Market Access Sectoral and Trade Barriers Database

-Malaysia-
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GENERAL FEATURES OF TRADE POLICY

Malaysia has enjoyed strong economic growth since gaining independence in 1957. With the expansion of intra-industrial trade, the proportion of manufactured products to total imports has risen substantially. Investment goods made up the bulk of imports in the 1990s, as part of the upgrading of Malaysia's economy. The Malaysian economy grew at an average annual real rate of 6.7% from 1971 to 1990 making it one of the fastest expanding economies in the world. This pace increased with an average of more than 8.5% growth from 1989 to 1996. The high growth rate of the last years decreased to 6% in 1997. Final figures for 1998 showed the real impact of the crisis with a contraction of 6%. After rapid recovery, growth has regained its dynamics, with a growth rate of 5.8% in 1999 and around 11% during the first half of 2000.

Inflation hit 5.3% in 1998 after a rate of under 4% in 1997. Inflation was at the same time kept to between 4-5% per annum, with short peaks during the crisis.

The currency upheavals in the region resulting from the financial crisis in Thailand dampened the short-term economic performance of Malaysia's economy. Environmental disasters, in particular the haze problems caused by forest fires in Indonesia, served to compound these effects. Domestic problems include the increasing oversupply, in the commercial property sector, which may have repercussions not only in real estate, but also in the related property loan sector.

The consumer price index has regained its relative stability as well, with a rate of 2.8% for 1999 and 1.5% for the first 10 months in 2000.

The value of exports comprises at least 80% of the country's GNP. Malaysia's export growth had already decelerated in 1996 to 9.2% compared to 19% growth from the previous year and the approximate 20% annual growth experienced in the first half of the 1990s. Import growth also slowed from 23.7% in 1995 down to a 19.4% contraction in 1998, which quickly rebounded to an 11.8% gain in 1999. In 1999, Malaysia exported $83.1 billion f.o.b. while importing $61.1 billion f.o.b., accounting for a $22 billion positive trade balance for the year.

The drastic depreciation of the Malaysian Ringgit since July 1997, in combination with the postponement of import and capital intensive investment projects should contribute to a narrowing of the current account deficit. Exports should continue to strengthen.

Malaysia applies a varied system of trade policy and trade policy-related measures designed to support the needs of its ambitious economic, social and restructuring plans. While customs tariffs are the main instrument these are complemented by import and export licensing schemes and other types of aid to industries seen as priority sectors, such as local-content schemes, investment aid and discretionary

awarding of government-procurement contracts.

About 15.7% of Malaysian exports were targeted for the EU in 1999. This compares to 23.5% of Malaysian exports to ASEAN countries other than Singapore, 16.5% to Singapore, and 21.9% to the US. Malaysia imported about 11.6% from the EU, which makes it about fifth in importance, after ASEAN (23.3%), Japan (20.8), US (17.4%), and Singapore (14%).

The following table is an overview of the tradeflow between the European Union and Malaysia

Section	Year	Import(Euro)	Export(Euro)
Animals & animal products	1996	41,025,730	61,477,670
	1997	58,847,130	65,394,380
	1998	69,461,550	46,242,710
	1999	64,086,680	46,842,350
	2000	94,938,030	84,808,170
	2001	80,592,900	69,957,010
	2002	58,324,580	57,858,330
	2003	101,748,620	63,336,920
Vegetable products	1996	30,598,110	20,049,660
	1997	48,337,550	26,528,760
	1998	48,435,200	24,938,250
	1999	49,022,650	21,430,600
	2000	41,430,810	29,404,130
	2001	35,732,970	38,157,050
	2002	33,733,100	30,515,670
	2003	26,514,560	31,397,020
Animal or vegetable fats	1996	262,647,050	2,845,220
	1997	237,016,290	6,995,810
	1998	498,443,470	38,364,900
	1999	351,182,940	3,890,060
	2000	305,843,370	3,639,930
	2001	410,197,090	4,229,530
	2002	420,408,240	16,177,680
	2003	517,228,820	6,774,350
Prepared foodstuffs	1996	167,645,280	111,219,680
	1997	131,770,240	164,882,910
	1998	99,290,540	104,548,690
	1999	142,919,260	115,826,510
	2000	162,128,620	139,613,180
	2001	168,802,150	170,214,090
	2002	189,107,910	162,393,170
	2003	196,413,090	141,303,420
Mineral products	1996	37,467,880	58,242,460
	1997	39,786,030	70,539,760
	1998	24,120,650	36,542,850
	1999	29,012,940	34,571,390
	2000	81,681,360	40,275,080
	2001	66,996,950	36,244,760
	2002	78,563,880	37,058,950
	2003	112,087,370	37,514,450
Chemical products	1996	244,426,340	356,783,770
	1997	192,191,190	440,575,870
	1998	281,369,110	379,553,020
	1999	342,070,410	450,835,180
	2000	379,317,480	565,383,740
	2001	488,159,090	563,130,320
	2002	408,183,380	581,187,380
	2003	434,867,100	594,132,470
	1996	767,463,370	134,848,350
	1997	772,383,700	184,629,420
	1998	783,272,510	125,869,830

Plastics & rubber	1999	702,545,620	165,116,100
	2000	842,122,100	207,089,310
	2001	808,371,290	203,057,380
	2002	808,476,940	231,884,800
	2003	814,695,560	207,169,410
Hides & skins	1996	12,541,260	21,778,020
	1997	15,266,820	25,370,990
	1998	13,030,800	12,955,810
	1999	10,981,880	22,625,450
	2000	25,285,470	39,442,480
	2001	20,213,430	24,442,690
	2002	17,746,760	26,595,970
	2003	10,871,100	23,333,690
Wood & wood products	1996	404,786,610	6,901,920
	1997	501,954,960	9,436,050
	1998	467,163,540	8,942,420
	1999	488,024,460	11,192,270
	2000	618,254,780	17,193,360
	2001	489,621,230	18,830,610
	2002	444,890,360	23,728,370
	2003	426,034,530	19,375,230
Wood pulp products	1996	12,324,360	189,803,250
	1997	16,150,210	214,427,210
	1998	23,068,880	121,756,510
	1999	28,039,550	183,957,810
	2000	31,282,170	186,479,220
	2001	36,699,450	209,911,170
	2002	33,118,280	217,867,710
	2003	31,085,020	215,692,870
Textiles & textile articles	1996	476,613,030	77,299,760
	1997	542,143,610	90,446,960
	1998	522,585,420	48,590,880
	1999	494,159,250	55,945,690
	2000	533,723,260	70,932,210
	2001	476,767,970	75,054,460
	2002	475,093,120	67,179,690
	2003	371,289,310	58,877,710
Footwear, headgear	1996	38,694,250	3,357,180
	1997	43,222,380	3,449,470
	1998	36,117,510	1,674,430
	1999	41,603,960	2,846,680
	2000	57,746,630	3,546,120
	2001	64,872,000	3,212,280
	2002	78,414,790	4,153,100
	2003	93,315,180	4,138,010
Articles of stone, plaster, cement, asbestos	1996	35,148,540	80,734,250
	1997	40,478,980	87,967,620
	1998	45,804,960	51,705,270
	1999	59,550,910	62,662,670
	2000	94,976,950	70,432,990
	2001	119,358,330	70,708,000
	2002	151,606,330	65,343,300
	2003	123,985,940	71,755,480
Pearls, (semi-)precious stones, metals	1996	82,627,940	87,547,370
	1997	104,779,680	103,424,790
	1998	55,528,920	29,639,640
	1999	50,726,250	47,057,210
	2000	50,853,760	78,803,000
	2001	38,894,390	26,475,570
	2002	22,930,460	24,745,530
	2003	57,191,660	32,879,730

Base metals & articles thereof	1996	138,668,050	360,848,550
	1997	130,853,540	376,848,420
	1998	166,000,330	193,464,260
	1999	171,355,430	237,137,560
	2000	242,456,670	334,195,000
	2001	189,968,010	364,996,370
	2002	174,559,130	407,337,730
	2003	173,454,360	381,455,430
Machinery & mechanical applicances	1996	4,663,756,830	2,732,208,060
	1997	5,540,588,160	3,196,653,430
	1998	7,394,306,040	2,524,302,740
	1999	8,089,157,380	2,677,321,930
	2000	9,938,724,890	4,050,580,840
	2001	8,959,547,310	4,545,656,640
	2002	9,454,103,940	4,447,551,460
	2003	9,202,277,300	4,439,401,590
Transportation equipment	1996	149,190,150	726,770,570
	1997	197,317,930	615,286,260
	1998	259,816,650	142,650,110
	1999	126,062,650	448,306,130
	2000	138,089,630	287,012,710
	2001	113,588,580	344,712,310
	2002	112,994,240	308,708,220
	2003	95,331,660	365,623,250
Instruments - measuring, musical	1996	246,939,320	167,671,340
	1997	281,705,940	211,857,920
	1998	300,351,050	162,817,140
	1999	297,599,250	156,578,690
	2000	390,811,170	205,843,550
	2001	404,053,300	288,783,580
	2002	597,121,230	259,532,640
	2003	438,739,430	242,554,010
Arms & ammunition	1996	35,860	9,180,080
	1997	2,874,640	37,042,720
	1998	533,530	12,305,450
	1999	515,010	7,020,400
	2000	313,760	7,438,680
	2001	188,410	10,015,920
	2002	165,460	24,482,030
	2003	211,320	28,883,890
Miscellaneous	1996	190,099,460	55,976,450
	1997	221,095,020	74,195,760
	1998	265,278,000	38,568,410
	1999	340,396,210	41,975,540
	2000	452,710,800	59,113,660
	2001	437,671,360	62,852,520
	2002	440,013,540	76,588,670
	2003	405,518,780	66,534,820
Works of art	1996	719,060	1,656,240
	1997	5,920,540	2,672,470
	1998	2,607,550	2,164,060
	1999	2,089,170	3,283,840
	2000	1,417,460	769,660
	2001	712,580	1,656,470
	2002	3,340,280	1,249,400
	2003	69,380	844,410
Other	1996	16,114,610	45,103,280
	1997	17,644,890	54,792,790
	1998	20,525,750	47,435,050
	1999	18,003,510	34,625,010
	2000	20,301,180	63,294,390

	2001	24,667,020	95,294,710
	2002	27,622,280	108,549,340
	2003	51,116,490	23,364,770

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TARIFFS AND DUTIES

4,100 tariff lines were reduced between 1995 and 1996. Import duties on 2,540 items were abolished, mainly on food products, textiles, raw materials for manufacturing and heavy machinery. As a result of these reductions, beginning January 1996, over 57% of the 10,247 tariff lines (based on HS 96) were no longer subject to import duties.

Overall, 65% of tariff lines in the agricultural sector and 57% in the industrial goods sector were made duty-free. Out of the 3,825 tariff lines that have positive duties, 2,290 lines (approximately 60%) have duties not exceeding 20%. In addition, the number of tariff lines which are subject to specific duties were reduced from 788 to 524 lines. The average nominal tariff for 1996 was 9% and less than 7% on a trade-weighted basis. Both the 1997 and the 1998 Budgets introduced further tariff reductions, albeit with decreasing vigour. The 1998 Budget also introduced a number of new tariff lines and raised a number of existing tariffs.

The rates of import duties range from 2% to 145% taking account of the ad valorem equivalent of specific duties. Raw materials, machinery, essential foodstuffs and pharmaceutical products are generally non-dutiable or subject to duties at lower rates. Tariff protection is high for automotives, textiles, clothing and leather, food and beverages.

The open-market price determines the value of goods for the purpose of calculating import duties and is inclusive of freight, insurance, commission and all other costs, charges and expenses (except customs duties) incidental to the purchase and delivery of the goods to the place of import.

Import duties on raw material used directly for the manufacture of goods for exports is exempted if such materials are not produced locally or if the local materials are not of acceptable quality and price. Where raw materials are used in manufacture of goods for the domestic market, exemption of duties in excess of 2% can be obtained in respect of raw materials not produced locally. Exemption from duties are also available for dutiable machinery and equipment which are directly used in the manufacturing process or are not available locally. The manufacturers are required to apply to the relevant authorities for an exemption.

Manufacturers who export more than 80% of their finished products can apply for licensed manufacturing warehouse (LMW) status for which they pay an annual fee. Raw materials and machines used in the manufacturing process are exempted from import duties and sales tax.

Malaysia does not apply the "transaction value" basis as prescribed by the WTO.

Malaysia bound 65% of its tariff lines, and the average bound rate at the end of the implementation period will be 9%.

Export duties are generally imposed on the country's main commodities such as crude petroleum and palm oil. With the exception of crude petroleum, which is subject to duty at a flat rate of 20%, duties on all other commodities are based on the “cost plus” concept which means that the duty on such commodities is only imposed on the excess of a threshold price reflecting the cost of production of each of the commodities. No export duty is collected when the prices of the commodities fall below the threshold. For the purpose of calculating export duty, the value of the goods is the price which an exporter would receive for the goods calculated to the stage where such goods are released by Customs at the place of export.

Specific export registration requirements appear to be restricted to local production in the agricultural and raw materials sectors: cocoa, pineapples, palm oil and related products and rubber.

Tariff Levels

040117-*Proposed tariff increase on frequency converters* [2004-09-30]

A Malaysian producer submitted a request to the Malaysian Industrial Development Authority (MIDA), part of the Ministry of International Trade and Industry (MITI), in March 2003, to increase the tariff on frequency converters (HS code 8504.40.900) from 0% to 20%.

It appears that any such increase would be inconsistent with Malaysia's Consolidated Tariff Schedule as notified to the WTO, where this tariff line is part of the Information Technology Agreement and is therefore bound at 0%.

The MIDA consulted The Electrical and Electronics Association of Malaysia (TEEAM) on this proposal and TEEAM, expressed their objections. However, feedback from the MIDA to the EU delegation suggests that this proposal is still being considered.

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NON TARIFF BARRIERS

There have been complaints alleging that Malaysia's system of import prohibitions and licensing is not fully transparent. Although Malaysia often uses import licensing (and export controls) to ensure adherence to safety, environmental-protection and copyright requirements; in many instances import licensing is used to protect domestic producers and to ensure an adequate supply of essential raw materials as well as to provide temporary protection to infant and strategic industries. As regulations do not clearly distinguish between these two cases, exporters and importers may face uncertainty. Products affected by such trade regulations since 1993 include cement, steel billets, electric and telephone cables, certain essential food items, and minerals and ores. Most goods, however, may be imported freely under an open general import licence, and until recently there were virtually no controls on the import of capital goods for new or expanding projects.

Standards are the responsibility of the Standards and Industrial Research Institute of Malaysia (SIRIM), a statutory body under the Ministry of Science Technology and the Environment. SIRIM uses any appropriate existing international standards as the basis for Malaysian standards and Malaysia is a member of the International Organisation for Standardisation (ISO). Standards cover some 1,700 products and are enacted following consensus between producers, consumers and the government. Except 34 standards, all others are voluntary, of which 28 are for electrical products and the remainder are for road transport and fire fighting products.

Malaysia is not party to the WTO Agreement on Government Procurement.

Malaysian policy for government procurement intends to give preference to local producers to encourage growth of domestic industries through transfer of foreign technologies and to support local transport and insurance companies in order to save foreign currency. Contracts of less than 10 million ringgit are restricted to Malaysian suppliers. For infrastructure projects joint ventures with local partners are required.

Foreign suppliers may tender if they are registered with the Ministry of Finance and if their stake in the company or joint-venture does not exceed 30%.

A sales tax is levied, in addition to customs duties. It applies to some 5,000 tariff lines and relates to both imported and domestic products. For imports it is collected at the port of entry, where it is applied to the gross value i.e. the value for customs purposes plus customs duties. The rates are 5% (foodstuffs, building materials and semi-processed goods), 15% (beverages and tobacco) and 10% (remainder).

For domestic products a tax is levied on their value at the factory gate (i.e. without the addition of customs duties) and collection is reportedly less efficient than at port unloading.

Import and export prohibitions can be introduced by the Minister of Finance. Existing prohibitions appear to have been introduced as political embargoes.

Import licensing still affects around 17% of the Malaysian tariff lines.

Under the Promotion of Investments Act of 1986, the Malaysian authorities set up a programme of tax incentives for Malaysian companies in their search for export markets for Malaysian products. In this respect, Malaysia authorises these companies to make a double deduction of their expenses incurred on overseas advertising, supply of free samples abroad, export market research, public relations services to promote exports, cost of maintaining overseas sales offices, etc. The programme aims to encourage Malaysian manufacturers and traders increase the export of Malaysian-made goods.

The Promotion of Investments Act provides for a an export allowance of 5% based on the FOB value of export sales. The allowance is granted to traders which export products manufactured in Malaysia.

The Income Tax Act provides for a double deduction of export credit insurance premiums. The premium payments in respect of insurance for exported products paid by Malaysian exporters to local insurance companies are allowed as a double deduction. This benefit aims primarily to encourage local manufacturers to penetrate into non-traditional markets.

The Malaysian Central Bank and a number of commercial banks operate the Export Credit Refinancing Scheme which intends to enable Malaysian exporters to compete more effectively in the international markets. The ECR scheme is a form of export credit which currently provides a short-term credit at a 6.0% interest rate to Malaysian exporters. Under this scheme, direct and indirect exporters receive working capital before the pre-shipment. The post-shipment facility enables Malaysian exporters to obtain immediate funds upon shipment of eligible goods sold on credit terms.

The Industrial Technical Assistance Fund (ITAF) is a trust fund set up by the Malaysian government in 1990 with an initial allocation of RM 50 million. The fund works through the provision of grants in various schemes. Generally, assistance is given in the form of grants where 50% of the project cost is borne by the government and the remainder by the applicant. Official information states that priority will be given to SMEs which manufacture or intend to manufacture products promoted under the Promotion of Investments Act 1986.

An abatement is granted to resident manufacturing companies exporting products manufactured in Malaysia directly or through agents,. The amount of the abatement which will apply on the taxable income is equal to 50% of export sales.

A company is eligible for the Industrial Building Allowance (IBA) benefits in respect of buildings used as warehouses for storing goods for exports. The IBA consists of an initial allowance of 10% and an annual allowance of 2%.

Local heavy machinery is allowed an initial capital allowance of 20% and an annual allowance at 20%, 16% and 12% thereafter. Imported heavy machinery, by contrast, has its initial capital allowance and subsequent annual allowance fixed at 10%.

As of 1 January 1998, companies in the manufacturing, agricultural and services sectors will be given certain tax exemptions ranging from 10% to 15% of the value of increased exports.

Agriculture and Fisheries

Sanitary and phytosanitary measures

040017-*Malaysia- Chicken meat and eggs, dairy products* [2004-09-27]

Import ban on the products as mentioned due to the contamination with dioxine contamination.

040048-*Malaysia- Beef and beef products* [2004-12-20]

Ban on the import of beef, beef products and semen due to BSE.

- General statement on BSE to all Third Countries at the XXIXth and XXXth SPS Committee (Marchand June 2004).

Statement during DG TRADE Commissioner visit to Malasya (September 2004).
During the XXXI SPS Committee in October 2004 the Commission has given a general statement on BSE (Bovine Spongiform Encephalopathy). Some WTO members started to lift the ban due to BSE for some EU live ruminants and ruminant derivated products (e.g.: China, New Zealand, Brazil, Philippines). The EC requested other WTO members to follow the same line and to respect guidelines as set up by international organizations (OIE).

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INVESTMENT RELATED BARRIERS

The 1998 Budget provides further tax incentives for locally produced machinery. Local content requirements are generally imposed on manufacturing projects which are granted Pioneer Status or Investment Allowance incentive under the Promotion of Investments Act of 1986. A company given Pioneer Status benefits from an income tax exemption of 70% on its taxable income. The tax exemption is granted for a period of 5 years starting from the production date. A company benefiting from the Investment Tax Allowance receives an allowance equal to 60% of its qualifying capital expenditure incurred within 5 years from the date of the incentive. This allowance can be set off against 70% of the taxable income.

Since 1968, the Malaysian Government has introduced a large number of investment incentives. They include relaxation of the rules on licensing and investment, tax breaks, direct tax allowances, rationalisation of the customs tariff, and improved finance and credit terms. Local content may be taken into consideration for the purpose of deciding on incentives for foreign direct investment.

General policy limits foreign equity to a minority of 30%, but 100% foreign ownership in manufacturing is permitted under certain conditions. Foreign investors may hold 100% of the capital in a project that exports 80% or more of its production. With projects exporting between 51% and 79% of production, foreign capital holdings may be 100%, provided that fixed assets (excluding land) are not less than 50 million ringgit, or that added value is at least 50% and the output does not compete with products made in Malaysia for the home market. If these conditions are not met, foreign capital is generally permitted up to a 51% limit; this may be raised to 79% in projects with high added value and advanced technology. With projects exporting from 20 to 50% of output, foreign capital may be 30 to 51%, depending on the level of added value. In projects exporting less than 20% of output, foreign capital may not exceed 30%. Direct investment projects for products which require advanced technology, or so-called priority products for the domestic market, may, however, have up to 51% of foreign capital. Foreign companies granted Multimedia Super Corridor (MSC) status, are permitted 100% ownership.

Approval depends on the size of the investment, the percent of local equity participation, the type of financing (both local and offshore) required, the ability of existing and planned infrastructure to support the effort, and the existence of a local or a foreign market for the output. The criteria are applied in a non-discriminatory manner, if a local and a foreign firm propose identical projects.

Foreign investors established in Malaysia are generally accorded national treatment in all but equity limits. Foreign portfolio investors are permitted to trade freely in both equity and debt on the local exchanges and to purchase available stock in newly privatised firms during an initial public offering. An exception is made for commercial banks; foreign equity is limited to 20% in aggregate. In virtually all cases of publicly-listed companies, only a minority portion of stock is available for trading; the majority is often held by the principal shareholders. Malaysia's privatisation programme welcomes foreign participation at all stages. Foreign firms are able to participate in government-financed research and development programs.

In addition to the standard 30% cap on foreign equity, certain industries have additional barriers to entry. For example, the Government severely restricts establishment in the financial service industry. No new banking or insurance licenses, except for re-insurance firms, are being issued. Ownership of agricultural land is restricted to Malaysian citizens. Under the terms of the Petroleum Development Act of 1974, the upstream oil and gas industry is the province of the parastatal Petroleum Nasional Berhad (Petronas), which is the sole entity with legal title to Malaysian crude oil and gas deposits.

Over time, a number of foreign firms selling their products and services into the domestic market have

received licenses with limited-term exemptions to the standard limit of 30% foreign equity. As these exemptions expire or the licenses come up for renewal, government agencies require foreign firms to demonstrate substantial progress towards meeting the foreign equity limits. A restructuring program may involve taking on new local partners, giving existing local partners a greater equity share or floating shares on the Kuala Lumpur Stock Exchange. In the end, the principal foreign partner is supposed to have no more than 30% of the business.

Private entities, both foreign and domestic, have a right to acquire, merge and take over enterprises according to the Foreign Investment Committee (FIC) guidelines of 1974. However, the acquisition or disposal of 5% or more of interests in any local financial institution requires the prior approval of the Minister of Finance.

Any manufacturing business with at least 2.5 million ringgit of equity or 75 fulltime employees, requires a manufacturing licence.

The value of foreign direct investment projects approved in recent years has increased considerably. Perhaps partly due to recent cuts in government investment incentives and partly to stronger competition from other Asian countries which are also trying to attract inward investment, FDI plummeted from $5.1 billion in 1996 to $1.6 billion in 1999.

Except in the off-shore sector, establishment of branches or subsidiaries of foreign banks or insurance companies is currently prohibited. An "economic needs" test applies in the securities sector. Foreign participation in domestic companies in the services sector, including insurance, is subject to a maximum shareholding of 30%.

A common complaint among many investors are the continued restrictions circumscribing the set-up and operation of Overseas Headquarters (OHQ). While the Malaysian government has expressed an interest in attracting regional OHQs in Malaysia and claims that the OHQ scheme continues to be liberalised, it still insists on spelling out limits on activity and personnel which impede Malaysia's attractiveness. The degree of the limits are more stringent than other existing or potential regional centres. These restrictions relate to OHQ services in the area of administrative control, funding, financial consultation, logistics, R&D and Human Resource Development.

In many regional offices, both the numbers of personnel and their nationality are subject to constant change since high-level corporate staff, by definition, focuses on corporate strategy and thus requires a constantly changing mix of country and subject matter expertise. Excessive government red tape, inconsistencies in applying licensing/permit processes, and the requirement for administrative justification for each post tend to hinder Malaysia's reputation as the best location for a regional HQ.

Payments to non-residents, for any reason, including repatriation of profits or dividends, are unrestricted provided that a statistical reporting form is completed for payments over 10,000 ringgit or the equivalent in foreign currency. For transactions exceeding 10 milllion ringgit the approval of the Controller of Foreign Exchange is required.

There is no restriction on the amount of incoming foreign currency, provided that a statistical reporting form is completed for amounts over 10,000 ringgit or the equivalent in foreign currency. Commercial import credits for more than 12 months are regarded as foreign borrowings. Central Bank permission is required for foreign-currency borrowings for the equivalent of 1 million ringgit; this applies in particular to guarantees and supplier credits from nonresidents. According to the authorities it is easy to obtain permission for foreign borrowings to finance productive projects designed to increase Malaysia's exports or to reduce its imports.

Malaysia is a member of the World Trade Organisation (WTO) and the Association of South-East Asian Nations (ASEAN) and party to the ASEAN Free Trade Area Agreement (AFTA). Malaysia has concluded bilateral trade agreements with 29 countries. By mid-1996 Malaysia also had bilateral investment guarantee agreements with 45 countries and country groupings (including 13 EU members), and has double taxation treaties with 43 countries (including 9 EU members).

Malaysia developed a programme providing Industrial Investment Allowances (IIA) to companies operating in the wood-based, textile, machinery and engineering sectors. These incentives are given when an eligible company undertakes to participate in an approved industrial adjustment. Industrial adjustment means the reorganisation, reconstruction merger within the particular sector with a view to strengthening the basis for industrial self-sufficiency, improving industrial technology, increasing productivity, enhancing the efficient use of natural resources and the efficient management of manpower. The IIA provides for an allowance of up to 100% in respect of qualifying capital expenditure.The IIA programme must be approved by the Minister of International Trade.

A Reinvestment Allowance (RA) is granted to the manufacturing and the agricultural sectors which carry out expansion, modernisation and diversification projects. The RA is at 60% of qualifying capital expenditure incurred. Generally this allowance is deductible against 70% of the statutory income. However, the 1998 Budget allows for a 100% deduction against statutory income for companies that undertake projects located in Sabah, Sarawak and the Eastern Corridor, as well as for companies that reinvest and could significantly increase their productivity.

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IPR

Other Industries

Other IPR Related Problems

970087- *Piracy/Counterfeiting - price ceilings for CDs/VCDs* [2004-07-05]

In 1997 a high level of piracy and counterfeiting in Malaysia was reported. As far as copyright infringements were concerned, illegal activities were especially found in the area of sound recordings but also in the area of software and video tapes.

On September 17th 2003 the Malaysian Cabinet took the decision to set ceiling prices for CDs and VCDs. We were informed that from 1st January 2004 onwards, prices of CDs and VCDs would be controlled, with a proposed ceiling price of RM 21 for CDs of local artists and of RM 29 for international albums manufactured locally. The ceiling price for VCDs was to be fixed at RM 14 for all films with local artistic producers, whether manufactured in Malaysia or abroad and for films with international artistic producers manufactured in Malaysia. If imports of pirated CDs and VCDs were to increase sharply, the control measures could be widened.

Following representations from industry and the EU, the implementation date was initially deferred until April 2004 and has now been deferred again.

This measure is seen as a pilot action to counteract the financial attractiveness of pirated CDs and VCDs and the decision is part of a much broader strategy aimed at fighting piracy which was set in place in 2001. This was the latest of several measures and initiatives taken in 2003 due to concern with regard to the effectiveness of the strategy so far.

Context:
Piracy in the CDs and VCDs sector appeared in Malaysia in the 80s and grew dramatically during the 90s. In 2000 the Government decided to tackle this problematic issue for three main reasons:
- Piracy disregards Intellectual Property rights
- Piracy contributes to and finances underworld spread in the country
- Piracy harms the country’s reputation toward foreign investors

For these reasons the Government initiated a multi-pronged strategy which aims to substantially reduce the market share of pirated products. Since 2001 many measures have been taken. Amongst these was the setting up of a Task Force with producers, distributors and consumer representatives with the objective of convincing CD and VCD manufacturers established in Malaysia to voluntarily reduce the selling prices of their products. This attempt to reduce the selling prices of CDs and VCDs was justified on the premise that CDs and VCDs are not affordable to the population at large because they are too expensive in terms of prices of the "normal components of the average Malaysian consumer” and relative to available incomes. However, the objectives were not fully achieved and therefore, the Government decided to impose ceiling prices for both CDs and VCDs.

The Decision:
The ceiling prices (see above) were decided upon the recommendation of an independent

accounting firm which had studied the cost of production, distribution and retail prices in the market. The Government's assumption is that by making CDs and VCDs more affordable, coupled with intensive public awareness campaigns stating the negative impact of piracy and stronger rules on enforcement actions, people will in larger proportion buy more genuine products instead of pirate copies. The Government expects that this measure will also contribute to the eradication of the less productive counterfeiters.

- On 30 June 2004, the Malaysian Government announced that they would not after all implement the Price Control (Price- Controlled Goods) 2004 Order and therefore they would not introduce price ceilings. Instead there would be a sale with a 20% reduction on the price of CDs and VCDs twice a year.

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