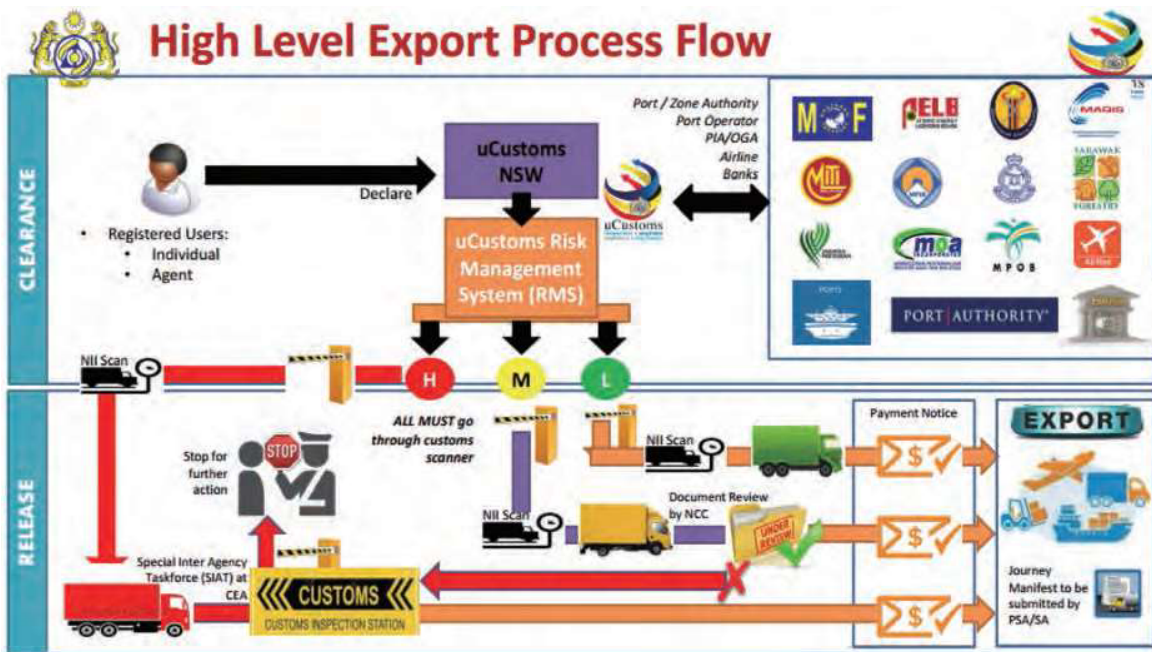
The details of import and export workflow process can be found as below:

Figure 3 Flowchart of uCustoms for Import



Source: Cargo&Journey, Malaysian authorities.

Figure 4 Flowchart of uCustoms for Export



Source: Cargo & Journey, Malaysian authorities.

5.3 Benefit of uCustoms

With the new tool in place, the tangible benefits have been observed from many aspects. Firstly, it shortens process time required; secondly, it requires minimum human intervention and eases business; lastly, it integrates with over 100 other governmental agencies/ports and serves as information sharing and collaboration.

6. MALAYSIA NATIONAL SINGLE WINDOW

6.1 Briefing

International Trade Single Window is a one-stop automated IT facility to exchange information between traders and government agencies, thereby reducing the complexity, time and costs involved in international trade.

On December 9, 2005, ASEAN agreed to establish the ASEAN Single Window (ASW) to expedite Customs procedures within ASEAN, and promote ASEAN economic integration by enabling the electronic exchange of border trade-related documents among AMS. To date,

A National Single Window (NSW) is an electronic system to facilitate trade, increase efficiency of the government delivery system and provide benefits to all members of the trading community, including government agencies. On September 4, 2012, Malaysia launched its own national single window portal (myTRADELINK). Malaysia's NSW, similar to NSW initiatives in the region and globally, aims to simplify Customs clearance procedures, facilitate the electronic exchange of trade-related data, reducing the cost of doing business as well as enhancing trade efficiency and national competitiveness.

6.2 Services of Malaysia NSW

Malaysia NSW covers 6 services through myTRADELINK, which provides a single point of referral for all related parties in the trade community to exchange documents required to fulfil regulatory trade processes

for import, export or transit - anytime, anywhere via the Internet.

6.2.1 e-Preferential Certificate of Origin (e-PCO)

A Preferential Certificate of Origin (PCO) is required by Customs authority in deciding whether the imports should benefit from preferential treatment based on the country of origin of a product.

e-PCO has replaced manual application of Certificate of Origin (CO) from January 1, 2013 and is applied nationwide and offers 14 online schemes to manufactures and exporters. Currently, a total of 3 schemes Malaysia-Australia Free Trade Agreement (MAFTA), Malaysia-India Comprehensive Economic Cooperation Agreement (MICECA) and Malaysia-Chile Free Trade Agreement (MCFTA) are offered on the e-PCO platform with the remaining schemes soon on board.

e-PCO has 3 main functions:

- Online application of Cost Analysis and Certificate of Origin forms;
- Online approval by authorized party e.g. Ministry of International Trade and Industry (MITI);
- Online enquiry of application status.

The benefits are apparent to stakeholders, such as:

- User-friendly;
- Faster process;
- Smoother transactions.

6.2.2 e-Manifest

e-Manifest is a comprehensive system for port users such as principal shipping agents, shipping agents, freight forwarders to submit cargo manifest and vessel arrival information to the respective authorities for validation and approval via internet. It has been in service since 2007 with over 500 company subscribers nationwide. Up to now, it is available in 11 ports in Malaysia and handles more than 6 million transactions a year and according to the schedule of Malaysian authorities, more ports will be implementing e-Manifest in the future.

The stakeholders of e-Manifest include government bodies and trade & industry players. On the one hand, government bodies are Ministry of Finance, MITI, Ministry of Transport, RCDM, Maritime Department of

Malaysia, Port Authorities and other government agencies. On the other hand, the second category refers to port authority/free zone authority, port operator, ship's call number issuing authority, shipping agent, freight forwarders and key national associations.

The benefits of e-Manifest are:

- Easy access via the Internet;
- Faster response time through smooth cargo data transfer;
- Convenience of retrieving data when required;
- Cohesive and single-filing to implementing ports.

6.2.3 e-Declare

e-Declare is an electronic application that allows users to prepare and submit Customs related documentation to RMCD. It covers the importation, exportation, transshipment, domestic movement between east and west Malaysia, bonded movement and partial release of cargo from Customs' control. About 166 out of 167 Customs stations are implementing e-Declare nationwide.

6.2.4 e-Permit

e-Permit is an electronic permit application system to apply for permits and approval from multiple Permit Issuing Agencies (PIA). There are currently 26 agencies participating in e-Permit and 19 of which reach paperless practice.

6.2.5 e-PermitSTA

e-PermitSTA is an electronic permit application for products that fall under Strategic Trade Act 2010. It incorporates digital signature in the application to ensure data security. The stakeholders are:

- Strategic Trade Secretariat, MITI;
- Atomic Energy Licensing Board (AELB);
- Malaysia Communication and Multimedia Commission (MCMC);
- Pharmaceutical Services Division, Ministry of Health.

6.2.6 e-Payment

e-Payment is an online payment facility that allows users to prepare and submit duty payment to RMCD. There are 3 modes of e-Payment available, namely, Electronic Fund Transfer, DutyNet and Financial Services Payment Gateway. Currently 8 local banks have participated in this initiative.

7. CUSTOMS AGENTS

7.1 Customs Agent Practice

In Malaysia, importers, exporters and the owner of goods can clear Customs on their own. Meanwhile, the alternative is to use the service of legal Customs agents with the condition that the agents have been approved by the Customs Director General for Customs clearance duties. Section 90 of Customs Act 1967 stipulates the approval of forwarding/shipping agents to become an import or export Customs agent.

7.2 Qualifications of Customs Agents

The qualifications of Customs agents are different for forwarding/shipping companies. For forwarding agent company at least 51% bumiputera participation on share capital, management and employees while for shipping agent company that figure is at least 30%.

7.3 Application of Customs Agents

An application form is required to submit the completed document to the State Director of Customs where it will be reviewed in tandem with other supporting documents, such as:

- Business Registration Certification;
- A copy of Share Certificate;
- Form 24 & Form 49;

- Letter of appointment from customers and a list of represented customers.

Besides, applicants also have to state the address of operating branches. In case a branch is established after approval to become an agent is obtained, companies have to notify the State Director of Customs where the parent company operates and forward a copy to the State Director of Customs where the branch will operate.

7.4 Approval and Renewal of Customs Agents

Agent approval is valid for 2 years and is subject to the conditions stated that could be added to or changed when necessary. Some of the main conditions are:

- Not allowed to transfer ownership, change name, sell or handover to any party without Customs permission;
- Prepare General Bond according to the amount fixed by Customs;
- Be legally liable on acts of workers;
- Comply with all the provisions under the Customs Act 1967 and its Regulations as well as other instructions released by the Customs.

Agent approval in one state also covers company branches in other states. However, the approval will be revoked upon impingement of provisions under the Customs Act 1967 and related regulations.

Besides, renewal application has to be submitted 2 months prior to the approval's expiry. Supporting documents are EPF Statement, annual report and audited financial statement, Form 24, Form 49, list of lower-level management and employees as well as represented customers. Approval of renewal will be given 2 years subject to the conditions stated.

7.5 Identity Pass for Approved Agents

For the approved Customs agents working in the Customs area, identity pass is issued to the staff of the agents as a form of security measure. It is for not more than 2 years in line with the agent's endorsement. The identity pass for forwarding agents is marked yellow, while for shipping agents it is marked red.

Besides, it will be revoked by default when the holder resigns and has to be subject to Customs authorities for cancellation.

8. CUSTOMS SECURITY

Customs security usually refers to an agreement, which ensures that importers will pay all relevant duties, taxes and fees and operate in accordance with all laws and regulations will greatly facilitate the clearance and boost trade as a contract to ensure that importers oblige with duties, taxes and fees collected by the Customs and owed to the government.

8.1 Customs Security in Malaysia

In Malaysia, Customs may require that security to be provided to guarantee the payment of duties and taxes, or to ascertain that the relevant obligations must be fulfilled by the declarant or the responsible party in line with Customs procedures.

8.2 Scope of Customs Security

The scope of Customs guarantee covers the following circumstances:

- The release of goods from Customs control prior to payment of duty and taxes;
- The movement of goods within or through the Customs territory under the transit regime;
- The movement of goods from/to free zone under some conditions;
- Authorized Customs agents, operators of bonded warehouses, licensee of duty free shop, operators of temporary storage facilities;
- Temporary import and export of goods;
- Release of goods pending the decision on appeal, release of temporarily seized good under Customs Act 1976;
- Other conditions required by Customs.

8.3 Related Customs Security Regulation

The Customs Act 1976 has granted the power of Director General to require security. Section 34 stipulates “The Director General may, at his discretion, either generally or in a particular case or in respect of a particular are, require security to be given by any person moving dutiable goods within Malaysia and

where any such security has been required to be given no person shall move such goods unless such security has been given”.

In terms of the amount of security, it shall not exceed the amount of duty leviable on such goods or services. Besides, there are a variety of security forms, the details are:

- The bank guarantee;
- Guarantee letter;
- General bond.

For further details, Section 17A, Section 27, Section 32, Section 41, and Section 75 of Customs Code 1976 elaborate the security requirement as required by Customs.

9. PROHIBITIONS AND RESTRICTIONS

9.1 Import Prohibitions, Restrictions, and Licensing

In Malaysia, it prohibits imports of some products due to religious, security, health, and environmental protection and safety grounds. Customs (prohibition of imports) Order 2017, which stipulates import prohibitions, restriction and licensing, covers 4 schedules as listed below:

A.First Schedule

It refers to goods absolutely prohibited from importation. There are 15 major product categories.

Briefly, 1 category is for Indonesia in terms of import prohibition of logs, wood in the rough, wood roughly squared or half squared but not further manufactured, and baulks. The other 14 categories are for all countries in terms of import prohibition of some broadcast receivers, comb or comb chunk (high pest risk), lightning arrestor containing radioactive materials, liquid-filled type electric heating bags, cushions,

pillows, pouches or pads using AC or AC and DC, new pneumatic snow types and new retreaded snow types for all types of vehicles, poisonous chemicals and minerals, certain animal feed, sodium arsenite, and substances covered under the Montreal Protocol.

B. Second Schedule

- Conditional prohibition except under import license (Part I);
- Conditional prohibition except under import license, and does not apply to specified free zones (Part II);
- Conditional prohibition except under import license, and shall not apply to Labuan, Langkawi, Tioman and specified free zones (Part III).

In light of Customs (prohibition of imports) Order 2017, there are two conditions for import license in terms of second schedule part I list, one is for all goods originating from Israel are subject to import license, the other is for all countries for certain goods.

The details of goods and licensing bodies are listed in the table below,

Table 1 Import Licensing

Product Description	Auto-Licensing	Licensing Bodies
All goods from Israel	No	MITI
Sugar	Yes	Ministry of Domestic Trade, Cooperatives and Consumerism (MDTCC)
Radar apparatus, radio navigation aid apparatus, parabolic antenna	Yes	SIRIM Berhad
Chassis fitted with engines, for motor vehicles of heading 87.02,87.03,87.04,or 87.05	Yes	MITI
Bodies (including cabs) for motor vehicles falling within heading 87.02,87.03,87.04,or 87.05	Yes	MITI

Product Description	Auto-Licensing	Licensing Bodies
Motorcycles, auto-cycles (including mopeds), electric powered motorcycles, motorized bicycles and cycles fitted with an auxiliary motor (excluding side cars)	Yes	MITI
Road tractors for semi-trailers (including prime movers), completely built-up, old	Yes	MITI
Special purpose motor vehicles, other than principally designed for the transport of persons or goods, excluding fire fighting vehicles	Yes	MITI
Used brakes and servo-brakes including used brake pad, and brake lining, for motor vehicles of headings 87.01,87.02,87.03, 87.04,87.05,87.09, and 87.11; All kinds of reusable batteries (accumulators) for motor vehicles of headings 87.01,87.02, 87.03,87.04,87.05,87.09,and 87.11	No	MITI
Unmanufactured tobacco, tobacco refuse	No	National Kenaf, Tobacco Board, and Department of Agriculture (Psninsular Malaysia, Labuan, Sabah and Sarawak)
Trichloroethane (Mythyl chloroform)	Yes	MITI
Optical disc mastering and replicating machines and parts thereof	No	MDTCC
Toxic chemicals and their precursors covered under the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical weapons and on their destruction 1993 (CWC)	Yes	MITI
Substances structurally derived from Phenethylamine and their salts	No	Pharmaceutical Services Division, Ministry of Health

Product Description	Auto-Licensing	Licensing Bodies
Hydrochlorofluorocarbons (HCFCs) covered under the Montreal protocol, Annex C-Group 1	Yes	Department of Environment
Falt-rolled products of other alloy steel, of a width of 600 mm or more	Yes	MITI

Source: Customs (prohibition of imports) Order 2017.

With regard to the second schedule part II list, it is currently the same with part II list. On part III list, some iron and steel products are prohibited from importation except under import license from MITI, but it is not applied to Labuan, Langkawi, Tioman, and specified free zones. Besides, since Aug.1, 2017, 181 tariff lines of iron and steel products will not require import license.

C.Third Schedule

- Conditional prohibition except in the manner provided for (Part I);
- Conditional prohibition except in the manner provided for; and shall not apply to the free commercial zones (Part II);
- Conditional prohibition except in the manner provided for, for goods controlled under the International Trade in Endangered Species Act 2008 (Part III).

Firstly, part I list is mainly subject to SPS licensing requirements. The product categories are animals and animal products, plant and plant products, agro-products such as pasta, rice, flour, vegetables, coffee, soil, food products, solid waste, radio-materials and irradiating apparatus, baby feeding bottles, ceramic tableware and kitchenware, tobacco and manufactured tobacco, alcohol, stones and water.

The license issuing bodies could be Malaysian Quarantine and Inspection Services (MAQIS), Department of Agriculture (DOA), Department of Wildlife and National Park, Food Safety and Quality Division of the Ministry of Health, Department of National Solid Waste Management, Ministry of Home Affairs, Pesticide Board under the DOA, and Atomic Energy Licensing Board.

Secondly, part I list also addresses import license as below,

Table 2 Imports Licensing

Product Description	License	Licensing Bodies
Bullet-proof suits, pepper spray, arms and ammunition, fireworks	Import Permit or Approval Letter	Chief Police Officer
Toxic and hazardous waste	Letter of Approval	Director General of Environmental Quality
Second-hand materials, such as used household electronics	Letter of Approval	Environmental Quality
Amusement machines	Letter of Approval	Ministry of Finance
Rough diamonds	Kimberley Process Certificate	Exporting party
Substances covered under the Rotterdam Convention	Letter of Consent	Department of Environment
Second-hand materials, such as used pneumatic tyres and used retreaded pneumatic tyres of rubber	Letter of Approval	SIRIM Berhad

Source: Customs (prohibition of imports) Order 2017.

In addition, part II list include cigarette meeting packaging requirements, apparatus or equipment for the brewing of beer at home, beer, wine, vermouth and other wine of grapes, other fermented beverages, ethyl alcohol, spirits and liqueurs, etc. Those containers must be affixed with a tax stamp.

Lastly, part III list includes any terrestrial animals, any marine animals, any terrestrial plant excluding timber species, and any timber species as specified in the appendices of the International Trade in Endangered Species Act 2008. For those goods in transit, a valid export/re-export permit/license/certificates in line with the CITES must be accompanied,

D.Fourth Schedule

- Conditional prohibition except conforming to the Malaysian standards or other standards approved by the Malaysian authorities and in the manner provided for (Part I);
- Conditional prohibition except conforming to the Malaysian standards or other standards approved by the Malaysian authorities and in the manner provided for, and does not apply to the free

commercial zones (Part II).

In terms of part I list, it covers cement, ceramic products, and plastic flushing cisterns equipped with mechanism. The license body is the Construction Industry Development Board (CIDB).

Concerning part II list, it is subject to TBT requirement, which do not apply to free commercial zones in this regard.

Table 3 Imports Subject to TBT Requirements

Product Description	Import Requirement
Iron & steel product, aluminum product	CIDB or SIRIM Berhad (non-construction)
Electrical apparatus or accessories	Suruhanjaya Tenaga, or the equivalent counterpart in the case of certain states (Sarawak)
New pneumatic tyres and new retreaded pneumatic tyres, of rubber	In line with the standards under the Motor Vehicles (Construction and Use) Rules 1959; E-mark and certificate, or DOT mark and certificate, or MS mark and certificate
Toys, games and children's bicycles	Certificate of conformance issued under the Consumer Protection Act 1999 notification form or a letter of clarification
Apparatus or equipment to be attached to or connected to a public communication network of system	A certificate of approval issued by SIRIM QAS International Sdn. Bhd.
Radio communication apparatus or equipment in the frequency band up to 420 Thz	A certificate of approval issued by SIRIM QAS International Sdn. Bhd.
Apparatus or equipment to integrated with a communication module for connecting to a public network or for radio communications utilizing the frequency band up to 420 Thz	A certificate of approval issued by SIRIM QAS International Sdn. Bhd.
Flowers, vegetables, coconuts, fruits, coffee, spices, groundnuts, sugar cane	A certificate of conformity of agricultural produce, issued by MAQIS and inspection and approval by MAQIS (SPS measures)

Product Description	Import Requirement
Construction products	A certificate of approval, a letter of exemption, by the Chief Executive Officer of CIDB
Non-rechargeable cells and primary batteries	A certificate of conformance, a notification form, or a letter of clarification, issued by the Controller of Consumer Affairs, under the Consumer Protection Act 1999
Liquid-filled type electric heating bag, cushion, pillow, punch or pad filled with liquid, using 3-pin inlet AC or AC and DC	A certificate of approval issued by the Suruhanjaya Tenaga, or the equivalent counterpart in the case of certain states (Sarawak)
Motorcyclists safety helmets	In line with the standards under the Motor Vehicles (Construction and Use) Rules 1959; E-mark and certificate, or MS mark and certificate
Some wheat flour	A letter of consent, by MDTCC
Gas discharge headlamp including gas discharge bulb for motor vehicles	In line with the standards under the Motor Vehicles (Construction and Use) Rules 1959; E-mark and certificate
New brake lining or brake pad, vehicle alarm system & immobilizer & new seat & speed monitoring device for motor vehicles	In line with the standards under the Motor Vehicles (Construction and Use) Rules 1959; E-mark and certificate, or MS mark and certificate
Wheat flour for human consumption	A certificate of approval issued by SIRIM QAS International Sdn. Bhd.

Source: Customs (prohibition of imports) Order 2017.

9.2 Export Prohibitions, Restrictions and Licensing

In Malaysia, Customs (prohibition of exports) Order 2017, which stipulates import prohibitions, restriction and licensing, covers 3 schedules as listed below,

A. First Schedule

It refers to goods absolutely prohibited from exportation, which are poisonous chemicals and minerals, and substances covered under the Montreal Protocol.

B. Second Schedule

It refers to conditional prohibition except under export license. The details are listed in the table,

Table 4 Exports Licensing

Product Description	Licensing Bodies
All good to Israel	MITI
Unrooted cuttings, budwood, budded stumps, seedlings and seeds, of rubber, for sowing or planting	Ministry of Plantation Industries and Commodities
Oil palm living tissues/fruits/seeds or nuts/pollens	Ministry of Plantation Industries and Commodities
Oils and fats of palm oil	Malaysian Palm Oil Board
Pineapple slips, pineapple, fresh, chilled and preserved by freezing	Malaysian Pineapple Industries Board
Bamboo, rattans, wood, logs, charcoal, timber, etc.	Malaysian Timber Industry Board and corresponding agencies in Sabah and Sarawak
Minerals, ores, coal, lignite, peat, coke, etc. all kinds of natural sands, slag and hardhead of tin	Ministry of Natural Resources and Environment
Military clothing, headgear, footwear, and other textile articles	Ministry of Defense, MITI
Sugar, cement clinker, Portland cement	MDTCC

Product Description	Licensing Bodies
Waste and scrap, recovered (waste and scrap) paper or paperboard, toxic chemicals and their precursors covered under the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction 1993 (CWC)	MITI
Acetyl bromide, acetyl chloride, chemicals/ substances covered under the 1988 UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances	Pharmaceutical Services Division, Ministry of Health
Hydrochlorofluorocarbons (HCFCs) covered under the Montreal protocol, Annex C-Group 1	Department of Environment
Mercury (Hg) and mercury compounds covered under the Minamata Convention on Mercury	Pharmaceutical Services Division, Ministry of Health

Source: Customs (prohibition of exports) Order 2017

C.Third Schedule

- Conditional prohibition except in the manner provided for (Part I);
- Conditional prohibition except in the manner provided for; for goods controlled under the International Trade in Endangered Species Act 2008 (Part II);

In terms of part I, it covers 3 categories, including:

- Products subject to SPS requirements;
- Arms and ammunition, antiquities or heritage items, toxic and/or hazardous waste, pesticides, radioactive chemical elements and others, rough diamonds, tributyltin compounds including preparation, diesel fuel, petrol, LPG;
- Used household electronics.

The licensing bodies are Malaysian Quarantine and Inspection Services (MAQIS), Department of Agriculture (DOA), Department of Wildlife and National Park, MDTCC, Chief Police Officer, Commissioner of Heritage, Pesticide Board under the DOA, and Atomic Energy Licensing Board.

Besides, in terms of part II, it includes any terrestrial animals, any marine animals, any terrestrial plant excluding timber species, and any timber species as specified in the appendices of the International Trade in Endangered Species Act 2008. An export license is required for exportation from peninsula Malaysia and Labuan. The issuing bodies are Department of Wildlife and National Parks Peninsular Malaysia, Department of Fisheries Malaysia, Department of Agriculture Malaysia, and the Malaysian Timber Industry Board.

9.3 Sanitary and Phytosanitary (SPS) Requirements

Malaysia is a member of the Codex Alimentarius Commission, the World Organization for Animal Health (OIE) and a contracting party to the International Plant Protection Convention (IPPC). As an active member of those international organizations, Malaysia has adopted SPS measures on trade in plants, forest products, foods, animals and seafood products.

The SPS related laws and regulations are the Malaysian Quarantine and Inspection Services Act 2011, the Plant Quarantine Act 1976, the Plant Quarantine Regulations 1981, the Animal Act 1953, the Fisheries Act 1985, the Biosafety Act 2007, the Food Act 1983, the Food Regulations 1985, and the Food Hygiene Regulations 2009.

The relevant governmental bodies for permit or license include Department of Agriculture (plants), Department of Veterinary Services (animal and animal product), Department of Fisheries (fisheries), Food Safety and Quality Division under the Ministry of Health (food safety matters), National Biosafety Board (living modified organism) and MAQIS (quarantine services and certification for imports and exports).

Besides, for food and its ingredients obtained by modern biotechnology, mandatory labelling is required in accordance with the Food Regulations 1985.

Last but not the least, Malaysia has established 3 SPS enquiry points, the Macro and Strategic Planning Division of the Ministry of Agriculture and Agro-based Industry (plants, livestock, fisheries), the Food Quality Control Division of Ministry of Health (food safety matters), and Department of Veterinary Services (animal and animal products). For more information, please refer to the official websites (Ministry of

Agriculture and Agro-based Industry: <http://www.moa.gov.my/>), (Ministry of Health: <http://www.moh.gov.my>).

9.4 Technical Barrier to Trade (TBT)

Malaysia is a member of the International Organization for Standardization (ISO), International Electrotechnical Commission (IEC), and International Telecommunications Union (ITU). Malaysia has made continuous efforts to align with international standards in accordance with WTO obligations under TBT Agreement.

As of June 30, 2017, 60% of Malaysian standards amounting to 5,284 were aligned with international standards. The main categories are chemicals and materials, power generation, transmission and distribution, electrical and electronics equipment and accessories, food and food products, buildings, construction and civil engineering, and medical devices and facilities for healthcare.

The competent body in Malaysia for developing and issuing standards is the Department of Standards Malaysia (DSM) under the Ministry of Science, Technology and Innovation. DSM appoints SIRIM Berhad, a wholly government-owned company, as the sole national standards development agency under the Standards of Malaysia Act. SIRIM Berhad acts as the enquiry point for TBT and as the agency responsible for notifications and publications required by the WTO TBT Agreement. For more information, please refer to the official website (<http://www.sirim.my>).

10. CUSTOMS DUTIES & TAXES

Malaysia Customs collects duties and taxes on any imported and exported goods except for some exemption conditions. The types of duties and taxes are Import Duty, Export Duty, Excise Duty, Sales and Services Tax (SST) and others.

10.1 Import Duty

Import duty is subject to the Customs Duties Order 2012. Malaysia's import duties are typically imposed on an ad valorem basis, with a simple average applied tariff of 6.1 percent for industrial goods.

For certain goods, such as alcohol, wine, poultry, and pork, Malaysia charges specific duties that represent extremely high effective tariff rates.

10.2 Export Duty

Malaysia has levied export duties to safeguard sufficient supply of raw materials for domestic industries and for food security. Export duties are based on the FOB value of the goods.

In 2017, only 217 out of total 11,690 tariff lines at the HS 10-digit level were subject to export duties. The rates ranged from 4.5% to 20% in terms of different lines. The export duties are listed as below,

- Live plant, certain seeds, rattans (10 lines): specific rate;
- Crude oil: 10%;
- Crude palm oil (5 lines): 4.5%-8.5%;
- Palm nuts and kernels suitable for sowing: 5%;
- Palm nuts and kernels not suitable for sowing: 20%;
- Wood in the rough (108 lines), certain unwrought lead & lead waste and scarp (2 lines): 15%;
- Palm kernel oil, crude petroleum oil, ferrous waste and scrap, copper waste and scrap, master alloys of copper, nickel mattes, nickel oxide sinters, not alloyed nickel, nickel alloys, aluminum waste and scrap (21 lines): 10%;
- Certain live animals, palm nuts, palm kernel oil (refined, bleached, deodorized (RBD)), slag, ash and residues, silver, platinum, refined copper, unwrought zinc (69 lines): 5%.

In terms of rubber products export, 0.2% of the export value is applied to the manufacturers.

10.3 Excise Duty

In Malaysia, excise duty is applied to both locally produced and imported goods. The rates are identical to

locally produced and imported goods. The details are:

- Motorcars and electric cars: 10%-105%;
- Four-wheel-drive vehicles: 75%-105%;
- Motorcycles and electric motorcycles: 10%-30%;
- Intoxicating liquor: RM 22.50 per 100% volume per liter, and 15% ad valorem to RM 450 per 100% volume per liter;
- Cigarettes: RM 0.40 per stick.

10.4 Sales and Services Tax (SST)

Since September 1, 2018, a significant tax reform was brought into Malaysia and the goods and services tax (GST) has been replaced by the sales and services tax (SST) administered by the Royal Malaysian Customs Department (RMCD).

The SST has two elements: a service tax that is charged and levied on taxable services provided by any taxable person in Malaysia in the course and furtherance of business, and a single stage sales tax levied on imported and locally manufactured goods, either at the time of importation or at the time the goods are sold or otherwise disposed of by the manufacturer.

10.5 Tariff Quota

Malaysia has adopted tariff quota to cater to the request from domestic small producers and follows a principle of first-come-first-served to importers. It is applied to 27 tariff lines at the HS 10-digit level in 2017.

The goods include live swine and poultry, poultry and pork meat, liquid milk and cream, and round cabbages. The tariff rates within the quota range from zero (round cabbages) to 25% (pork).

10.6 Tariff Bindings

Malaysia has fully achieved the practice of Uruguay Round Tariff binding in 2005. According to WTO trade policy review issued in December 2017, 20% of Malaysian tariff lines were unbound, and the simple average bound rate was 11.0% for agro-products and 16.5% for non-agro-product.

In 2017, Malaysia's tariff schedule was based on HS 2017 nomenclature with 10-digit level covering 11,690 lines, 99% of which are ad valorem.

10.7 Preferential Tariff

As an ASEAN member, Malaysia adopts preferential tariff for trade within ASEAN member states under the ASEAN Harmonized Tariff Nomenclature (AHTN) 2017. It covers 11,690 lines.

Malaysia is also subject to tariff preferences in ASEAN Trade in Goods Agreement (ATIGA), various Free Trade Agreements (FTAs) signed by ASEAN with Australia, China, India, Japan, Korea, and New Zealand, multiple bilateral FTAs entered with Australia, Chile, India, Japan, New Zealand, Pakistan and Turkey, as well as in PTA-D8 (HS12) with Bangladesh, Egypt, Indonesia, Iran, Nigeria, Pakistan and Turkey.

From the statistics of WTO Secretariat in 2017, the average tariff rate of the above-mentioned preferences is lower than the simple MFN rate (7.5%), ranging from 0.1% to 7.4%.

10.8 Tariff Exemptions

10.8.1 Exemption of Import Duty

General speaking, import duty exemptions are applied to companies involved with manufacturing, agriculture and listed services. The details are:

- Raw materials and components that are not locally manufactured, regardless of whether the finished products are for export or domestic market;
- Machinery and equipment locally unavailable, but directly used in the manufacturing process;
- Raw materials, components, machinery and equipment, spares and consumables for aerospace companies to conduct maintenance, repair and overhaul;
- Medical devices that are imported for the purpose of kitting or producing complete procedural sets, provided that these medical devices are not locally produced.

10.8.2 Exemption of Export Duty

Malaysia authorities have tax incentives to stimulate trade and economy by reducing or exempting export duties. For instance, in terms of oil produced from marginal fields, export duty exemption is applied.

10.8.3 Exemption of Sales Tax

Overall, the Sales Tax (Exemption) Order 1980 has listed exemptions in 3 Schedules as follows,

- Schedule A: goods exempted from sales tax are not taxable goods;
- Schedule B: list of persons or class of persons exempted from payment of sales tax;
- Schedule C: exemption of sales tax is extended manufactured, not being licensed manufacturers, in respect of goods acquired by such manufacturers for use in production of certain products.

Some goods manufactured in Malaysia (except Labuan, Langkawi and Tioman) or imported could be specifically exempted from sales tax by order of the Minister of Finance. In addition, all goods produced and subsequently exported by a licensed manufacturer are exempted from payment of sales tax under Item 16, Schedule B of the Sales Tax (Exemption) Order 1980.

Furthermore, if a person exports purchased from licensed manufacturer within 6 months from date of purchase, under Item 91, Schedule B, Sales Tax (Exemption) Order 1980 on the condition that the approval from the Director General of Customs is granted prior to the purchase.

10.9 Tariff Drawback

According to Part X of Customs Act 1967, there are some conditions allowing tariff drawback. First, duties and taxes on import of raw materials in manufacturing or in packing can be refunded if they are directly used in the production or manufacture of goods in Malaysia for export within 12 months upon the day of import tariff payment.

Besides, relief from duty on goods temporarily imported may be applied if the goods are for home use or security is paid. The security will be returned if the goods are re-exported within 3 months of the date of importation or within extended period as Director General allows.

In addition, if any dutiable goods which have been imported suffer deterioration, or damage, and are destroyed at any time after their arrival within Malaysia and before removal from Customs control, the Customs duty payable may be partially or wholly remitted by the Director General of RMCD.

Then, according to Section 16, Part III of Customs Act 1967, if the duty or other charges are overpaid or erroneously paid, it could be refunded unless a claim is made within 1 year after overpayment or

erroneous payment. The section 32 of the Sales Tax Act 1972 also states the refund of sales tax which is overpaid or erroneously paid.

In particular, section 29 of the Sales Tax Act 1972 describes the drawback of sale tax,

- Tax-paid finished goods, either imported or purchased from a licensed manufacturer, which are for re-exported;
- Tax-paid raw material and components that are used in the production of finished goods for export.

11. TARIFF CLASSIFICATION

11.1 Tariff Schedule in Malaysia

The Harmonized System of Commodities Description and Coding System (HS), is an internationally standardized nomenclature for the description, classification and coding of goods. It is developed by WCO and widely used as basis for Customs tariffs and the international trade statistics. ASEAN has developed ASEAN Harmonized Tariff Nomenclature (AHTN) for its member states on the basis of WCO HS.

AHTN is used for trade transaction between Malaysia and the other ASEAN countries, while the HS Code applies for trade with non-ASEAN countries. WCO version is at 6-digit level, ASEAN AHTN 2012 version is at 8-digit level, and Malaysia version is now at 10-digit level.

Customs Duties Order 2017, which brings about the latest revisions of HS 2017, has taken effect from April 1, 2017 and included key changes as follows:

- Goods are identified by a 10-digit code instead of 6-digit codes, e.g. the current HS code for trade samples 9800.00 600 will be changed to 9800.00.00 60.
- It is envisaged the current HS codes for zero-rated goods under the GST (Zero Rated Supply) Order would be amended accordingly to reflect the new 10-digit HS codes and/or products description.

- To enhance the monitoring of particular fish species for global food security purposes, the scope of the fish species has been expanded to include other main species identified by the Food and Agriculture Organization of the United Nations, e.g. new subheading 1604.18 on shark fins has been introduced in the Order.
- To facilitate the monitoring and control of narcotic drugs and psychotropic substances, new subheading 1302.14.00 has been introduced in the Order to cover vegetable saps and extracts of ephedra.
- To enhance the coverage of wood species for a clearer picture of trade patterns, definition of “tropical wood” has been expanded and included as Appendix C to the Order.
- The HS 2017 amendments include new subheadings to provide detailed information for several categories of goods that are used as antimalarial products, e.g. new subheading 3003.60.00 has been inserted in the Order to provide separately for antimalarial medicaments.
- New subheadings are being inserted for specific chemicals controlled under the Chemical Weapons (CWC), e.g. new HS code 2918.17 0000 benzilic acid has been inserted to facilitate the collection and comparison of data on the international movement of substances controlled under the CWC.

HS code for every product or raw materials used can be referred to Division of Classification, Royal Customs of Malaysia and can also be searched by using the Search Tariff function on the official website of Malaysia Customs Department.

Now Malaysia’s tariff schedule was based on HS 2017 nomenclature with 10-digit level covering 11,690 lines, while 99% of which are ad valorem. Current tariff schedule in Malaysia are also classified into 21 sections which are further sub-divided into 97 chapters listed below:

Table 5 Classification of Tariff Schedule in Malaysia

Section 1 (Chapter 1-5)	Section 2 (Chapter 6-14)
Live animals & animal products	Vegetables products
Section 3 (Chapter 15)	Section 4 (Chapter 16-24)
fats, oils, waxes, etc.	Prepared foodstuffs, beverages, spirits and vinegar, tobacco and manufactured tobacco substitutes

Section 5 (Chapter 25-27)	Section 6 (Chapter 28-38)
Mineral products	Products of the chemical or allied industries
Section 7 (Chapter 39-40)	Section 8 (Chapter 41-43)
Plastics and rubber	Raw hides and skins, leather, furskins, saddlery and harness, travel goods, handbags and similar containers, articles of animal gut
Section 9 (Chapter 44-46)	Section 10 (Chapter 47-49)
Wood and articles	Pulp, paper, etc.
Section 11 (Chapter 50-63)	Section 12 (Chapter 64-67)
Textiles & articles	Footwear, handgear, umbrellas, walking sticks, seat-sticks, whips, artificial flowers, articles of human hair
Section 13 (Chapter 68-70)	Section 14 (Chapter 71)
Articles of stone, plaster, cement, asbestos, mica or similar products, ceramic products, glass and glassware	Natural or cultured pearls, precious or semi-precious stones, precious metals, imitation jewelry, coin, etc.
Section 15 (Chapter 72-83)	Section 16 (Chapter 84-85)
Base metals and products	Machinery, electrical equipment, etc.
Section 17 (Chapter 86-89)	Section 18 (Chapter 90-92)
Vehicles, aircraft, transport equipment	Precision instrument (optical, photographic, cinematographic, measuring, medical or surgical, etc.)

Section 19 (Chapter 93)	Section 20 (Chapter 94-96)
Arms and ammunition	Miscellaneous manufacturing
Section 21 (Chapter 97)	
Works of art, etc.	

11.2 General Rules for the Interpretation of HS

WCO's General Rules for the Interpretation of the Harmonized System are also applied by Malaysia Customs and these are the rules that govern the classification of goods under the HS and there are 6 General Rules in all, which must be applied in consecutive order including:

1. The titles of Sections, Chapters and sub-Chapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes and, provided such headings or Notes do not otherwise require, according to the following provisions.
2. (a) Any reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as presented, the incomplete or unfinished article has the essential character of the complete or finished article. It shall also be taken to include a reference to that article complete or finished (or falling to be classified as complete or finished by virtue of this Rule), presented unassembled or disassembled. (b) Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of Rule 3.
3. When by application of Rule 2 (b) or for any other reason, goods are, prima facie, classifiable under two or more headings, classification shall be effected as follows: (a) The heading which provides the most specific description shall be preferred to headings providing a more general description.

However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods. (b) Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to Rule 3 (a), shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable. (c) When goods cannot be classified by reference to Rule 3 (a) or 3 (b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration.

4. Goods which cannot be classified in accordance with the above Rules shall be classified under the heading appropriate to the goods to which they are most akin.
5. In addition to the foregoing provisions, the following Rules shall apply in respect of the goods referred to therein: (a) Camera cases, musical instrument cases, gun cases, drawing instrument cases, necklace cases and similar containers, specially shaped or fitted to contain a specific article or set of articles, suitable for long-term use and presented with the articles for which they are intended, shall be classified with such articles when of a kind normally sold therewith. This Rule does not, however, apply to containers which give the whole its essential character. (b) Subject to the provisions of Rule 5 (a) above, packing materials and packing containers presented with the goods therein shall be classified with the goods if they are of a kind normally used for packing such goods. However, this provision is not binding when such packing materials or packing containers are clearly suitable for repetitive use.
6. For legal purposes, the classification of goods in the subheadings of a heading shall be determined according to the terms of those subheadings and any related Subheading Notes and, mutatis mutandis, to the above Rules, on the understanding that only subheadings at the same level are comparable. For the purpose of this Rule the relative Section and Chapter Notes also apply, unless the context otherwise requires.

12. CUSTOMS VALUATION

Following WTO accession, Malaysia has gradually adopted WTO Customs Valuation Agreement. As stated clearly in Customs (Rules of Valuation) Regulations 1999, there are 6 valuation methods in practice in Malaysia.

- Valuation Method 1: Transaction Value

The Customs value of imported goods shall be their transaction value (as primary basis of valuation), i.e. the price actually paid or payable for the goods when sold for export to Malaysia, adjusted in accordance with regulation 5.

With this method, the price actually paid or payable for the goods shall be adjusted in determining the transaction value of goods in the following conditions (as described in regulation 4).

By adding amounts, to the extent that each such amount is not included in the price actually paid or payable for the goods, equal to:

Table 6 Adding Elements for Transaction Value

1	Commissions and brokerage.
2	The packing costs and charges (including the cost of cartons, cases, and other containers and coverings for Customs purposes).
3	The value of any of the following goods and services: materials, component, parts, and other items incorporated in the goods; tools, dies, moulds, and other items utilized in the production of the goods ; materials consumed in the production of the goods; engineering, development work, artwork, design work, plans, and sketches undertaken elsewhere than in Malaysia and necessary for the production of the goods.
4	Royalties and license fees (including payments for patents, trademarks, and copyrights, exclusive of charges for the right to reproduce the goods in Malaysia).
5	The value of any part of the proceeds of any subsequent resale, disposal, or use of the goods by the buyer that accrues or is to accrue, directly or indirectly, to the seller.

6	the value of any materials, component, parts and other incorporated in the goods for the purpose of repair to, or refurbishment of, those goods prior to importation of the goods to Malaysia, and the price paid for the service or repair or refurbishment, as the case maybe; or
7	The cost of transportation and insurance of, and the loading, unloading, and handling charges, and other charges and expenses connected with the transportation of the goods until the goods have arrived in Malaysia.

By deducting amounts, equal to:

Table 7 Deducting Elements for Transaction Value

1	Any reasonable cost, charge, or expense owing to construction, erection, assembly, or maintenance of, or technical assistance of the goods after import.
2	Any reasonable cost, charge, or expense due to the transportation or insurance of the goods within Malaysia and any reasonable cost, charge or expense linked with.
3	Any Customs duties or taxes payable in Malaysia by reason of importation or sale of the goods.

- **Valuation Method 2: Transaction Value of Identical Goods**

When the first method cannot be applied to determine the Customs value, the Customs value of the goods shall be the transaction value of identical goods if the identical goods were exported to Malaysia at the same or substantially the same time as the goods being valued were sold.

- **Valuation Method 3 : Transaction Value of Similar Goods**

When the second method cannot be used to determine Customs value, the third method shall be adopted as an alternative if the similar goods were exported to Malaysia at the same or substantially the same time as the goods being valued were sold.

- **Valuation Method 4 : Deductive Value**

Deductive value will be utilized if the previous-mentioned three methods cannot be applicable. The Customs value of the goods being valued shall be the deductive value of the goods, which shall be the price per unit in the respect of sales described in the regulation 5 and 6, at which the greatest number of units of the goods being valued or identical or similar goods is sold. The following elements shall be subtracted from the price per unit.

Table 8 Deducting Elements for Deductive Value

1	Commission generally earned on a unit basis
2	Profit and general expenses, including all costs of marketing the goods as a whole and generally reflected on a unit basis
3	Reasonable costs charges and expenses incurred from transportation and insurance of the goods
4	Any Customs duties or other taxes payable in Malaysia
5	The value added to the goods due to the assembly, packaging, or further processing in Malaysia

- Valuation Method 5 : Computed Value

When the above-mentioned four methods are inapplicable, the Customs value of the goods shall be the computed value, which is the sum of amounts equal to:

Table 9 Deducting Elements for Computed Value

1	The cost of materials or processing in producing the goods
2	The amount for profit and general expenses linked with sales for export to Malaysia of goods of the same class or kind

- Valuation Method 6: Flexible Valuation

When method 1-5 cannot determine the Customs value, a flexible and reasonable value derived from the above-mentioned five methods on the basis of available information in Malaysia.

- Minimum Value

A minimum value on imported goods may be fixed by minister upon written request by importer.

13. RULES OF ORIGIN

13.1 Rules of Origin

Rules of origin are used to determine the national source of a product. It is very essential for duties and restrictions in several cases which depend upon the source of imports.

A Certificate of Origin (CO) is a certificate issued by a competent authority of the exporting country that certifies the origin of the goods. It is generally an integral part of import documents required by the imported countries.

There are two types of CO in Malaysia: non-preferential (non FTA member countries) and preferential (FTA member countries).

13.2 Non-Preferential Certificate of Origin (NPCO)

13.2.1 Eligibility for NPCO Application

In Malaysia, prior to application of NPCO, there are two requirements; first, manufacturers or traders must register with the Companies Commission of Malaysia (SSM). Second, product is required to meet rules of origin:

- Manufactured in Malaysia and used 100% local materials; or
- Manufactured in Malaysia through transformation process which alters tariff code classification at six (6) digit level; or
- Contains at least 25% local materials.

13.2.2 Application and Endorsement of NPCO

With regard to NPCO application, manufacturers or traders are required to submit Statutory Declaration Letter yearly to chambers/ trade associations, with other supporting documents,

- **Manufacturer:**
Company's registration certificate, business license/ manufacturer's license;

Sample/picture/catalogue (if necessary).

- **Exporter/trader:**

Company's registration certificate;

Certification from manufacturer for its manufactured product;

Sample/picture/catalogue (if necessary).

In addition, in terms of application for endorsement of NPCO, a complete NPCO form is required to submit to the chambers of commerce/trade associations and with following supporting documents:

- **Documents required (before exporting):**

Sales Invoice;

Packing List.

- **Documents required (after exporting):**

Sales Invoice;

Packing List;

Bill of Lading;

Customs Declaration Form (K2).

Last but not the least, NPCO is issued by Chambers and Associations authorized by MITI. The list of Chambers and Associations can be found on the following official website of MITI (<https://www.miti.gov.my/index.php/pages/view/3919?mid=533>)

13.3 Preferential Certificate of Origin (PCO)

Preferential Certificate of Origin (PCO) is an important official international trade document to prove the origin of a product. It is essential for traders to enjoy tariff preferences.

In Malaysia, in terms of signed Free Trade Agreements, PCO Forms are listed as below,

Table 10 Preferential Certificates of Origin in Malaysia

Preferential Tariff Certificate of Origin	
ATIGA	Form D
ASEAN-Australia-New Zealand	Form AANZ
ASEAN-China	Form E
ASEAN-India	Form AI
ASEAN-Korea	Form AK
ASEAN-Japan	Form AJ
Malaysia-Japan	Form MJEPA
Malaysia-Pakistan	Form MPCEPA
Malaysia-New Zealand	Form MNZFTA
Malaysia-Chile	Form MCFTA
Malaysia-India	Form MICECA
Malaysia-Australia	Form MAFTA
Malaysia-Turkey	Form MTFTA

13.3.1 Eligibility for PCO Application

In Malaysia, there are eligibility requirements for PCO application. First, it must be a Malaysia registered company under SSM as a local entity. Second, the manufacturer of the product must be a locally registered and licensed manufacturer operating locally in Malaysia (for PCO normal and TCI). Last, the product must be manufactured in Malaysia and fulfill the requirements under the Rules of Origin (for PCO normal and TCI).

13.3.2 Application of Preferential Certificate of Origin (PCO)

In Malaysia, there are 3 types of PCOs: normal, third country/party invoicing, and back-to-back. All application must be made online through the electronic Preferential Certificate of Origin (e-PCO) system operated by DagangNet Technologies Sdn Bhd (DNT). The system can be accessed at www.newepco.dagangnet.com.my.

First, according to the requirement of Malaysian authorities, except for back-to-back PCO, application for Cost of Analysis (CA) is required at e-PCO system for the other two PCOs. All documents need to be uploaded online (in pdf. format), including:

- Identified HS code slips (finished product and raw material);
- Manufacturing/operation license;
- Invoice for raw material;
- Catalogue of product;
- Production flow chart;
- Letter of appointment (from manufacturer to trader).

Normally, MITI will process CA application within 5 working days.

Second, upon CA application approval, application for PCO can be actuated, the documents (in pdf. format) to be uploaded are listed as below,

- **Application of PCO before export:**

Invoice;

Packing List.

- **Application of PCO after export:**

Invoice;

Packing List;

Bill of Lading;

Customs Form K2.

Normally, MITI will process PCO application within 24 working hours.

13.3.3 Endorsement of Preferential Certificate of Origin (PCO)

The certifying authority for all PCOs is the Trade and Industry Cooperation Section under MITI. Once PCO is approved, the following documents are needed for endorsement:

- Printed Certificate of Origin;
- Original copy of Invoices;
- Original Packing List;
- Original Bill of Lading;
- Original Customs Form K2.

14. ADVANCE RULING

In Malaysia, advance ruling is established to enhance trade facilitation and to ensure the accuracy of completion of Customs declaration according to the section 10B of Customs Act 1967.

Advance ruling is a written statement issued by the RMCD upon the written application by an applicant concerning on import or export of goods, production or manufacture of goods and taxable services.

In Malaysia, the issuance of advance ruling includes:

- Goods classification;
- Goods valuation;
- Determination of taxable person related to the production or manufacture of goods;
- Determination of taxable services.

To issue the ruling, some requirements are:

- RM200.00 processing fees;
- Submitting prescribed Form (Schedule A);
- Additional documents, information and samples (if necessary).

Upon the receipt of the prescribed Form (Schedule A), the period for issuing a Customs ruling is 90 days or 60 days from the receipt of the analysis report conducted by any other third party. Besides, the issuance of Customs ruling (Schedule B) is valid for 3 years and can be extended for another 2 years. For more information, please consult Technical Services Division/Classification Section at State level and Secretariat Customs Ruling Unit, RMCD.

In a nutshell, with advance ruling in place, a lot of tangible benefits have been delivered, first, faster Customs clearance brought by in advance knowledge of Customs duty liability, second, both traders and the Customs can save cost, third, and improved legal compliance of traders will reduce delays, complaints and appeals.

15. FREE TRADE AGREEMENTS

Given Malaysia's reliance on international trade, Malaysia has adopted liberal trade policies and puts a high emphasis on regional and bilateral trade agreements.

As an ASEAN member state, Malaysia has joined the ASEAN Free Trade Area (AFTA) which is a trade bloc agreement to support local manufacturing in all ASEAN countries with the primary goal to increase ASEAN's competitive edge as a production base in the world market and to attract more foreign direct investment to ASEAN. The Common Effective Preferential Tariff and elimination of tariffs and non-tariff barriers among ASEAN members are the main instruments in achieving its goals.

Through ASEAN, Malaysia has regional FTAs with: China, Japan, Korea, India, Australia and New Zealand, and also participates in the ASEAN Trade in Goods Agreement (ATIGA).

Besides, currently Malaysia has also entered bilateral Free Trade Agreements (FTAs) with the following countries including Australia, Chile, India, Japan, New Zealand, Pakistan and Turkey.

To date, there are altogether 7 multilateral and 7 bilateral FTAs in total enforced in Malaysia, which are listed as below:

Table 11 FTAs by Malaysia

No.	Free Trade Agreements	M/B
1	ASEAN Trade In Goods Agreement (ATIGA)	Multilateral Agreements
2	ASEAN-Australia-New Zealand Free Trade Agreement (AANZFTA)	
3	ASEAN-China Free Trade Agreement (ACFTA)	
4	ASEAN-India Free Trade Agreement (AIFTA)	
5	ASEAN-Korea Free Trade Agreement (AKFTA)	
6	ASEAN-Japan Comprehensive Economic Partnership (AJCEP)	
7	Developing Eight Preferential Tariff Agreement (D8 PTA)	
8	Malaysia-Australia Free Trade Agreement (MAFTA)	Bilateral Agreements
9	Malaysia-Chile Free Trade Agreement (MCFTA)	
10	Malaysia-India Comprehensive Economic Cooperation Agreement (MICECA)	
11	Malaysia-Japan Economic Partnership Agreement (MJEPA)	
12	Malaysia-New Zealand Free Trade Agreement (MNZFTA)	
13	Malaysia-Pakistan Closer Economic Partnership Agreement (MPCEPA)	
14	Malaysia-Turkey Free Trade Agreement (MTFTA)	

Guided by the above-listed FTAs, Malaysia has put internal regulations in place to apply preferential treatment on duties and taxes.

16. BONDED SYSTEM

16.1 Licensed Manufacturing Warehouses (LMW)

According to Part VIII of Customs Act 1967, a Customs warehouse is a building, place or an area that is authorized to keep goods for a specified period under Customs control. When the imported or exported goods are stored in a Customs warehouse, duties and taxes are suspended.

Under some special circumstances, RMCD may issue licenses for the operation of Customs manufacturing warehouses, which is subject to minimal Customs procedures to attract export oriented industries

Regarding the period of license, it is valid for 2 years and subject for renewal. The renewal application must be made at least 2 months prior to expiry date of the existing license. To date, the payment of license fees is RM 2,402.

In terms of exemption of Customs duty in LMW, there are two major categories. On the one hand, it refers to raw materials/components directly used in the manufacturing or processing of goods. On the other hand, the second category is machinery equipment it is required for direct producing of approved final products under Item 88 Customs Duties (Exemption) Order 1988.

Besides, subcontract work/farming out are allowed and subject to approval from the state Customs. The movement scope of subcontract covers from one LMW to another LMW, from LMW to a company in a Free Industrial Zone, or from a LMW to a factory in the principal Customs area.

Last but not the least, the finished subcontracted products can be directly exported on behalf of their principals with the approval of state Customs. Meanwhile, less than 50% of raw materials and components can also be directly sent to subcontractor from the entry point of import.

16.2 Free Zones

In Malaysia, in order to facilitate trade and manufacturing industries, the Free Zones Act 1990 and Free Zone Regulations 1991 were enacted as the legal basis for free zones, which is essential to promote operations of export-oriented companies.

16.2.1 Types of Free Zones

There are 2 types of free zones in Malaysia: Free Industrial Zone (FIZ) and Free Commercial Zone (FCZ). Briefly, FIZ focus on manufacturing while FCZ is for commercial activities, such as trading, breaking bulk, grading, repacking, relabeling and transit. As of 2017, there were 21 FIZs and 18 FCZs in Malaysia.

16.2.2 Application for Approval to Operate within Free Zones

First, in terms of eligibility, only when manufacturers produce for export can they be located in the FIZ. In some cases, manufacturers with 80% export may be allowed for location in the FIZ by MITI.

Second, the candidate shall fill in Form FZ No.4 and submit to the authority. The approval will be in Form FZ No.6 and subject to the relating terms and conditions imposed by the Zone Authority. Besides, a copy of the authority is required to send to the Director General of Customs.

16.2.3 Responsibility of Operator in the Free Zones

For the operators in the Free Zones, full and proper records of all activities are required to be maintained in accordance with the requirement of Zone Authority. It cover:

- All goods received at the place or premises where the activities are carried out;
- All goods taken into any part of a Principal Customs Area from a Free Zone;
- All goods released for consumption, sale or manufacture within the Free Zone, or for export;
- Waste stocks and its manner or disposal;
- Losses through spillage, evaporation and other causes;
- The balance of all goods stocked at the place or premises where the activities are carried out.

For these records, they can only be destroyed with the approval of the Zone Authority after consulting the Customs.

Furthermore, a monthly return is required to submit to the Zone Authority prior to the 10th of each month. Any goods shall not be destroyed without the approval of the Authority.

16.2.4 Exemption of Customs Duty, Excise Duty or Sales Tax in Free Zones

In FIZs, Customs duty, excise duty or sales tax could be exempted unless the following conditions are met,

- Goods must be used directly for the production of other goods and approved by the Minister; or
- A company is located in a FIZ and must export at least 80% of its output; a company may obtain approval from Customs and the National Investment Committee within MITI to reduced its export performance requirement to 60%; or
- FIZ companies reach 40% of local content value, or they can prove that the non-originating raw materials have been substantively transformed for end products.

In FCZs, the exemption of payment of Customs duty, excise duty or sales is applied to goods of any description for retail trade, breaking bulk, grading, repacking, relabeling and transit.

However, in free zones, the following goods are not eligible for duty or tax exemption,

- Fuel oil;
- Materials for machinery and factory cleaning purposes;
- Wearing apparel for factory workers;
- Forklifts;
- Construction/building equipment;
- Office equipment;
- Furniture;
- Firefighting and pollution control equipment;
- Foodstuff and drinks
- Building materials.

16.2.5 Farming out/Subcontract Work

In free zones, farming out or subcontract is allowed. The semi-finished goods and raw materials can be moved from one factory to another one for further processing within approved duration at the approval of

Sate Director of Customs. The condition is the submission of bankers guarantee and monthly return.

Besides, when the period is due, the manufactured goods and the waste must be returned to the originate factory.

16.2.6 Movements of Goods to/from Free Zones

In terms of movement of goods from and to free zones, the corresponding application form and supporting documents are required as follow,

Table 12 Documents for Movement of Goods from/to Free Zones

No.	Types of Movement	Forms	Supporting Documents
1	Goods entering free zone from outside Malaysia	FZ.1	Import manifest / License
2	Goods leaving free zone	FZ.2	Outward manifest; KPWX; Export license
3	Goods on transshipment at free zone	FZ.3	
4	Goods entering Principal Customs Area from free zone	Customs No.1	Export related documents
5	Goods entering free zone from Principal Customs Area	Customs No.2	Import related documents
6	Import of goods into Principal Customs Area through free zone without intending to deposit such goods in the free zone	Customs No.1	Export related documents
7	Export of goods from Principal Customs Area through a free zone without intending to deposit such goods in the free zone	Customs No.2	Export related documents

No.	Types of Movement	Forms	Supporting Documents
8	Goods exported from free zone through Principal Customs Area	Customs No.8	Movement in approved vehicles; Bank guarantee; Export License; KPWX
9	Removal of goods from licensed warehouse, license manufacturing warehouse or licensed inland clearance depot to a free zone through Principal Customs Area and vice versa	Customs No.8	Movement in transit; Transported in approved vehicles; Bank guarantee
10	Movement of goods from a free zone to another free zone through the Principal Customs Area	Customs No.8	Movement in transit; Transported in approved vehicles; Bank guarantee
11	Goods originating from abroad taken to the free zone through Principal Customs Area	Customs No.8	Movement in transit; Transported in approved vehicles; Bank guarantee

17. CUSTOMS SUPERVISION AND CONTROL ON TRADE IN SERVICE

Besides, regionally speaking, ASEAN leaders have committed to achieving free and open trade, including trade in services by 2015. The ASEAN Framework Agreement in Trade in Services (AFAS) was launched in 1995. As a member of ASEAN, Malaysia is a signatory to free trade agreements with services commitments including Australia, New Zealand, China, India, Korea, Japan, and Pakistan. Malaysia Customs is making utmost efforts to facilitate service trade.

18. POST-CLEARANCE AUDIT (PCA)

Traditionally, Customs audit documents and goods submitted for import clearance before the release of goods.

Post-clearance audit (PCA) is an audit, investigation, inspection or control in a systematic manner by competent Customs officers to verify the accuracy and authenticity of Customs declarations through the examination of the relevant documents, books, records and other business information systems about imports and exports after release of goods. In this way, faster clearance is provided by PCA to facilitate trade.

In Malaysia, the PCA branch is under the Compliance Management Division since August 16, 2008. The function is to plan and conduct a systematic audit of licensees and importers to ensure tax and duty collection and enable them in line with laws and regulations.

19. ENFORCEMENT AND APPEALS

19.1 Offences and Penalties

Part XIV of [Customs Act 1967](#) has clearly stated offences and penalties. Anyone who is involved with goods import and export, in contravention of the law or regulations, shall be deemed as Customs offences. The penalties could be administrative fines imposed by Customs, and by judicial penalties imposed by the competent Court, or both.

For example, Section 135 (1) a states that: whoever is concerned in importing or exporting any uncustomed goods or any prohibited goods contrary to such prohibition whether such uncustomed or prohibited goods be shipped, unshipped, delivered or not; shall be guilty of an offence and shall, on conviction - (i) in the case of goods included in a class of goods appearing in an order made under

subsection 11 (1) - (aa) be liable for the first offence to a fine of not less than ten times the amount of the Customs duty or fifty thousand ringgit, whichever is the lesser amount, and of not more than twenty times the amount of the Customs duty or one hundred thousand ringgit, whichever is the greater amount, or to imprisonment for a term not exceeding three years or to both.

In 2018, Customs Act 1967 has been amended twice and brought about changes to various aspects of the Act, including enhanced powers of enforcement, increased penalties for offences under the Act, heftier penalties for smuggling offences relating to cigarettes containing tobacco and intoxicating liquor, and revamp to the review and appeal process.

19.2 Appeals

Stipulated in Section 124 of Part XIII, and Part XVI of Customs Act 1976, appeal is entitled to stakeholders. The scope of appeal covers but is not limited to:

- tariff code/classification of goods;
- valuation of goods;
- drawback/refund/exemptions;
- Bill of Demand;
- Customs license;
- Conditions of licenses;
- refusal to grant permission, suspension or cancellation of the permission;
- the nature or the amount of security required from the agent, seizure of goods;
- Disputed decision of the Director General of Customs on or after June 1, 2007.

In terms of appeal to the Customs Appeal Tribunal, Form A is required to submit at the Tribunal's office with the following documents,

- 4 copies of Form A;
- A copy of Appellant's identity card/passport;
- A copy of Certificate of Registration of Company/Business/Association/Society;
- Letter of authorization from Company/Business/Association/Society;

- Document containing the disputed decision of the Director General of Customs.

Besides, appeal can also be filed online. As stated in section 143 of Customs Act 1967, be it offline or online, appeal must be submitted within 30 days from the date of notification in writing of the decision of the Director General of Customs. In accordance with Regulation 2(2) Customs (Appeal Tribunal) Regulations 2007, each appeal must charge filing fee of RM100.00.

Customs Appeal Tribunal (CAT)

The Customs Appeal Tribunal (CAT) is an independent judicial body to hear and decide appeals filed against the decision of the Director General of Customs under the Customs Act 1967, the Excise Act 1976, Sales Tax Act 1972 and the Service Tax Act 1975. All decisions of the Director General of Customs except in any matter relating to compound and seizure of goods can be appealed to the CAT.

The hearing of an appeal may be held in any place other than the CAT's office in Putrajaya based on a formal application by the appellant. In exercising its jurisdiction, CAT can assist the parties to negotiate an agreed settlement before the hearing of an appeal.

The hearing of every appeal will be completed within 60 days from the first day of the hearing before the Tribunal commences as provided under section 141T(1) of the Customs Act 1967. The appeal proceeding before the Tribunal shall be closed from the public unless agreed otherwise by the parties to the appeal.

New Changes in 2018 and 2019

With the two new amendments made in 2018 to Customs Code 1967, key changes to the review and appeal process under the Act are summarized as follows:

- Review of decision of the Director General of Customs - under the old Act, any person aggrieved by the decision of the DG may appeal to the Customs Appeal Tribunal (CAT) within 30 days from the date of notification of decision in writing and the Amending Acts introduce an additional layer of recourse by allowing an aggrieved person to apply to the DG to review any of his decision within the similar 30-day timeline;
- Representation at appeal hearing - under the old Act, advocates and solicitors are not allowed to represent an appellant at the hearing of an appeal before the CAT. Following the entry into force of the Amending Acts, the above restriction against legal representation has been removed and

appellants can now appoint legal counsel to represent them before the CAT.

20. CUSTOMS IPR BORDER PROTECTION

20.1 Background in Malaysia

Malaysia is a member of the World Intellectual Property Organization (WIPO) and a signatory to the Paris Convention, Berne Convention, the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) under WTO, and the ASEAN Framework Agreement on Intellectual Property Cooperation. Furthermore, Malaysia has signed a number of IPR treaties as listed below:

Table 13 IPR related Treaties Signed by Malaysia

No.	IPR-related Treaties	Effective Date for Malaysia
1	WIPO Copyright Treaty	December 2012
2	WIPO Performance and Phonograms Treaty	December 2012
3	Nice Agreement Concerning the Intellectual Classification of Goods and Services for the Purposes of the Registration of Marks	September 2007
4	Vienna Agreement Establishing an International Classification of the Figurative Elements of Marks	September 2007
5	Patent Cooperation Treaty	August 2006
6	Berne Convention for the Protection of Literary and Artistic Works	October 1990
7	Convention Establishing the World Intellectual Property Organization	January 1989

No.	IPR-related Treaties	Effective Date for Malaysia
8	Paris Convention for the Protection of Industrial Property	January 1989
9	Comprehensive Economic Cooperation Agreement between India and Malaysia	2011
10	Agreement on Comprehensive Economic Partnership among Japan and Member States of the Association of Southeast Asian Nations	2009
11	Agreement between Malaysia and Chile on the Promotion and Protection of Investment	1995

Intellectual Property Corporation of Malaysia (MyIPO) is responsible for IPR policy development and administration, with functions covering industrial property examination (patents, trademarks, industrial designs and geographical indications), and copyright protection. The laws and regulations pertaining to IPR are:

- Copyright Act 1987 (amended in 2012);
- Patents Act 1983 (amended in 2006);
- Patents Regulations (amended in 2011);
- Trade Marks Act 1976 (amended in 2002);
- Trade Marks Regulations (amended in 2011);
- Geographical Indications Act 2000 (amended in 2002);
- Geographical Indications Regulations (amended in 2013);
- Industrial Designs Act 1996 (amended in 2013);
- Trade Description Act 2011;
- Protection of New Plant Varieties Act 2004;
- Layout-Designs of Integrated Circuits Act 2000.

20.2 IPR Border Enforcement in Malaysia

In Malaysia, Ministry of Domestic Trade, Cooperatives and Consumerism (MDTCC) is in charge of IPR

enforcement. If goods are detained at borders by Customs, they will be handed over to MDTCC. In order to combat and curb IPR infringement, MDTCC has made utmost efforts in enhancing cooperation with RMCD for an improved enforcement at the border.

There is no system available for registering IP with Malaysia Customs for detaining counterfeit products. Instead, a complaint must be lodged to MyIPO, an agency under the Ministry of Domestic Trade, Cooperatives and Consumerism (MDTCC) oversees the IP framework in the country, to invoke a seizure.

Specifically speaking, Customs officers have an ex officio duty to detain or suspend the release of the importation or exportation of infringing goods. The Customs Intelligence Center collects data on seizures by the Enforcement Division of Customs. In recent years, the main confiscated goods at the border cover clothes, leather goods, liquor and beer, and mobile phones and accessories.

21. AUTHORIZED ECONOMIC OPERATOR (AEO)

The Authorized Economic Operator (AEO) is introduced by the WCO SAFE referring to operators involved in the movement of goods along the international trade supply chain who have achieved the required security standards and are accredited by the member country.

21.1 Benefits of AEO

Economic operators with high compliance level and high security management are encouraged to apply for the AEO scheme from RMCD. An AEO company is entitled with the following benefits,

- Lodgment of declaration with minimum data;
- Not subject to physical inspection on the cargo;
- Automated and fast approval of declaration;
- Self-accounting for movements between bonded premises;

- Simplified drawback claims based on self-accounting principles;
- Control by post clearance auditing;
- Deferred payment of duty;
- Other benefits.

21.2 Application for AEO

In order to become an AEO, a company must be eligible for the following requirements,

- In operation for the last 3 years;
- High level of compliance to law and regulations of Customs;
- No tax arrears;
- Company and directors have security clearance from the relevant government bodies (e.g. enforcement division of RMCD);
- Proper internal control of all imports, exports and movement of goods;
- Be in line with the requirements under AEO guidelines and with an internal security compliance program;
- Have facilities to pay duties via Electronic Funds Transfer;
- Must engage forwarding agents/brokers who have finished Customs procedures training and have been approved by the authorities.

Regarding AEO application, following supporting documents are required,

- Company profile;
- Copy of company registration certificate;
- Copy of Form 24 and Form 49;
- Audited annual report;
- Relevant security/standards certificates;
- Self-assessed compliance checklist

Besides, RCMD has compiled information Guideline on AEO Program which is accessible on the website

(http://customsgc.gov.my/index_aeo.html) to guide application as well as other AEO business. For more information, please also refer to AEO Secretariat under RMCD.

21.3 List of AEOs in Malaysia

Since 2004, Malaysia has approved 57 AEOs and details are available at the official website of RMCD: http://customsgc.gov.my/index_aeo.html.

22. TRADE STATISTICS

In Malaysia, trade statistics is compiled and released by the Department of Statistics (DOSM). It consists of trade statistics in goods and service. The interactive statistics includes imports and exports by sectors and country of origin and destination. For more details of the publications of trade statistics, it can be accessed through the free download of publications at the official website of DOSM: <https://www.dosm.gov.my>.

23. CONTACT INFORMATION

For further and detailed information relating to Customs affairs, enquiries should be addressed to the following contact:

Royal Malaysia Customs Department

Tel: +60 03 8882 2100/2300

E-mail: ccc@customs.gov.my

Address: Jabatan Kastam Diraja Malaysia, Kompleks Kementerian Kewangan No 3 Persiaran Perdana, Presint 2, 62596, Putrajaya

24. OFFICIAL WEBSITES

- Malaysia Customs: <http://www.customs.gov.my>
- Malaysia's Ministry of International Trade and Industry: <https://www.miti.gov.my>
- National Trade Promotion Agency of Malaysia: <http://www.matrade.gov.my/en>
- Malaysia's National Single Window: <http://www.mytradelink.gov.my>
- Malaysia's Department of Statistics: <https://www.dosm.gov.my>
- Ministry of Agriculture and Agro-based Industry: <http://www.moa.gov.my>
- Ministry of Health: <http://www.moh.gov.my>
- Enquiry point for TBT: <http://www.sirim.my>
- Enquiry point for SPS: <http://www.moa.gov.my>; <http://www.moh.gov.my>

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1. Malaysia Customs: <http://www.customs.gov.my>.
2. Malaysia's Ministry of International Trade and Industry: <https://www.miti.gov.my>.
3. Trade Policy Review Report (Malaysia) (2017).
4. ASEAN Single Window: <http://asw.asean.org>.
5. World Customs Organization: <http://www.wcoomd.org>.
6. World Trade Organization: <https://www.wto.org>.

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