

Trade & Customs 2022

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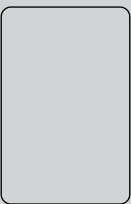
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Trade & Customs 2022

Contributing editor**Gary N Horlick**

Law Offices of Gary N Horlick

Lexology Getting The Deal Through is delighted to publish the tenth edition of *Trade & Customs*, which is available in print and online at www.lexology.com/gtdt.

Lexology Getting The Deal Through provides international expert analysis in key areas of law, practice and regulation for corporate counsel, cross-border legal practitioners, and company directors and officers.

Throughout this edition, and following the unique Lexology Getting The Deal Through format, the same key questions are answered by leading practitioners in each of the jurisdictions featured. Our coverage this year includes new chapters on Jordan and the United Kingdom.

Lexology Getting The Deal Through titles are published annually in print. Please ensure you are referring to the latest edition or to the online version at www.lexology.com/gtdt.

Every effort has been made to cover all matters of concern to readers. However, specific legal advice should always be sought from experienced local advisers.

Lexology Getting The Deal Through gratefully acknowledges the efforts of all the contributors to this volume, who were chosen for their recognised expertise. We also extend special thanks to the contributing editor, Gary N Horlick of Law Offices of Gary N Horlick, for his continued assistance with this volume.



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LEGAL FRAMEWORK

Domestic legislation

1 | What is the main domestic legislation as regards trade remedies?

The main domestic legislation regarding trade remedies are:

- the Countervailing and Anti-Dumping Duties Act 1993;
- the Safeguards Act 2006; and
- the Strategic Trade Act 2010.

Subsidiary legislation (regulations and orders) are issued thereunder.

International agreements

2 | In general terms what is your country's attitude to international trade? Has it raised tariffs in the last year?

Malaysia is an active international trading country, and one of the world's major trading nations. International trade is a key contributor to Malaysia's economic growth and development.

Malaysia's main exports include electrical and electronics products, chemicals, machinery, appliances and manufactured metals. In terms of natural resources, Malaysia exports crude oil, liquefied natural gas, palm oil and natural rubber. In return, the country imports mainly electronics, machinery, petroleum products, plastics, vehicles, iron and steel products and chemicals.

In 2020, Malaysia's trade recorded the fourth consecutive year of double-digit growth, with an expansion of 26.9 per cent to 184.79 billion ringgit compared to 2019, representing Malaysia's achievement in sustaining a trade surplus for 23 consecutive years since 1998. Malaysia's exports in 2020, valued at 980.99 ringgit billion declined marginally by 1.4 per cent compared to the preceding year which is mainly attributed to the unfavourable external environment due to the impact of the covid-19 pandemic. Total trade in 2020 amounting to 1.777 trillion ringgit, contracted by 3.6 per cent compared to 2019 while imports totalled 796.19 billion ringgit, a decline of 6.3 per cent. Malaysia's trade performance was in tandem with other regional countries such as Indonesia, Singapore, South Korea and Thailand.

Malaysia's main trading partners are the United States, the European Union, Thailand, Singapore, Japan and China.

Malaysia is a founding member of the World Trade Organization (WTO) under its membership in the General Agreement on Tariffs and Trade since 1957.

As a WTO member, Malaysia accords high priority to the rules-based multilateral trading system under the WTO and has continuously undertaken voluntary reductions and elimination of tariffs to enhance Malaysia's competitiveness. Over the years, Malaysia has adopted open and transparent trade policies and measures.

Also, Malaysia is committed to building regional and bilateral trade arrangements with individual regional groupings and countries.

At the regional level, Malaysia is part of the Association of Southeast Asian Nation (ASEAN) ASEAN Free Trade Area (AFTA) together with other ASEAN member states such as Brunei, Cambodia, Indonesia, Laos, Myanmar, the Philippines, Singapore, Thailand and Vietnam, creating a complete free-trade area among them. ASEAN presently has AFTA free trade agreements (FTAs) with Australia, China, India, Japan, Korea and New Zealand.

Through AFTA, Malaysia has also entered into the ASEAN Trade in Goods Agreement and, together with Brunei, Singapore and Thailand, has embarked on a self-certification pilot project since 1 November 2010 aimed at facilitating an enhanced trading environment.

Malaysia has also developed significant economic and political relations with the Gulf Cooperation Council (GCC) and is keen to have strong bilateral trade ties with the GCC through future FTAs.

As a member of the Organisation of the Islamic Conference (OIC), Malaysia has actively supported and promoted intra-OIC trade and has ratified the Framework Agreement on Trade Preferential System among OIC countries.

Recently, at the end of 2020, Malaysia along with the other ASEAN member states such as Brunei, Cambodia, Indonesia, Laos, Myanmar, the Philippines, Singapore, Thailand and Vietnam together with other trading partners such as Australia, China, Japan, New Zealand and South Korea, signed the Regional Comprehensive Economic Partnership (RCEP) FTA.

On a bilateral basis, Malaysia has established FTAs with Australia, Chile, India, Japan, New Zealand, Pakistan and Turkey, while negotiations are still underway with the United States and European Union.

TRADE DEFENCE INVESTIGATIONS (OUTSIDE THE WTO DISPUTE SETTLEMENT SYSTEM)

Government authorities

3 | Which authority or authorities conduct trade defence investigations and impose trade remedies in your jurisdiction?

The Trade Practices Section of the Ministry of International Trade and Industries of Malaysia (MITI) is the authority tasked to investigate and deal with unfair trade practices on behalf of the Malaysian government.

Complaint filing procedure

4 | What is the procedure for domestic industry to start a trade remedies case in your jurisdiction? Can the regulator start an investigation ex officio?

Generally, any domestic industry or local producer can petition the authority for trade remedies such as anti-dumping, countervailing and safeguard duties against foreign producers or exporters of a similar product.

In a trade remedy petition, cogent evidence in the form of reliable statistics must be provided to the investigative authority. Depending on the type of trade remedies sought, the following information is usually included in the petition:

- the identity of the domestic industry on whose behalf the petition is submitted, including the names and addresses of the other producers of the like product in the domestic industry, and in the case where the petition is submitted on behalf of the regional producers of the similar product, information and details to support the carrying out of an investigation on a regional basis;
- in the case of an anti-dumping or countervailing petition, the petitioner must show that the domestic producers supporting the petition collectively account for more than 50 per cent of the total production of the like product produced by that portion of the domestic industry expressing either support for or opposition to the petition and that the domestic producers expressing support for the petition account for at least 25 per cent of the total production of the like product produced by the domestic industry;
- a detailed description of the merchandise that defines the requested scope of the investigation, including technical characteristics and uses of such merchandise and its current Malaysian tariff classification;
- the name of the country in which the merchandise is produced and if such merchandise is imported from a country other than that in which it is produced, the name of the intermediate country;
- the name and address of each party the petitioner believes is producing the merchandise for export or is exporting to Malaysia:
 - in relation to a countervailing duty petition, is receiving a subsidy; or
 - in relation to an anti-dumping duty petition, is selling the merchandise at prices below the normal value;
- any factual information, particularly documentary evidence, relevant to the alleged subsidy or dumping, including:
 - in relation to a countervailing duty petition, the authority that provided the subsidy and how the subsidy is provided and an estimate of the value of the subsidy to producers or exporters of the merchandise; or
 - in relation to an anti-dumping duty petition, information relevant to the calculation of the normal value and export price of the merchandise;
- for countervailing and anti-dumping petitions filed, the volume and value of the merchandise imported into Malaysia during the past two years and any other recent period that the petitioner believes to be more representative or, if the merchandise was not imported into Malaysia during the two years, information as to the likelihood of its sale for importation into Malaysia. Concerning safeguards, the data period required is three years;
- the name and address of each party who the petitioner believes is importing or, if there were no importations, is likely to import the merchandise;
- evidence of injury to the domestic industry caused by the merchandise and the causal link between the imports of the merchandise and the alleged injury; and
- in relation to a safeguard petition, the petitioner is also required to submit an adjustment plan for the duration of the proposed imposition of the definitive safeguard measure and the proposed relief measures allowing the domestic industry to recover its competitiveness.

Contesting trade remedies

5 | What is the procedure for foreign exporters to defend a trade remedies case in your jurisdiction?

On receipt of an anti-dumping, countervailing or safeguard petition from the domestic industry or local producers, MITI will issue a notification of the receipt of the petition to governments of the exporting countries concerned. MITI is then obliged to examine the petition to determine whether the evidence presented justifies the initiation of an investigation, the level of support or opposition of the petition by the domestic industry, as well as the public interest involved. If MITI finds that there is insufficient evidence, or it is not in the public interest to proceed, the petition will be rejected.

If MITI decides to initiate an investigation, it will:

- notify all interested parties (the foreign government or manufacturers concerned and local importers) of the decision to initiate the relevant investigation;
- publish a notice of initiation of an investigation, and gazette the same; and
- send out a questionnaire and a copy of the non-confidential version of the petition to foreign producers or exporters and local importers to obtain information on prices and injury factors.

In the case of a filed safeguard petition, the Committee on Safeguards of the WTO must also be notified of any decision to initiate a safeguard investigation.

All interested parties will have the opportunity to submit both written (including submitting confidential and non-confidential versions) and oral representations. Legal representation, whether foreign or local, is allowed.

The general timeline of an anti-dumping or countervailing investigation is as follows:

- the decision to initiate the preliminary investigation is to be made within 30 days from the date of receipt of the petition;
- preliminary determination and the final investigation are to be made within 120 days from the date of initiation, and if necessary this can be extended for another 30 days; and
- a final determination is to be made within 120 days from the date of the preliminary determination.

The general timeline of a safeguard investigation is as follows:

- the decision to initiate the preliminary investigation is to be made within 30 days from the date of receipt of the petition;
- preliminary determination and the final investigation are to be made within 90 days from the date of initiation; and
- a final determination is to be made within 200 days from the date of the preliminary determination.

WTO rules

6 | Are the WTO rules on trade remedies applied in national law?

Malaysia acknowledges and recognises that its international rights and obligations in this area are governed by its membership of the WTO and by the WTO Agreement on Anti-Dumping and on Subsidies and Countervailing Measures, as well as the Agreement on Safeguards. As such, the trade remedy laws in Malaysia incorporate and apply the WTO rules on trade remedies.

A 'non-market economy country' is defined in the Countervailing and Anti-Dumping Duties Act 1993 to mean any foreign country that the government of Malaysia determines operates on a centrally planned economy and not on market principles of cost or pricing structures or a free-enterprise economy. There is no definitive list of such non-market economy countries, but each situation will be decided on a case-by-case basis.

Appeal

- 7 | What is the appeal procedure for an unfavourable trade remedies decision? Is appeal available for all decisions? How likely is an appeal to succeed?

An interested party who is not satisfied with or who is aggrieved by MITI's decision concerning a final determination or a final administrative review determination may file a judicial review application in the High Court within 30 days of the publication of the final determination or the final administrative review determination in question. The High Court would then review administrative acts carried out by MITI as prescribed under the national legislation and WTO rules on trade remedies to determine whether these administrative acts have been properly observed. The High Court is not, however, concerned with the merits of the matter.

An interested party who is not satisfied or who is aggrieved by the decision of the authority concerning a final determination or a final administrative review determination may also utilise the WTO dispute settlement mechanism and bring an appeal to the WTO Appellate Body in Geneva, Switzerland.

Review of duties/quotas

- 8 | How and when can an affected party seek a review of the duty or quota? What is the procedure and time frame for obtaining a refund of overcharged duties? Can interest be claimed?

An administrative review may be sought in the following situations:

- where there are changed circumstances in the dumping margin or the amount of subsidy; or
- where the duties imposed or undertakings entered into are no longer considered necessary or maintainable.

Such a review can only be made one year after the date of the publication of the imposition of the definitive duties.

An exporter or a producer whose exports of the subject merchandise are subject to a definitive anti-dumping duty, but who has not exported the subject merchandise to Malaysia during the period of investigation, may apply for an expedited review.

An importer may also request a refund review for any 12-month period after the final determination of an anti-dumping duty investigation.

MITI shall conduct a refund review as requested by the importer only if the importer has:

- filed a refund application with the Customs Department within 30 days of entry of the merchandise into Malaysia; and
- submitted sufficient and complete evidence to show that the amount of anti-dumping duties collected during that 12-month period exceeds the dumping margin determined.

A refund review shall be completed within 180 days from the date MITI decides to conduct such a review.

The results of the refund review shall determine the final anti-dumping duty applicable for each entry for which the appropriate refund was requested and shall also be the basis for the anti-dumping duty rate applicable to all entries made after the review is completed.

If the margin of dumping is found to be less than the anti-dumping duty paid, the difference shall be refunded. If the margin of dumping is found to be greater than the anti-dumping duty paid, the importer shall pay the difference.

In the case of a safeguard petition, MITI is obliged to conduct a mid-term review where safeguard measures have been imposed for a term exceeding three years. Such a review is to be completed within 180 days of the date of initiation of the review.

Compliance strategies

- 9 | What are the practical strategies for complying with an anti-dumping/countervailing/safeguard duty or quota?

An affected party may avail itself of the various review procedures set out in the relevant legislation when changes in circumstances arise.

Price undertakings are also a viable and attractive option instead of the imposition of definitive duties. Such an undertaking may, however, only be offered after an affirmative preliminary determination has been reached.

CUSTOMS DUTIES

Normal rates and notification requirements

- 10 | Where are normal customs duty rates for your jurisdiction listed? Is there an exemption for low-value shipments, if so, at what level? Is there a legally binding system of information for applied tariffs or similar in place? Are there prior notification requirements for imports?

Customs duties are paid on an ad valorem basis on imports and exports as provided under the Malaysian Customs Act 1967. The rates, and any applicable exemptions, are set by subsidiary legislation made under the Customs Act, and depend on the type of goods imported or exported. The rates generally range from zero to 40 per cent, with much higher rates imposed on alcohol and tobacco products.

The complete list of the applicable duties can be found at the Royal Malaysian Customs Department's website. For e-commerce using air courier services, goods imported not exceeding a total value of 500 ringgit per consignment are exempt from customs duties.

Malaysia uses both the Harmonized Commodity Description and Coding System (HS Code) and the Association of Southeast Asian Nation (ASEAN) Harmonized Tariff Nomenclature (AHTN).

AHTN is used for trade transactions between Malaysia and the other ASEAN countries, while the HS Code applies for trade with non-ASEAN countries. Import permits may be required for certain products to be imported.

Special rates and preferential treatment

- 11 | Where are special tariff rates, such as under free trade agreements or preferential tariffs, and countries that are given preference listed?

This information can be found on the MITI website.

- 12 | How can GSP treatment for a product be obtained or removed?

The Generalised System of Preferences (GSP) is a system whereby developed countries grant preferential treatment to eligible products imported from developing countries so that exports of developing countries would be competitive in the developed countries' markets. The preferential treatment is in the form of reduced import duties and is granted without reciprocal obligation on the part of the developing countries.

GSP treatment for a product can be obtained when the product genuinely originates from the beneficiary countries and when certain origin conditions are satisfied. The product must also be transported directly from the exporting preference-receiving country to the preference-giving country.

The claim for GSP treatment must be supported by documentary evidence as to origin and consignment. The documentary evidence accepted for purposes of GSP is the certificate of origin, which is more commonly referred to as 'form A', which in Malaysia can be obtained

by the interested manufacturer or exporter from the Federation of Malaysian Manufacturers. In Malaysia, the authorised issuing or endorsing authority for form A is MITI.

To obtain GSP treatment, manufacturers or exporters are required to apply for cost analysis approval to the Trade Cooperation and Industry Coordination Section of MITI. An approval letter will be issued by the Trade Cooperation and Industry Coordination Section for products that qualify under the rules of origin under the GSP scheme. Once an approval letter is issued, MITI will endorse the said form A submitted by the interested manufacturer or exporter.

13 | Is there a duty suspension regime in place? How can duty suspension be obtained?

No, there is no duty suspension regime in place. However, Malaysia has established numerous free trade zones and licensed manufacturing warehouses with various investment incentives where manufacturing companies can produce or assemble imported products primarily for re-exportation. Customs controls in these zones are minimal, and all machinery and raw materials and components used in the manufacturing process may be imported duty-free.

14 | Has your country applied tariffs for 'national security' reasons?

No.

Challenge

15 | Where can customs decisions be challenged in your jurisdiction? What are the procedures?

The Customs Appeal Tribunal (CAT) is an independent body, established to decide on appeals against the decision of the director-general of customs about matters under the:

- Customs Act 1967;
- Sales Tax Act 2018;
- Service Tax Act 2018; and
- Excise Act 1976.

A filing fee of 100 ringgit is payable for each appeal lodged and must include particulars such as the name, address, particulars of dispute, reasons of appeal and the remedy sought.

An appeal to the CAT must be filed within 30 days from the date of notification in writing of the decision of the director-general of customs.

The CAT's decision is deemed to be an order of a sessions court and can be enforced accordingly. The appellant or the Director-General of Customs may appeal against the decision of the CAT to the High Court on a question of law or of mixed law and fact.

TRADE BARRIERS

Government authorities

16 | What government office handles complaints from domestic exporters against foreign trade barriers at the WTO or under other agreements?

The Trade Practices Section the Ministry of International Trade and Industries of Malaysia.

Complaint filing procedure

17 | What is the procedure for filing a complaint against a foreign trade barrier?

Malaysia does not have a specific procedure for trade barrier complaints and adopts the World Trade Organization (WTO) procedure for dispute settlement. This includes requesting consultations, formally demanding negotiations to try to settle the matter or, as a last resort, requesting the WTO to set up a panel of three arbitrators to judge the case.

Grounds for investigation

18 | What will the authority consider when deciding whether to begin an investigation?

Alternative measures include government-to-government negotiations and the threat of possible trade sanctions.

Measures against foreign trade barriers

19 | What measures outside the WTO may the authority unilaterally take against a foreign trade barrier? Are any such measures currently in force?

Where it is deemed necessary, the government will institute a WTO case in Switzerland through the Attorney General's Chambers (AGC). The private sector is expected to assist by forwarding the necessary trade information and figures to the AGC and attending to any queries the AGC might have in preparation of the WTO case.

Private-sector support

20 | What support does the government expect from the private sector to bring a WTO case?

It is expected that the private sector works hand-in-hand with the government to support a WTO case.

Notable non-tariff barriers

21 | What notable trade barriers other than retaliatory measures does your country impose on imports?

The Malaysian government operates a system of import licensing. Import permits are required for several items, including:

- arms and explosives;
- motor vehicles;
- certain drugs and chemicals;
- plants;
- soil;
- tin ore;
- slag or concentrates; and
- various essential foodstuffs.

Prohibited imports include multicolour copying machines, any 'indecent or obscene' articles and certain poisonous chemicals.

All imported beef and poultry products must originate from facilities that have been approved by Malaysian authorities as halal.

Import duties generally range from zero to 40 per cent. In line with Malaysia's commitment to the Association of Southeast Asian Nation (ASEAN) Common Effective Preferential Tariffs scheme, all industrial goods traded within ASEAN are subject to import duties of between zero and 5 per cent only.

In addition to import duties, the Malaysian government also imposes excise duties on certain selected categories of imports such as:

- automobiles;
- leaf tobacco;

- cigarette products; and
- alcoholic beverages.

EXPORT CONTROLS

General controls

22 | What general controls are imposed on exports?

Goods may be exported to any country except Israel. Exports are only controlled in certain cases as follows:

- gazetted or controlled goods (usually this applies when the goods are in short supply);
 - goods sensitive in nature and strategic or hazardous items; and
 - goods regulated or prohibited by international agreements to protect endangered wildlife species.
- There are two categories of controls on items for export:
- items that are prohibited from being exported to all countries (eg, turtle eggs, rattan, arms and related materials, petroleum and petroleum products); and
 - products that require an export licence and are subject to government control (eg, livestock and livestock products, grains, minerals and toxic or hazardous materials).

The Ministry of International Trade and Industries of Malaysia (MITI) and the Ministry of Domestic Trade, Co-operatives and Consumerism administer the requisite licences for most of the controlled goods.

Government authorities

23 | Which authorities handle the controls?

The Royal Malaysian Customs Department (RMCD) is responsible for the enforcement of customs and related laws, including the issuance of legally binding advance rulings on valuation and classification matters, among others. Matters in dispute (eg, product classification and valuation of goods for customs purposes) can be brought before the Customs Appeal Tribunal.

Special controls

24 | Are separate controls imposed on specific products? Is a licence required to export such products? Give details.

Yes. The Strategic Trade Act 2010 (STA) was enacted to strengthen the country's ability to curb exports and transshipment of strategic items and technology, including:

- arms and related material:
 - military items;
 - nuclear materials, facilities and equipment;
 - special materials and related equipment;
 - material processing;
 - sensors;
 - lasers;
 - navigation and avionic equipment;
 - electronics and computers; and
- activities that will or may facilitate the design, development, production and delivery of weapons of mass destruction.

The STA is administered by MITI.

The STA controls the transactions of strategic items, unlisted items and restricted activities.

A special permit is required for transactions of strategic items or of unlisted items to a restricted end-user, while transactions of strategic items or unlisted items to a prohibited end user are not allowed.

Supply chain security

25 | Has your jurisdiction implemented the WCO's SAFE Framework of Standards? Does it have an AEO programme or similar?

The authorised economic operator (AEO) is a concept introduced by the Standards to Secure and Facilitate Trade (SAFE) Framework of Standards, 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. The AEO scheme developed by the RMCD is based on a similar concept. The RMCD AEO website currently lists 59 approved AEO companies.

Applicable countries

26 | Where is information on countries subject to export controls listed?

A definitive and comprehensive list of strategic items as prescribed in the Strategic Trade (Strategic Items) Order 2010 that also lists information on the subject items.

Restricted end users and prohibited end users are determined by the Minister of International Trade and Industry through the issuance of a ministerial order, and such an order may include, from time to time, regimes, countries' bodies corporate or individuals subject to United Nations Security Council sanctions, as well as any persons of concern to Malaysia.

Currently, the list of restricted end-users and prohibited end users can be found in the Strategic Trade (Restricted End-Users and Prohibited End-Users) Orders 2010, 2011, 2014 and 2016 (PU(A) 484/2010, PU(A) 150/2011, PU(A) 88/2014, PU(A) 313/2014 and PU(A) 177/2016).

Restricted end users

These include:

- Iran and North Korea (embargoed and no exception for transit);
- The Democratic Republic of the Congo, Ivory Coast, Lebanon, Libya and Sudan (embargoed and subject to transit permit for military items);
- Afghanistan, Iraq, Liberia, Rwanda and Somalia (subject to transit permit for military items); and
- Eritrea (subject to transit permit for restricted military items).

Prohibited end users

These include:

- various named individuals and entities of North Korea included in the list established, maintained and updated by the United Nations Security Council under United Nations Security Council Resolution 1718 (2006); and
- various named individuals and entities of Iran included in the list established, maintained and updated by the United Nations Security Council under United Nations Security Council Resolution 2231 (2015).

Named persons and institutions

27 | Does your jurisdiction have a scheme restricting or banning exports to named persons and institutions abroad? Give details.

Yes, under the Strategic Trade (Restricted End-Users and Prohibited End-Users) Order 2010, 2011, 2014 and 2016:

Restricted end users

These include:

- Iran and North Korea (embargoed and no exception for transit);

- The Democratic Republic of the Congo, Ivory Coast, Lebanon, Libya and Sudan (embargoed and subject to transit permit for military items);
- Afghanistan, Iraq, Liberia, Rwanda and Somalia (subject to transit permit for military items); and
- Eritrea (subject to transit permit for restricted military items).

Prohibited end users

These include:

- various named individuals and entities of North Korea included in the list established, maintained and updated by the United Nations Security Council under United Nations Security Council Resolution 1718 (2006); and
- various named individuals and entities of Iran included in the list established, maintained and updated by the United Nations Security Council under United Nations Security Council Resolution 2231 (2015).

Penalties

28 | What are the possible penalties for violation of export controls?

Both the Customs Act 1967 and the Strategic Trade Act 2010 have their own penalty provisions and in summary, provide for the following penalties for violation of export controls:

- a jail sentence of between two years and life imprisonment, depending on the severity and type of offence; and
- fines of between 10,000 ringgit and 30 million ringgit.

Also, given the serious repercussions from the misuse of strategic items and unlisted items for restricted activities, the STA imposes capital punishment for certain offences where the breach or offence results in death.

FINANCIAL AND OTHER SANCTIONS AND TRADE EMBARGOES

Government authorities

29 | What government offices impose sanctions and embargoes?

The Ministry of International Trade and Industries of Malaysia (MITI) is the authority charged with imposing trade sanctions.

Applicable countries

30 | What countries are currently the subject of sanctions or embargoes by your country?

Iran and North Korea, in relation to strategic items, and Israel generally, under the Customs (Prohibition of Imports) Order 2017, subject to a special licence issued by MITI.

Specific individuals and companies

31 | Are individuals or specific companies subject to financial sanctions?

Under United Nations Security Council resolutions, yes.

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OTHER RELEVANT ISSUES

Other trade remedies and controls

32 | Describe any trade remedy measures, import or export controls not covered above that are particular to your jurisdiction.

In recent years, Malaysia has adopted strengthened protectionist measures on the local steel industry. This trend is observed from the recent imposition of anti-dumping duties on imports of steel-related products by the Malaysian government.

UPDATE AND TRENDS

Recent developments

33 | Are there any emerging trends or hot topics in trade and customs law and policy in your jurisdiction? What effects are Brexit, the withdrawal of the US from TPP and TTIP, RCEP and negotiations of FTAs (such as the EU-Japan Free Trade Agreement, the Pacific-Alliance, etc) expected to have on your jurisdiction?

To date, Malaysia has yet to lift its Movement Control Order imposed to halt the spread of the covid-19 pandemic. Any emerging trends this year will be in line with developments of the pandemic. We foresee possible restrictions on exports of medical supplies and products such as rubber gloves and personal protective equipment in the event of a short-term worsening situation.

In the medium to long term, it is also possible that we may see an increase in trade protection measures to protect Malaysia's domestic industry that would have suffered because of covid-19.

The general consensus is that Malaysia will benefit from Regional Comprehensive Economic Partnership (RCEP) with industries related to electrical and electronics, chemical and chemical products, rubber products, plastic products and machinery and equipment, benefitting the most. However, it is pertinent to note that while Malaysia was a signatory to the RCEP FTA on 15 November 2020, the agreement has yet to have been ratified. The Secretary General of the Ministry of International Trade and Industry has stated that Malaysia will be looking to ratify the RCEP by early 2022.

Coronavirus

- 34 | What emergency legislation, relief programmes and other initiatives specific to your practice area has your state implemented to address the pandemic? Have any existing government programmes, laws or regulations been amended to address these concerns? What best practices are advisable for clients?

Invariably, the covid-19 pandemic has caused many delays in the international trade process in Malaysia. The Temporary Measures for Reducing the Impact of Coronavirus Disease 2019 Act 2020 was passed to cover key relief measures to protect certain industries from legal action for failing to meet their contractual obligations, and will be in force (unless extended) until 30 June 2021.

Other titles available in this series

Acquisition Finance	Distribution & Agency	Investment Treaty Arbitration	Public M&A
Advertising & Marketing	Domains & Domain Names	Islamic Finance & Markets	Public Procurement
Agribusiness	Dominance	Joint Ventures	Public-Private Partnerships
Air Transport	Drone Regulation	Labour & Employment	Rail Transport
Anti-Corruption Regulation	e-Commerce	Legal Privilege & Professional Secrecy	Real Estate
Anti-Money Laundering	Electricity Regulation	Licensing	Real Estate M&A
Appeals	Energy Disputes	Life Sciences	Renewable Energy
Arbitration	Enforcement of Foreign Judgments	Litigation Funding	Restructuring & Insolvency
Art Law	Environment & Climate Regulation	Loans & Secured Financing	Right of Publicity
Asset Recovery	Equity Derivatives	Luxury & Fashion	Risk & Compliance Management
Automotive	Executive Compensation & Employee Benefits	M&A Litigation	Securities Finance
Aviation Finance & Leasing	Financial Services Compliance	Mediation	Securities Litigation
Aviation Liability	Financial Services Litigation	Merger Control	Shareholder Activism & Engagement
Banking Regulation	Fintech	Mining	Ship Finance
Business & Human Rights	Foreign Investment Review	Oil Regulation	Shipbuilding
Cartel Regulation	Franchise	Partnerships	Shipping
Class Actions	Fund Management	Patents	Sovereign Immunity
Cloud Computing	Gaming	Pensions & Retirement Plans	Sports Law
Commercial Contracts	Gas Regulation	Pharma & Medical Device Regulation	State Aid
Competition Compliance	Government Investigations	Pharmaceutical Antitrust	Structured Finance & Securitisation
Complex Commercial Litigation	Government Relations	Ports & Terminals	Tax Controversy
Construction	Healthcare Enforcement & Litigation	Private Antitrust Litigation	Tax on Inbound Investment
Copyright	Healthcare M&A	Private Banking & Wealth Management	Technology M&A
Corporate Governance	High-Yield Debt	Private Client	Telecoms & Media
Corporate Immigration	Initial Public Offerings	Private Equity	Trade & Customs
Corporate Reorganisations	Insurance & Reinsurance	Private M&A	Trademarks
Cybersecurity	Insurance Litigation	Product Liability	Transfer Pricing
Data Protection & Privacy	Intellectual Property & Antitrust	Product Recall	Vertical Agreements
Debt Capital Markets		Project Finance	
Defence & Security Procurement			
Dispute Resolution			

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