Malaysia

RISK & COMPLIANCE REPORT

DATE: March 2017

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Executive Summary - Malaysia	
Sanctions:	None
FAFT list of AML Deficient Countries	No
Higher Risk Areas:	US Dept of State Money Laundering Assessment Not on EU White list equivalent jurisdictions
Medium Risk Areas:	Corruption Index (Transparency International & W.G.I.) World Governance Indicators (Average Score) Failed States Index (Political Issues)(Average Score) Offshore Finance Centre

Major Investment Areas:

Agriculture - products:

Peninsular Malaysia - palm oil, rubber, cocoa, rice; Sabah - palm oil, subsistence crops; rubber, timber; Sarawak - palm oil, rubber, timber; pepper

Industries:

Peninsular Malaysia - rubber and oil palm processing and manufacturing, petroleum and natural gas, light manufacturing, pharmaceuticals, medical technology, electronics and semi-conductors, timber processing; Sabah - logging, petroleum and natural gas production; Sarawak - agriculture processing, petroleum and natural gas production, logging

Exports - commodities:

semiconductors and electronic equipment, palm oil, petroleum and liquefied natural gas, wood and wood products, palm oil, rubber, textiles, chemicals, solar panels

Exports - partners:

Singapore 13.6%, China 12.6%, Japan 11.8%, US 8.7%, Thailand 5.4%, Hong Kong 4.3%, India 4.2%, Australia 4.1% (2012)

Imports - commodities:

electronics, machinery, petroleum products, plastics, vehicles, iron and steel products, chemicals

Imports - partners:

China 15.1%, Singapore 13.3%, Japan 10.3%, US 8.1%, Thailand 6%, Indonesia 5.1%, South Korea 4.1% (2012)

Investment Restrictions:

The Government of Malaysia in general strongly encourages foreign direct investment (FDI), although it maintains restrictions or limits on investment in some sectors. It actively reaches out to targeted industries and negotiates incentive packages to attract FDI. Malaysia provides a number of incentives, particularly in export-oriented high-tech industries and "back office" service operations.

The ETP identified 12 specific sectors in which the Malaysian government is encouraging foreign and domestic investment, including: electrical & electronics; medical devices; green energy, machinery & equipment; oil and gas, and transportation equipment. Also targeted for growth are a number of resource-based industries and some services sub-sectors including logistics, although the sectors are subject to foreign investment conditions or restrictions.

In 2009 the government announced a limited set of liberalization measures covering 27 service subsectors**.** In 2011**,** the government announced plans to liberalize an additional 17 services subsectors during 2012. So far, the government has liberalized 15 of these subsectors, allowing 100 % foreign equity participation in private hospital services, medical specialist clinics, department and specialty stores, telecommunications Application Service Providers (ASP), incineration services, accounting and taxation services, courier services, private universities, vocational schools, dental specialist services, skills training centres, international schools, and vocational schools for special needs. The Malaysian government added an 18th sub-sector of quantity surveyors services. Of the remaining subsectors, liberalizing architectural services, quantity surveying services and engineering services requires new legislation. Legislation that permits the opening of legal services was passed in 2012, but awaits the completion of implementing regulations.

Only Malaysian citizens may own agricultural land. Malaysia also restricts foreign participation in agriculture (unless it is an agro-tourism linked project), and construction.

Land acquisitions by foreign interests that require approval from the Malaysian government are;

- Acquisition of agricultural land valued at US$163,000 and above
- Land of at least five acres in area for following purposes of: commercial scale agricultural activities, agro-tourism projects or agro based industrial activities for production of export goods.
- Acquisition of industrial land valued at US$163,000 and above.

Foreign investment in terrestrial broadcast networks is prohibited and is limited to a 20% equity share in cable and satellite operations

Contents

Section 1 - Background

During the late 18th and 19th centuries, Great Britain established colonies and protectorates in the area of current Malaysia; these were occupied by Japan from 1942 to 1945. In 1948, the British-ruled territories on the Malay Peninsula except Singapore formed the Federation of Malaya, which became independent in 1957. Malaysia was formed in 1963 when the former British colonies of Singapore, as well as Sabah and Sarawak on the northern coast of Borneo, joined the Federation. The first several years of the country's independence were marred by a communist insurgency, Indonesian confrontation with Malaysia, Philippine claims to Sabah, and Singapore's withdrawal in 1965. During the 22-year term of Prime Minister MAHATHIR bin Mohamad (1981-2003), Malaysia was successful in diversifying its economy from dependence on exports of raw materials to the development of manufacturing, services, and tourism. Prime Minister Mohamed NAJIB bin Abdul Razak (in office since April 2009) has continued these pro-business policies and has introduced some civil reforms.

Section 2 - Anti – Money Laundering / Terrorist Financing

FATF status

Malaysia is not on the FATF List of Countries that have been identified as having strategic AML deficiencies

Compliance with FATF Recommendations

The last Mutual Evaluation Report relating to the implementation of anti-money laundering and counter-terrorist financing standards in Malaysia was undertaken by the Financial Action Task Force (FATF) in 2015. According to that Evaluation, Malaysia was deemed Compliant for 16 and Largely Compliant for 21 of the FATF 40 Recommendations.

Money Laundering/Terrorism Financing Risks (FATF Mutual Evaluation Report):

Malaysia is exposed to a range of significant money laundering (ML) and terrorist financing (TF) threats and vulnerabilities. Malaysia's open economy, strategic geographic position and porous land and sea borders increase its exposure to ML/TF risks. Malaysia's geographic location within South East Asia positions it as a transit country for drugs originating from the Golden Triangle and Europe. Typologies illustrate that illicit funds generated within South East Asia flow into the regional financial centres, including Australia, Singapore and Malaysia. Similar to other countries in the region, Malaysia has an important cash-based and informal economy.

The TF risks in Malaysia are evolving, with TF traditionally carried out using cash and relying on a network of trusted members within a terrorist organisation. New global risks, in particular in relation to foreign fighters, have increased the prevalence of self-funded TF within Malaysia.

Malaysia's 2012 and 2013 National Risk Assessments (NRA) identified fraud, goods smuggling, drugs, tax crimes and corruption and bribery as high risk. The 2013 NRA identified forgery, theft and robbery, counterfeiting of currency, human trafficking and migrant smuggling, TF and organised crime as medium risk crimes. The banking, MSB (MVTS and money changers) and casino sectors were rated as high risk. Moderate scope limitations in the NRA process point to other crimes that may pose high risks to Malaysia including ML/TF linked with transnational crimes and criminal organisations.

Prior to the 2012 NRA some agencies undertook threat and vulnerability assessments on specific topics, including some at the national level. Malaysia's understanding of ML/TF risks has improved substantially since it started the process of systematic assessments, which culminated in a NRA in December 2012, and an expanded NRA in December 2013. The last NRA indicates that the country is exposed to a range of ML risk associated with high threat areas including fraud, smuggling, illicit drugs, tax crimes and corruption. With the exception of TF and, to an extent organised crime, the NRA appropriately highlights the findings of these crime areas as priority risk areas for attention. Understanding the interconnectivity of risks, e.g. in relation to organised crime, corruption and domestic and foreign crimes appears to be limited requiring moderate improvements. For example, while corruption risk is rated as high, its linkages to other lower rated crimes (e.g. illegal logging) do not appear to have been sufficiently assessed and understood.

Terrorism and TF is considered as medium risk in the 2013 NRA, but in practice, the authorities consider it has high risk partly due to post NRA developments. Malaysia has faced a number of threats related to terrorist financing, including from Al Qaida, Jemaah Islamiya, the Liberation Tigers of Tamil Ealam (LTTE), Abu Sayef Group, and others. Recently significant threats related to the financing of ISIL recruits have emerged. Malaysia has porous national borders, rendering the country susceptible to the smuggling of cash and weapons and the relatively easy movement of people. Since 2004, some 156 Malaysians and a number of foreign nationals have been arrested in Malaysia for adherence to terrorist groups.

Malaysian authorities provided information on terrorism threats and the country's increasing vulnerability of being used as a source of TF or recruits for terrorist groups active in other countries, including ISIL. Malaysian officials estimated that in 2014 more than 75 Malaysians had joined or attempted to join ISIL. The authorities indicated that most of the cases detected so far involve low income, unsophisticated individuals but recent reported cases involve recruitment and financing operations using the internet. This suggests the emergence of more organized and sophisticated operations and that the understanding of this risk is still evolving in pace with TF methods. In November 2014, SB arrested those suspected of recruiting Malaysians via Facebook to send to Syria.

Malaysian authorities indicated that there is no evidence linking the proceeds of criminal activities such as kidnapping, extortion, robbery, smuggling, fraud and drug trafficking to terrorist groups, despite the prevalence of these activities in 'hot spots' associated with terrorism risks (Southern Philippines and Southern Thailand). There have been incidents of kidnapping in Malaysia's territory, i.e. Sabah, by the Abu Sayyaf group for ransom to further terrorism activities in their home country. Malaysia collaborates with the relevant regional authorities to share risk information to address these threats.

In the past, Malaysia, through its cooperation with international partners, has had the experience of investigating terrorist groups that have raised monies in support of their causes on a larger scale. Malaysia has identified fundraising through contributions made by terrorist group members through a collection of infaq2 of approximately 5% of monthly income in cash.

Malaysia has also focused on the use of the internet by terrorism-affiliated entities to channel logistical assistance to militant groups, recruitment, and funding terrorist activities. Between February 2013 and late 2014, SB has arrested 45 suspected militants of whom 22 have been charged, including three connected to Tandzim Al-Qaeda. The authorities contend that most of the cases detected so far involve low income unsophisticated individuals but recent reported cases involve recruitment and financing operations using the internet which suggests more organized and sophisticated operations.

Religious, charitable and political NPOs account for about 40% of NPOs and are considered a highrisk TF area in the NRA. The NRA indicates that a small proportion of NPOs account for the majority of international financial transactions and activities (approximately 1000 of a total of more than 47 000 NPOs) and that relatively few transactions are linked to high risk and conflict countries. NPO receipts during 2013 more than tripled far exceeding payments which had been steady during the previous 8 years. TF risk associated with this sector was rated as medium in the NRA. While awareness of TF risks in the NPO sector has been generally low in the past, oversight and risk mitigation have started to improve but is limited by resources. Outreach of TF has increased including through online portals and an annual conference. All of these factors point to a reducing but still high vulnerability for the NPO sector.

Malaysia has taken strong regulatory and enforcement measures to control the MSB sectors (remitters and money changers) in response to signifiicant risks, but unauthorized illicit MSBs continue to pose a significant vulnerability, including with respect to TF. Malaysia is a net outbound remitter of funds, with a large presence of migrant workers both legal and illegal. Strengthened controls, enforcement and other supervisory measures are resulting in significant increases in formal channels for remittance which should mitigate the level of risk posed by this sector.

Malaysia's highly cash-based economy (vulnerability rated as high) and significant informal economy (vulnerability rated as moderate) is considered by the NRA. The NRA indicated that terrorists have used cash couriers in Malaysia in the past including cross-border operations. Malaysia's states that its efforts to increase financial inclusion have reduced the size of the informal economy while national efforts to promote e-money are aimed at reducing the use of cash. The World Bank's Global Findex for 2014 shows that 81% (an increase from 66% in 2011) of the adult population had access to accounts in formal financial institutions.

Malaysia's assessments and understanding of risk, as well as the assessment team's discussions with RIs and LEAs, indicate that use of informal nominee and front or 'mule' accounts in Malaysia is a challenge for RIs across Malaysia. The mule accounts identified by Malaysian authorities mainly involve individual account holders rather than legal persons. Use of formal nominees is also a feature in the offshore corporate sector. The authorities and private sector recognize this vulnerability and enforcement measures have been taken against those identified as mule account holders.

Malaysia has a small but important offshore financial centre in Labuan, which was rated as medium risk in the NRA. The assessment and understanding of ML/TF risks associated with Labuan-based businesses is partly based on the size of the sectors and the absence of cash transactions. Nonetheless, since many of the services are not substantially asset-based (e.g. company, trust, foundation and related services), these factors may be insufficient to properly assess and understand their associated ML/TF vulnerabilities and risks.

Many of the FIs operating in Labuan are owned or controlled by onshore banks (considered high risk), and a large proportion of business (e.g. loans by offshore banks) are to Malaysian customers. The Labuan offshore sector has exposure to a number of high-risk jurisdictions. These institutional, commercial and cross-border linkages and the associated ML/TF risks do not appear to have been sufficiently assessed and understood, requiring moderate improvements in the assessment and understanding or risk.

Only one large casino has been licensed in the country and is the single non-financial sector vulnerability rated as high risk in the NRA. This rating was well supported and the inherent ML risks and vulnerabilities are well known. The casino offers a wide range of high-risk services (e.g. those associated with client account and transaction practices), has several cross-border subsidiaries, affiliates and customers (e.g. through junket operations). The risks arising from the casino's foreign operations have yet to be viewed on a consolidated basis.

Malaysia has a significant Islamic Finance sector involving banks, takaful (Islamic insurance) and other intermediaries which are subject to the same AML/CFT legal and regulatory regime as conventional and Islamic Finance institutions. Supervisors are of the view that, based on their supervisory experience, there are no material differences in risks when compared to conventional FIs (for example Islamic banks and non-Islamic bank are all rated as high-risk sectors). The NRA and other assessments considered ML and TF risks for all sectors of FIs and did not separately assess ML/TF risk and vulnerabilities in the Islamic Finance verse the conventional Finance sector as it did, for example, for the domestic and offshore sector.

The role of Zakat and its potential connection with charitable organisations (NPOs) was another area that has been considered by the authorities, although it was not discussed directly in the NRA. Malaysia has centralised and closely monitors systems for collection and disbursement of Zakat to mitigate risks in the sector.

Extract from 2014 Asia Pacific Group on Money Laundering Yearly Typologies Report:

Continuing Trends:

Continuing trends indicated by the Suspicious Transaction Reports (STRs) include the following:

Reports on internet/wire transfer scams are increasing, involving cross border transfer of funds:

• Foreigners or individuals associated with foreigners opening accounts in different/multiple banks;
• Multiple inward remittances received from various entities in different countries;
• Funds received were withdrawn in cash and via ATM at various locations immediately upon receipt, leaving low balances;
• Transactions made were not consistent with individual's profile.

Large and rapid movement of funds (transit accounts):

• Large value cheques and cash were deposited into bank account followed by immediate cash withdrawals;
• Funds transferred in and out of an account on the same day or within a relatively short period of time;
• Camouflaging movement of funds to third parties with cash withdrawals.

Unjustified banking transactions:

• Deposits are not justified considering the nature of business or profession;
• Deposits were inconsistent with the volume generated by the business;
• No economic rationale and/or bona fide purposes;
• Deposits were structured below the reporting requirement to avoid detection;
• Deposits at various branches and times for no logical reasons;

• Substantial inter-account transfer between related accounts;
• Multiple cash deposits into an account followed by a large transfer to other third parties account/countries.

US Department of State Money Laundering assessment (INCSR)

Malaysia is categorised by the US State Department as a Country/Jurisdiction of Primary Concern in respect of Money Laundering and Financial Crimes.

OVERVIEW

Malaysia is a highly open, upper-middle income economy with exposure to a range of money laundering threats. The country's porous land and sea borders, strategic geographic position, and well-developed financial system increase its vulnerability to domestic and transnational criminal activity, including fraud, corruption, drug trafficking, wildlife trafficking, smuggling, tax crimes and terrorism finance. Malaysia has largely up-to-date AML statutory instruments, well- developed policies, institutional arrangements, and implementation mechanisms. But while the country's AML framework is generally sound, it has produced minimal outcomes in terms of investigations and prosecutions, especially of foreign-sourced crimes. Based on Malaysia's high degree of technical compliance and its continuing progress in efforts to improve AML enforcement, Malaysia was granted full membership in the FATF in February 2016.

VULNERABILITIES AND EXPECTED TYPOLOGIES

Malaysia is primarily used as a transit country to transfer drugs originating from the southeastern Asian Golden Triangle to Europe. Drug trafficking by ethnic Chinese, Iranian, and Nigerian drug trafficking organizations is an important source of illegal proceeds. Malaysia is also a source, destination, and transit country for wildlife trafficking with some contraband (i.e., ivory) used as currency by the trafficking networks. Corruption has also emerged as a significant money laundering risk: state-owned development fund 1Malaysia Development Berhad (1MDB) faces credible allegations that billions of dollars were misappropriated from its accounts for political purposes or personal gain. It is the subject of several international probes, including investigations in Singapore, Switzerland, and the United States. Other predicate offenses generating illicit proceeds in Malaysia include fraud, criminal breach of trust, illegal gaming, credit card fraud, counterfeiting, robbery, forgery, human trafficking, and extortion. Financial fraud, including fake investment schemes and internet-based scams, pose a high money laundering risk. Smuggling of goods subject to high tariffs is another major source of illicit funds.

Malaysia has a large-scale cash and informal economy and a relatively small offshore sector on the island of Labuan, which is subject to the same AML laws as those governing onshore
financial service providers. The financial institutions operating in Labuan include both domestic and foreign banks and insurers. Offshore companies must be established through a trust company, which is required by law to establish true beneficial owners and submit

STRs.

There are issues in tax and customs duties evasion and outflow of funds through illegal remittances by money changers. Unauthorized illicit money service businesses continue to pose a significant vulnerability.

Free trade zones in Malaysia are divided into Free Industrial Zones (FIZ), where manufacturing and assembly takes place, and Free Commercial Zones (FCZ), generally for warehousing commercial stock. Currently there are 17 FIZs and 17 FCZs in Malaysia. Companies wishing to operate in a FIZ or FCZ must be licensed.

Casinos are licensed and regulated by the Ministry of Finance. Malaysia has one licensed casino, in operation for over 40 years, which the central bank, Bank Negara Malaysia, periodically assesses for compliance with the AML/CFT regulations.

Malaysia is a global leader in Islamic finance. The country's Islamic financial sector also is subject to the same AML legal and regulatory regime as conventional finance institutions. Malaysian regulators are of the view that, based on their supervisory experience, there are no material differences in risks when compared to conventional financial institutions. Malaysia's national risk assessment did not separately assess AML risks and vulnerabilities in the Islamic finance sector.

KEY AML LAWS AND REGULATIONS

Malaysia's Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 (AMLA) covers the money laundering offense, financial intelligence, reporting obligations, investigative powers, the confiscation regime, and the cross border declaration regime. Other laws supplement AMLA, such as the Dangerous Drugs (Forfeiture of Property) Act 1988 (DDFOPA), Malaysian Anti-Corruption Commission Act 2009 (MACCA) and the Criminal Procedure Code. Malaysia's AML regime includes comprehensive KYC and STR regulations.

Malaysia is a member of the APG and was granted full membership in the FATF in February 2016.

AML DEFICIENCIES

Malaysia has a high degree of technical compliance with international standards on combating money laundering, but there are several remaining deficiencies. Most notably, Malaysia has not effectively targeted high-risk offenses (other than fraud) or foreign-sourced threats in its prosecution of money laundering. Malaysia has preferred to pursue other criminal justice measures, particularly confiscation, rather than money laundering prosecutions. Additionally, the sanctions imposed for money laundering have been low and have not been demonstrated to be effective.

ENFORCEMENT/IMPLEMENTATION ISSUES

Malaysia has committed to an action plan for improving its effectiveness in several areas, including enhancing focus on investigation and prosecution of high-risk money laundering crimes and expanding the usage of formal international cooperation to mitigate risks. The FATF granted Malaysia full membership based on the commitment demonstrated by Malaysia on the action plan and its continuing progress in efforts to improve its AML regime.

Current Weaknesses in Government Legislation (2013 INCRS Comparative Tables):

According to the US State Department, Malaysia does not conform with regard to the following government legislation: -

Arrangements for Asset Sharing - By law, regulation or bilateral agreement, the jurisdiction permits sharing of seized assets with third party jurisdictions that assisted in the conduct of the underlying investigation.

EU White list of Equivalent Jurisdictions

Malaysia is not currently on the EU White list of Equivalent Jurisdictions

World Governance indicators

To view historic Governance Indicators Ctrl + Click here and then select country

Failed States Index

To view Failed States Index Ctrl + Click here

Offshore Financial Centre

Labuan, a federal territory of Malaysia, is considered to be an Offshore Financial Centre.

The Federal Territory of Labuan was declared an International Offshore Financial Centre in October 1990. Businesses receive preferential tax treatment for offshore banking activities, trust and fund management, offshore insurance and offshore insurance-related businesses, and offshore investment holding businesses conducted in Labuan. Islamic banks and takaful (Islamic insurance) operators regulated by the Labuan Financial Services Authority are given greater flexibility to open operation offices anywhere in Malaysia and are granted a tax exemption for international currency Islamic financial businesses. Islamic banks and takaful operators retain the favored tax treatment extended to offshore businesses in Labuan, 3% or RM 20,000 (approximately US$5,650), whether or not they maintain a physical presence in Labuan. This option is not available for conventional banks, which are required to maintain a physical presence in Labuan in order to retain the favorable tax treatment.

Reports

US State Dept Narcotics Report 2017 (introduction):

Malaysia is not a significant source country or transit point for U.S.-bound illegal drugs. Nevertheless, trafficking through Malaysia to supply regional markets continues and transnational criminal organizations are attempting to expand crystal methamphetamine production within the country. Drugs smuggled into Malaysia from Thailand, Burma and Laos include marijuana, heroin, and amphetamine-type stimulants. Synthetic drugs originating from Iran, Nigeria and India are also trafficked through Laos including MDMA (ecstasy), nimetazepam (a diverted pharmaceutical drug), and crystal methamphetamine. Nigerian and Iranian traffickers use Kuala Lumpur as a hub, and have used commercial courier services to ship drugs into and from Malaysia. There is no notable cultivation of illicit drug crops in Malaysia and local demand and consumption for illicit drugs is limited.

Malaysian law stipulates a mandatory death penalty for drug trafficking. Harsh mandatory sentences are also enforced for drug possession and recreational use. Drug trafficking cases increased from 3,044 in 2014 to 3,235 cases in 2015. The number of other drug arrests increased from 4,888 to 5,324 over the same period. According to local media, 482 Iranians and 798 Nigerians were detained in 2015 for drug offenses in Malaysia; more than 400 of the detained Nigerians were in Malaysia on student visas. Between 2012 and 2015, approximately 185 Malaysian women were detained in Brazil and Venezuela for acting as drug couriers for transnational drug trafficking networks.

Major traffickers are sometimes arrested and held in preventive detention when there is insufficient evidence to prosecute. In some cases, subjects charged with trafficking may have charges reduced to a lesser offense, or have the sentence commuted upon appeal. The National Anti-Drugs Agency and the Narcotics Crimes Investigation Department, including 199 officers in the Special Tactical Intelligence Narcotics Group, comprise Malaysia’s counternarcotics enforcement capacity.

With U.S. support, Malaysia is engaged in a long-term process to further professionalize substance use treatment staff in the country through the Colombo Plan’s International Centre for Certification and Education of Addiction Professionals. The U.S. Coast Guard continued its maritime law enforcement training program with the Malaysian Maritime Enforcement Agency in 2016. Malaysia has bilateral extradition and mutual legal assistance treaties with the United States. In 2017, the United States will seek to promote further coordination between Malaysian and U.S. law enforcement authorities, including joint interdiction efforts, information sharing, and training to further improve Malaysia's investigative and prosecutorial capacity.

US State Dept Trafficking in Persons Report 2014 (introduction):

Malaysia is classified a Tier 3 country - A country whose governments does not comply with the Trafficking Victims Protection Act’s minimum standards.

Malaysia (Tier 3*) is a destination and, to a lesser extent, a source and transit country for men, women, and children subjected to forced labor and women and children subjected to sex trafficking. The overwhelming majority of trafficking victims are among the estimated two million documented and two million or more undocumented foreign workers in Malaysia. Foreign workers typically migrate willingly to Malaysia from other countries in Asia—primarily Indonesia, Bangladesh, the Philippines, Nepal, Burma, Cambodia, Vietnam, India, Thailand, and Laos—in search of greater economic opportunities. Some of the migrants subsequently encounter forced labor or debt bondage at the hands of their employers, employment agents, or informal labor recruiters. Many Malaysian recruitment companies, known as "outsourcing companies," recruit workers from foreign countries. Contractor-based labor arrangements of this type—in which the worker may technically be employed by the recruiting company—create vulnerabilities for workers whose day-to-day employers generally are without legal responsibility for exploitative practices. In some cases, foreign workers' vulnerability to exploitation is heightened when employers neglect to obtain proper documentation for workers or employ workers in sectors other than that for which they were granted an employment visa. In addition, a complex system of recruitment and contracting fees, often deducted from workers' wages, makes workers vulnerable to debt bondage. A Malaysian government policy implemented in January 2013 that places the burden of paying immigration and employment authorization fees on foreign workers, rather than the employers, increased this risk.

A significant number of young foreign women are recruited ostensibly for legal work in Malaysian restaurants, hotels, and beauty salons, but are subsequently coerced into the commercial sex trade. Some Vietnamese women and girls enter into brokered marriages in Malaysia and are subsequently forced into prostitution. NGOs report Ugandan, Somali, and Ethiopian women are fraudulently recruited to Malaysia for ostensibly legitimate work, but subsequently forced into prostitution. Victims from Nigeria and Rwanda have also been identified. Malaysian authorities report that large organized crime syndicates are responsible for some instances of trafficking.

Many migrant workers on agricultural plantations, at construction sites, in textile factories, and in homes as domestic workers throughout Malaysia are exploited and subjected to practices indicative of forced labor, such as restrictions on movement, deceit and fraud in wages, passport confiscation, and imposition of significant debts by recruitment agents or employers. Some victims of forced labor in Malaysian waters, including Cambodian and Burmese men on Thai fishing boats, reportedly escape in Malaysian territory. NGOs have reported allegations that workers on palm oil plantations are subjected to forced labor. Passport confiscation and contract violations remain widespread, particularly among Malaysia's estimated 380,000 foreign domestic workers. Some Malaysian employers reportedly withheld three to nine months' wages from foreign domestic workers in order to recoup recruitment agency fees and other debt bonds. The Government of Cambodia officially prohibits its nationals from traveling to Malaysia for domestic work; however, some women continue to enter the country using tourist visas to engage in domestic work, and some who arrived prior to the imposition of the ban have been subjected to domestic servitude. Indonesian victims may transit through Malaysia en route to Middle Eastern countries—to circumvent anti-trafficking protections put in place by the Indonesian government—where they become victims of domestic servitude.

Refugees in Malaysia lack formal status or the ability to obtain work permits under Malaysian law, making them vulnerable to trafficking. Many incur large smuggling debts; traffickers use these debts to subject some refugees to debt bondage. UNHCR estimates 80,000 Filipino Muslims without legal status, including 10,000 children, reside in Sabah. Some children from refugee communities are reportedly subjected to forced begging. Stateless persons in Sabah—some of whom are unaccompanied children of Filipino and Indonesian migrant workers who have been deported—as well as refugees in this region are vulnerable to forced child labor and debt bondage. A small number of Malaysian citizens are subjected to trafficking internally and have been subjected to trafficking in Australia, China, France, Japan, Singapore, Solomon Islands, South Africa, and the United Kingdom for commercial sexual exploitation. One NGO observed an increase in the number of Malaysian women who were subjected to sex trafficking overseas during the year.

The Government of Malaysia does not fully comply with the minimum standards for the elimination of trafficking. In the 2012 and 2013 Trafficking in Persons Reports, Malaysia was granted consecutive waivers from an otherwise required downgrade to Tier 3 on the basis of a written plan to bring itself into compliance with the minimum standards for the elimination of trafficking. The Trafficking Victims Protection Authorization Act (TVPA) authorizes a maximum of two consecutive waivers. A waiver is no longer available to Malaysia, which is therefore deemed not to be making significant efforts to comply with the minimum standards and is placed on Tier 3.

During the reporting period, the government made limited efforts to improve its flawed victim protection regime. Malaysian authorities continued to detain trafficking victims in government facilities for periods of time that sometimes exceeded a year; victims had limited freedom of movement and were not allowed to work outside the facilities. The government provided minimal basic services to those staying in its shelters; NGOs—with no financial support from the government—provided the majority of rehabilitation and counseling services. During the reporting period, the government identified two NGOs to operate a new shelter for trafficking victims and allocated funds to support the shelter, but the shelter had not opened by the end of the reporting period; authorities reported the shelter will be operational later in 2014. The government identified 650 potential victims in 2013—significantly fewer than the 1,096 potential victims identified in 2012. It reported fewer investigations (89 compared to 190) and fewer convictions (nine compared to 21) compared to the previous year. Prosecutors reported little interaction with law enforcement during the investigation process and were often unfamiliar with victims' accounts prior to when they appeared as witnesses for the prosecution. In November 2013, the government implemented standard operating procedures for the investigation and prosecution of trafficking offenses. The government announced plans to enable certain foreign labor trafficking victims to seek work while living in shelters; this policy had not taken effect at the end of the reporting period.

US State Dept Terrorism Report 2015

Overview: Malaysia's counterterrorism efforts in 2015 continued to focus on mitigating the threat of the Islamic State of Iraq and the Levant (ISIL) and foreign terrorist fighters, including by passing and implementing new legislation and continued law enforcement activity. Prime

Minister Najib announced at the September Leader's Summit on Countering ISIL and Violent Extremism hosted by President Obama in New York that Malaysia was part of the Global Coalition to Counter ISIL. Malaysian authorities arrested approximately 90 suspected ISIL supporters and other terrorists in 2015 and convicted at least 13 in court. The Malaysian government identified 72 Malaysians, including 14 women, who have joined ISIL, 51 of whom were armed fighters. By the end of the year, Malaysian authorities had identified a total of 14 Malaysians killed fighting with ISIL, and seven of whom had returned to Malaysia.

Malaysia continued to strengthen its counterterrorism cooperation with the United States. President Obama returned to Malaysia in November for the East Asia Summit and related meetings. During his visit, President Obama committed the United States to support the Malaysian government in developing a regional messaging center to counter terrorist propaganda.

Deputy Prime Minister/Home Minister Zahid visited Washington in October, when he and Secretary of State Kerry signed a terrorist watchlist-sharing arrangement, pursuant to Homeland Security Presidential Directive-6. The agreement provides a foundation for a long-term, comprehensive, and systematic exchange of information on known and suspected terrorists, and will allow Malaysian authorities to screen individuals against U.S. watchlists. A team from the U.S. Terrorist Screening Center visited Kuala Lumpur in December to establish with Malaysian authorities technical steps for implementing the agreement. In November, Malaysia and the United States signed a similar information sharing agreement focused on serious crime, called the Preventing and Combatting Serious Crime (PCSC) Agreement. The PCSC agreement provides for automated checks and exchanges of biometric information on serious criminals.

Malaysia sometimes used national security and counterterrorism arguments to delegitimize some social groups and political activities. For example, high-level officials from the ruling coalition have publicly stated that ISIL and G25, a pro-reform Islamic NGO composed of retired senior civil servants, were the two most pressing threats to Malaysian security.

2015 Terrorist Incidents: In May, Militants allegedly from the Philippines and linked to the Abu Sayyaf Group (ASG) kidnapped two Malaysians from a restaurant in Sandakan, eastern Sabah, Malaysia. ASG terrorists on the southern Philippine island of Jolo reportedly released one of the victims in November following a ransom payment. Several days later, however, the other victim was beheaded, reportedly due to a dispute between the kidnappers over the ransom payment.

Legislation, Law Enforcement, and Border Security: In April, Malaysia's Parliament passed two new counterterrorism laws and amended previous legislation, providing authorities with greater legal tools against foreign terrorist fighters and other terrorist supporters. The Special Measures Against Terrorism in Foreign Countries Bill enables authorities to suspend or revoke Malaysian travel documents for individuals suspected of planning to leave the country to engage in terrorist acts. The new laws passed with limited public debate granting broad new powers to the Prime Minister.

Amendments to the Penal Code criminalized the receipt of terrorist training, the preparation of terrorist acts, and possession of items (such as books and promotional materials) associated with terrorist groups. The amendments also ban travel to, through, or from Malaysia to engage in terrorism, criminalize the use of social media to promote terrorism, and expand the definition of "support to terrorist groups."

While most of the legislative changes passed in 2015 are consistent with a rule-of-law approach to counterterrorism, the U.S. government and other observers, including the Malaysian Bar Council, raised concerns that the Prevention of Terrorism Act (POTA) and amendments to the Prevention of Crime Act (POCA) reinstate preventive detention without trial and could be used against political opponents of the government. POTA covers the commission or support of terrorist acts outside of Malaysia, whereas the POCA amendments expand preventive detention authority to broader criminal activity. Fueling these concerns, in September, Malaysian authorities detained under the Security Offenses (Special Measures) Act (SOSMA) authority a former ruling party politician who had been critical of the government. In early October, police detained his lawyer, also under SOSMA authority. Both were detained for the maximum 28 days allowed by the law, and were subsequently charged under Chapter VI, Section 124L for "attempt to commit sabotage."

In early December, the Malaysian Parliament passed the National Security Council Act, which gives the Prime Minister unchecked authority to wield martial-law-like powers in any part of the country designated by the Prime Minister as a "security area." Similar powers are defined by the Malaysian constitution, but were previously reserved to the king.

The Royal Malaysian Police Special Branch Counterterrorism Unit has the lead counterterrorism law enforcement role. Malaysian authorities continued to improve interagency cooperation and information sharing, including participation in regional meetings, Global Counterterrorism Forum (GCTF) events, and training conducted through Malaysia's Southeast Asia Regional Centre for Counter-Terrorism (SEARCCT), which is part of Malaysia's Ministry of Foreign Affairs.

Most of Malaysia's terrorism-related arrests in 2015 were under SOSMA and penal code chapters VI (Offenses Against the State) and VIa (Offenses Relating to Terrorism).

Malaysia convicted at least 13 ISIL supporters in 2015, all of whom pled guilty in return for reduced sentences. Those convicted included a father and son sentenced to 18 years and 12 years respectively for plotting attacks in Malaysia; several individuals sentenced to two years following their arrest at Kuala Lumpur International Airport on their way to join ISIL in Syria, including a woman who planned to marry an ISIL fighter she had met online; a 55-year-old mother of a deceased ISIL fighter sentenced to two years for using Facebook to promote terrorism; and two military personnel sentenced to seven and nine months in prison for possessing an image of an ISIL flag on their cell phones.

In October, at the request of the U.S. government, Malaysian police arrested Ardit Ferizi, a 20-year-old computer hacker from Kosovo who had provided ISIL with personal information of more than 1,300 U.S. government employees. Ferizi's extradition to the United States was pending as of early December.

In April, the trial began for al-Qa'ida operative Yazid Sufaat and accomplice Muhammad Hilmi Hasim, and remained underway at year's end. Sufaat and Hasim were arrested in 2013 for recruiting Malaysians to fight in Syria and are charged with inciting or promoting the commission of terrorist acts under Malaysia's penal code, and membership of a terrorist organization. Sufaat's other accomplice, Halimah Hussein, remained at large at year's end.

The trial of 30 suspects – 27 Philippine nationals and three Malaysians – involved in the February 2013 Lahad Datu incursion, began in January 2014 and remained ongoing at the end of 2015. The suspects were on trial under SOSMA for harboring terrorists, membership of a terrorist group, recruiting terrorists, and waging war against the king.

Iranian citizen, and suspected member of Iran's Revolutionary Guard Corps, Masoud Sedaghatzadeh, arrested in Malaysia in February 2012 after failed attempted bombings in Bangkok, remained in Malaysian custody. A Malaysian court had ordered Sedaghatzadeh's extradition to Thailand in 2012, but his appeal remained pending at year's end.

With U.S. assistance, the Royal Malaysian Police and Immigration Department took steps to provide immigration authorities with direct access to INTERPOL databases. Also with assistance from the United States, Malaysia began near-daily reporting to INTERPOL of stolen and lost travel documents. Malaysia has a no-fly list, but passengers are compared to that list by the immigration officer at the port of entry and the decision to deny entry is made at the airport.

In 2015, Malaysia made notable progress implementing UN Security Council Resolution 2178 by passing new legislation, increasing information sharing with international partners, strengthening efforts to halt the flow of foreign terrorist fighters, engaging with civil society and local communities, and promoting non-violent avenues for conflict prevention, such as the creation of MyCorps, a Malaysian version of the Peace Corps.

The Malaysian government enforced a maritime curfew along the eastern coast of Sabah, in response to the continued threat of kidnapping for ransom and other transnational threats. In September, Malaysia's Deputy Prime Minister/Home Minister announced plans to establish a new Border Security Agency, which would include police, customs, and immigration officials. As of year's end, that agency had not yet been created.

Malaysia continued to participate in the Department of State's Antiterrorism Assistance program, with programs focused on strengthening law enforcement capacity to secure Malaysia's borders from terrorist transit.

In 2015, the U.S. Department of State launched in Malaysia a regional maritime law enforcement initiative, which includes Indonesia, the Philippines, and Vietnam. The Department of State's Export Controls and Related Border Security Program conducted capacity-building activities for customs, police, immigration, the Attorney General's Chamber, coast guard, and strategic trade officials. Malaysia participated in the Container Security and Megaports Initiatives, as well as the UN Office on Drugs and Crime's Container Control Program.

Countering the Financing of Terrorism: Malaysia became a member of the Financial Action Task Force (FATF) in 2015, and is a member of the Asia/Pacific Group on Money Laundering, a FATF-style regional body. Malaysia's financial intelligence unit (the Unit Perisikan Kewangan, Bank Negara Malaysia) is a member of the Egmont Group. In September 2015, FATF published its Mutual Evaluation Report on Malaysia's anti-money laundering/countering the financing of terrorism (AML/CFT) measures. The report praised Malaysia's robust policy framework, strong political commitment and well-functioning coordination structures for AML/CFT, although it underscored the need for Malaysia to improve its understanding of terrorist finance risk.

Malaysia has a well-developed AML/CFT framework, and a capable Financial Intelligence and Enforcement Unit within the Bank Negara Malaysia, the central bank of Malaysia. While terrorism financing was not considered a high risk in Malaysia's most recent National Risk Assessment (NRA), the continued influence of ISIL suggests that threat may be increasing: in particular, a small but growing number of "self-financed" terrorists have sought to raise funds through family, friends, and the internet to support their travel to fight with ISIL. Understanding of ISIL-related financing risks evolved in 2015, and Malaysia plans to update its most recent NRA to include further assessment of terrorist finance risks.

Malaysia has not prosecuted any terrorist finance cases to date, although it has commenced 40 terrorist finance investigations since 2010, with 22 ongoing at year's end. All 12 of the cases opened since 2014 related to ISIL.

Malaysia has implemented sanctions in accordance with relevant UNSCRs, including designating domestic and foreign entities under UNSCR 1373 and co-sponsoring designations and freezing assets of individuals and entities on the UN 1267/1989/2253 ISIL (Da'esh) and al-Qa'ida sanctions regime. The 2014 amendments to the Anti-Money Laundering and Anti-Terrorist Financing Act provide for automatic translation of UN designations into designations under Malaysian law and direct reference to the lists maintained by the UN. Malaysia routinely distributed lists of terrorist designations and freezing obligations to financial institutions.

The use of informal remittances created vulnerability for abuse by terrorist financiers. Malaysia has undertaken strong regulatory and enforcement action against unauthorized money services businesses that operate in the informal economy. Strengthened controls, enforcement and other supervisory measures have boosted the use of formal remittance channels, although risks from unauthorized money services businesses remain.

Malaysia requires Know Your Customer (KYC) data for a wide range of entities, and requires financial institutions to promptly report transactions suspected to involve proceeds of any unlawful activity via Suspicious Transaction Reports (STRs). Malaysia does not oblige non-profit organizations to file STRs, but they are required to file annual financial reports to the Registrar of Societies (ROS), which may file such reports. Law enforcement works with the ROS and other charity regulators to prevent misuse and terrorism financing in the NPO sector, especially in vulnerable areas like religious or charitable NPOs. The ROS also conducts an annual conference for its members on the risks of terrorism financing.

Countering Violent Extremism: Senior Malaysian officials actively participated in the White House Summit on Countering Violent Extremism (CVE) in February and related events held throughout the year. Prime Minister Najib announced Malaysia's plans to develop a counterterrorism messaging center at the September Leader's Summit on Countering ISIL and Violent Extremism hosted by President Obama in New York. Following that announcement, the U.S. Department of State worked closely with the government to develop a concept for the center. The Home Affairs Minister also actively engaged in CVE efforts, including through his participation at the CVE Summit held in Sydney, Australia, in June.

SEARCCT conducted several regional programs on countering violent extremism. The Global Movement of Moderates (GMM), a Malaysian-based organization founded by Prime Minister Najib, conducted several CVE programs, including a public forum on youth and terrorism. In May, with support from the U.S. Department of Justice Resident Legal Advisor, GMM organized a workshop in partnership with Google to develop the capacity of civil society, including bloggers, academics, students, journalists, and community activists to develop credible online campaigns to counter terrorist propaganda.

International and Regional Cooperation: As the 2015 chair of ASEAN, Malaysia convened multiple multilateral events focused on strengthening international cooperation on counterterrorism and CVE. In March, the Minister of Defense hosted the ASEAN Defense Ministers Ministerial in Langkawi, resulting in a joint declaration committing to greater regional cooperation to counter the ISIL threat. Also in March, SEARCCT hosted an ASEAN Regional Forum workshop on counter-radicalization. Deputy Prime Minister Zahid participated in the UNSC Ministerial Meeting on Foreign Terrorist Fighters in May. In September, the Deputy Prime Minister hosted in Kuala Lumpur a Special ASEAN Meeting on the Rise of Radicalization and Violent Extremism. At the East Asia Summit held in Kuala Lumpur in November, Malaysia co-sponsored with Australia a statement on CVE and sponsored a statement on the Global Movement of Moderates.

SEARCCT hosted 18 training events in 2015, including seminars on crisis management, terrorist finance, and transportation security. Malaysian officials participated in several Global Counterterrorism Forum events, including a workshop on border security and a plenary session on the detention and reintegration of terrorist prisoners.

International Sanctions

None applicable

Bribery & Corruption

Index	Rating (100-Good / 0-Bad)
Transparency International Corruption Index	49
World Governance Indicator – Control of Corruption	66

US State Department

Malaysia ranked in 53rd place in Transparency International's Corruption Perception Index in 2013 (the lower the ranking, the less perceived corruption). The Malaysian government has taken steps to address corruption, including through the establishment of the Malaysian Anti-Corruption Commission (MACC) in 2008, passage of legislation to make judicial appointments more transparent (the Judicial Appointments Commission Act) also in 2008, passage of a Whistleblower Protection Act in 2010, the introduction of procurement reforms and the launch of government initiatives to target corrupt practices. The Malaysian government considers bribery a criminal act and does not permit bribes to be deducted from taxes. Malaysia's anti-corruption law includes the criminal offense of bribery of foreign public officials, permits the prosecution of Malaysians for offense committed overseas, and also provides for the seizure of properties.

Critics have questioned the MACC's ability to effectively address high-level corruption, although a number of prosecutions are ongoing The MACC conducts investigations but prosecutorial discretion remains with the Attorney General. A lack of capacity and technical skills in some areas hampers MACC's overall effectiveness. The MACC introduced a public database of those convicted of corruption offenses. There is no systematic public disclosure of assets by senior officials. Critics also note that the Whistleblower Act does not protect those who disclose allegations to the media.

Government officials cite a four point approach to reducing corruption in government procurement, a key area of focus: increasing the number and decreasing the size of government procurement contract subject to open tenders, introducing the Transparency International "Integrity Pact" concept to be signed by all vendors that they understand bidding rules and anti-corruption laws prior to engaging in contract negotiations, issuing rules against Ministerial "referral letters" recommending specific contractors for government contracts, and fully implementing the new Whistleblower Act.

Corruption and Government Transparency - Report by Global Security

Political Climate

The United Malays National Organisation (UMNO) is the current ruling party in Malaysia with Prime Minister Najib Razak as the head of government. The UMNO remained in power with a majority of seats won during the 2013 general elections. In February 2013, Prime Minister Najib Razak signed the Transparency International Malaysia Integrity Pledge in order to ensure that the general elections would be free and fair, as reported by a February 2013 article by FMT News. Nevertheless, an April 2013 article by Yahoo News notes that the prime minister broke his integrity pledge as he abused his power by giving out money and gifts during the election period.

In an attempt to leave a legacy of reform, ex-Prime Minister Badawi and the government put forward an Anti-Corruption Bill, which was enacted in late 2008 and replaced the old Anti-Corruption Agency (ACA) with the new Malaysian Anti-Corruption Commission (MACC). Under the current Najib administration, anti-corruption has been a key policy component. For example, in 2010, it enacted a Whistleblower Protection Act aiming to protect anyone who discloses information on fraud and corruption. In the same year, a Government Transformation Programme (GTP) was unveiled, which according to the US Department of State 2013, has fighting corruption among its primary goals. Still, however, due to a number of corruption cases involving members at the highest levels of government, critics and the public have long questioned the actual political will in Malaysia to tackle corruption. For example, according to several news sources, such as a 2009 news article by The Wall Street Journal, Badawi and his successor, current Prime Minister Najib Razak, have also been tied to corruption scandals, including dubious defence contracts and charges of alleged abuse of power by respected UMNO party members for using government funds to bribe UMNO members in a bid to sustain their positions in the party. These charges have added fuel to on-going criticism of the BN coalition.

According to the Merdeka Centre for Opinion Research's Peninsular Malaysia Voters Opinion Poll Quarter 4/2013, 46% of household respondents think that the fight against corruption requires the Malaysian government’s attention the most, followed by improvement of the police and security services and reduction of inflation. This is further emphasised by Transparency International's Global Corruption Barometer 2010-2011, in which it reveals that 20% of household respondents perceive the government's efforts in the fight against corruption as ‘ineffective,’ and that 46% of the households perceive that the level of corruption in Malaysia has increased over the past 3 years. The same 2010-2011 survey also reveals that almost half of the respondents have paid a bribe in the last 12 months and that the Malaysian political parties are perceived to be highly affected by corruption. In addition, nearly three quarters of the responding households perceive political parties as ‘extremely corrupt’.

Business and Corruption

Problems with corruption is discouraging international investors from starting businesses in Malaysia and international donors' influence in this policy field is limited, according to the Bertelsmann Foundation's 2010 and 2012 reports. There is widespread corruption among the country's political and business elite, whose close connections are often known as ‘money politics'. The number of high-profile corruption cases, growing political instability, the government’s inability to control inflation, an increasing budget deficit, and declining macroeconomic performance have raised concerns among foreign investors about doing business in Malaysia. According to Transparency International's Global Corruption Report 2009, a study conducted by the World Bank estimates that corruption costs the government approximately MYR 10 billion annually, equivalent to 1-2% of Malaysia's annual GDP. Another significant impediment to the economic growth of the country is the complex network of ethnic preferences to promote the acquisition of economic assets and government contracts by the bumiputera (all ethnic Malays and other Malaysian indigenous peoples), as reported by the US Department of State 2013.

Some prosperous Malaysian companies owe their growth to the preferential treatment they receive from the ruling party, if not outright ownership by political figures. Furthermore, well-connected companies are rarely targeted in anti-corruption cases. This is reflected in Asia Foundation's Malaysia Business Environment Index 2012, where a majority of the surveyed SMEs perceive connections to government officials and support from political parties important factors for winning government contracts. According to the business executives surveyed in the World Economic Forum's Global Competitiveness Report 2012-2013, the level of unethical behaviour of companies in Malaysia constitutes a competitive disadvantage for doing business, as do both the diversion of public funds to companies, individuals or groups due to corruption; and the likelihood of government officials to favour well-connected companies and individuals when deciding on policies and contracts. Furthermore, the Bertelsmann Foundation 2012 reports that all smaller government contacts are only open to bumiputera-owned companies. The US Department of State 2013 also reports that for most of the public procurements, major infrastructure projects in particular, foreign companies are only allowed to participate if they take on a local partner. Companies should note that the government procurement process is not transparent and lacks competitive bidding. There are cases where huge infrastructure projects have been awarded without open tendering (see 'Public Procurement and Contracting' in the Corruption Levels section). Companies are recommended to use a specialised public procurement due diligence tool in order to mitigate corruption risks involving procurement in Malaysia.

According to Transparency International's Bribery Survey 2011, 50% of the surveyed companies have lost business or procurement contracts due to competitor corruption. Nevertheless, in recent years, both business organisations and the government have introduced corporate codes of conduct to address anti-corruption issues. One example of such an initiative was the introduction of the Corporate Integrity Pledge in 2011, the result of collaboration between several bodies, including the Malaysian Anti-Corruption Commission (MACC), the Prime Minister's Office and the Performance Management and Delivery Unit (PEMANDU). By voluntarily signing the Pledge to adhere to Anti-Corruption Principles, companies commit to a long-term programme to establish an effective system and to increase integrity in the Malaysian corporate sector. As of April 2013, 150 companies including Siemens Malaysia Sdn Bhd have signed the pledge since its implementation in 2011, and more companies are expected to join the effort, as reported by Transparency International. Companies should be aware of the corruption risks and legal liabilities associated with joint ventures and the use of agents, and are strongly advised to develop, implement and strengthen integrity systems, and to conduct extensive due diligence when planning to invest in Malaysia.

Regulatory Environment

Malaysia's regulatory environment changes frequently based on the relationship between pressures on the government to expand affirmative action policies to provide the bumiputera with more extensive benefits, and pressures from the private sector and other actors to liberalise the economy and reduce regulatory hurdles. The government has not only struggled to reduce corruption, but also to sustain its campaign to cut back on extensive red tape, which is particularly prevalent in relation to licensing. However, the

Malaysian government has taken some steps to improve its business environment, click here for more information on the major improvements in 2011. According to the US Department of State 2013, the Ministerial Functions Act grants relevant ministries broad discretionary powers over the approval of specific investment projects. The details of the government's affirmative action policy implementation are left to the discretion of various line ministries. Policies and practices vary greatly. Some practices are explicit while others are informal, leaving much ambiguity for potential investors. According to the same source, one of the government's racial preference policies is a requirement that foreign and domestic non-manufacturing companies take on bumiputera partners with a minimum of 30% of share capital. Investors in industries prioritised by the government can often negotiate favourable terms with the relevant ministry or regulatory body. This can include assistance in navigating a complex web of regulations and policies, a few of which can be waived on a case-by-case basis. Despite general government encouragement of foreign investment, investors in non-targeted industries tend to receive less government assistance in obtaining the necessary approvals from regulatory bodies, and therefore face more bureaucratic obstacles

The government has recognised red tape as an obstacle to doing business and as a source for opportunities for corruption to occur. According to business executives surveyed by the World Economic Forum in the Global Competitiveness Report 2012-2013, complying with government administrative requirements (e.g. permits, regulations, reporting) is easy enough to constitute a competitive advantage for Malaysia. The government has relaxed regulations on property investments by foreign investors and has released a guidebook on registering property. The Bertelsmann Foundation 2012 reports that property ownership rights and the regulation of property acquisition are generally well defined. Another recent change has enabled companies to renew their business premise licences at any time during the year instead of year-end re-registration, and the validity of the licence has been extended from one to three years. The World Bank & IFC's Doing Business 2013 supports these positive changes and states that the overall regulatory environment in Malaysia has been significantly improved in recent years. The government has facilitated business start-up by introducing more online services. Now, starting a business in Malaysia requires a company to go through 3 procedures and takes 6 days with no minimum capital requirement.

Malaysia's secular legal system is based on English common law. However, Muslims are subject to Sharia, and Article 121 of the constitution stipulates that all matters related to Islam should be dealt with within Sharia courts. According to Freedom House 2013, the interpretation of Sharia law varies regionally. Malaysia's regulatory environment frequently gives rise to commercial disputes. In addition, the judiciary is reportedly not independent and there have been several instances of selective prosecution, preferential treatment, and arbitrary or politically motivated verdicts. According to the US Department of State 2013, the domestic legal system is accessible, but generally requires any non-Malaysian citizen to make a large deposit before pursuing a case in the Malaysian courts. The courts can be slow and bureaucratic and take years to even address cases, which is why many companies choose to include mandatory arbitration clauses in their contracts. The government has set up the Kuala Lumpur Regional Centre for Arbitration, which is the only recognised centre for arbitration in Malaysia. Malaysia has signed and ratified the New York Convention 1958 as well as the Convention on the Settlement of Investment Disputes between States and Nationals of Other States, granting jurisdiction over investment disputes between the Government of Malaysia and non-Malaysian citizens to the International Centre for Settlement of Investment Disputes (ICSID). Access the Lexadin World Law Guide for a collection of legislation in Malaysia.

Section 3 - Economy

Malaysia, a middle-income country, has transformed itself since the 1970s from a producer of raw materials into an emerging multi-sector economy. Under current Prime Minister NAJIB, Malaysia is attempting to achieve high-income status by 2020 and to move farther up the value-added production chain by attracting investments in Islamic finance, high technology industries, biotechnology, and services. NAJIB's Economic Transformation Program (ETP) is a series of projects and policy measures intended to accelerate the country's economic growth. The government has also taken steps to liberalize some services sub-sectors. The NAJIB administration also is continuing efforts to boost domestic demand and reduce the economy's dependence on exports. Nevertheless, exports - particularly of electronics, oil and gas, palm oil and rubber - remain a significant driver of the economy. As an oil and gas exporter, Malaysia has profited from higher world energy prices, although the rising cost of domestic gasoline and diesel fuel, combined with sustained budget deficits, has forced Kuala Lumpur to begin to address fiscal shortfalls, through initial reductions in energy and sugar subsidies and the announcement of the 2015 implementation of a 6% goods and services tax. The government is also trying to lessen its dependence on state oil producer Petronas. The oil and gas sector supplies about 32% of government revenue in 2013. Bank Negara Malaysia (central bank) maintains healthy foreign exchange reserves, and a well-developed regulatory regime has limited Malaysia's exposure to riskier financial instruments and the global financial crisis. Nevertheless, Malaysia could be vulnerable to a fall in commodity prices or a general slowdown in global economic activity because exports are a major component of GDP. In order to attract increased investment, NAJIB earlier raised possible revisions to the special economic and social preferences accorded to ethnic Malays under the New Economic Policy of 1970, but retreated in 2013 after he encountered significant opposition from Malay nationalists and other vested interests. In September 2013 NAJIB launched the new Bumiputra Economic Empowerment Program (BEEP), policies that favor and advance the economic condition of ethnic Malays.

Agriculture - products:

Peninsular Malaysia - palm oil, rubber, cocoa, rice; Sabah - palm oil, subsistence crops; rubber, timber; Sarawak - palm oil, rubber, timber; pepper

Industries:

Peninsular Malaysia - rubber and oil palm processing and manufacturing, petroleum and natural gas, light manufacturing, pharmaceuticals, medical technology, electronics and semi-conductors, timber processing; Sabah - logging, petroleum and natural gas production; Sarawak - agriculture processing, petroleum and natural gas production, logging

Exports - commodities:

semiconductors and electronic equipment, palm oil, petroleum and liquefied natural gas, wood and wood products, palm oil, rubber, textiles, chemicals, solar panels

Exports - partners:

Singapore 13.6%, China 12.6%, Japan 11.8%, US 8.7%, Thailand 5.4%, Hong Kong 4.3%, India 4.2%, Australia 4.1% (2012)

Imports - commodities:

electronics, machinery, petroleum products, plastics, vehicles, iron and steel products, chemicals

Imports - partners:

China 15.1%, Singapore 13.3%, Japan 10.3%, US 8.1%, Thailand 6%, Indonesia 5.1%, South Korea 4.1% (2012)

Banking

The government took a number of measures to strengthen Malaysia's banking system following the regional financial crisis in mid-1997. Bank Negara (BNM) directed the merger of Malaysia's local banking institutions into ten anchor banks, which was completed in 2002. The government is promoting further mergers among the local banking institutions to ensure that they will be competitive with international banks. Presently, there are nine local banks in the country. Malaysia is trying to position itself as a leader in Islamic banking (based on Sharia law that disallows the payment of interest in favor of profit-sharing), launching the Malaysian International Islamic Financial Centre (MIFC) initiative in August 2006. The government has been encouraging local banks to enter the market and allowing foreign Islamic banks to operate in Malaysia. There are now two standalone domestic Islamic banks and all the nine local banks have Islamic banking subsidiaries. In addition, there are three foreign Islamic banks operating in the country, three local Islamic foreign banks (Islamic subsidiaries of foreign commercial banks), three international Islamic banks (which can only operate in foreign currencies) and two foreign banks operating “Islamic banking windows” here. Islamic banking now accounts for almost 20% of Malaysia’s total banking assets.

Islamic Banking Industry

Islamic banking is subject to the Islamic Banking Act 1983 (IBA), which provides for similar regulatory and supervisory frameworks and requirements as conventional banking. Malaysia is encouraging institutional development, enhancing the domestic financial infrastructure, strengthening the Shariah and legal infrastructure, and promoting greater international integration for the Islamic banking sector.

The Islamic Financial Services Board (IFSB) was established in Kuala Lumpur in 2002. The IFSB is an international standard setter body established to ensure the soundness and stability of Islamic financial services industry. Malaysia established the International Centre for Education in Islamic Finance in March 2006, specialising in developing professionals and specialists in Islamic Finance. In August 2006, Malaysia launched the Malaysia International Islamic Financial Centre (MIFC), which is a centre for the offering of Islamic financial products and services by a diversified range of financial institutions from anywhere in Malaysia in any currency to residents and non-residents.

Stock Exchange

The capital market institutions (stock exchanges, clearing houses, etc) and market intermediaries (securities dealers, brokers, etc) are regulated and supervised by the SC. The market institutions are Bursa Malaysia Berhad, the exchanges (Bursa Malaysia Securities Berhad and Bursa Malaysia Derivatives Berhad), the clearing houses (Bursa Malaysia Securities Clearing Sendirian Berhad and Bursa Malaysia Derivatives Clearing Berhad) and the central depository (Bursa Malaysia Depository Sendirian Berhad).

Section 4 - Investment Climate

Executive Summary

The Government of Malaysia in general strongly encourages foreign direct investment (FDI), although it maintains restrictions or limits on investment in some sectors. It actively reaches out to targeted industries and negotiates incentive packages to attract FDI. Malaysia provides a number of incentives, particularly in export-oriented high-tech industries and "back office" service operations. Prime Minister Najib Razak (Najib) has made generating new domestic and foreign investment a centerpiece of his economic reforms. Despite this, while FDI inflow continues to recover from the effects of the 2008-2009 global financial crises, Malaysia's performance in attracting FDI relative to both earlier decades and the rest of the Association of Southeast Asian Nations (ASEAN) has slowed.

According to a recent Organization for Economic Cooperation and Development (OECD) Investment Policy Review of Malaysia, FDI to Malaysia began to decline in 1992, and private investment overall started to slide in 1997 following the Asian financial crises. The OECD concludes that Malaysia's FDI levels are at record high levels in absolute terms, but at an all-time low as a percentage of GDP. Moreover, Malaysia's percentage of foreign direct investment into the ASEAN member states is now lower than its share of the group's GDP.

As a destination for FDI, Malaysia's attractiveness for lower-wage manufacturing has diminished as years of steady economic growth have increased average wage levels making Malaysia an upper middle-income country. The Malaysian Government seeks to move the economy further "up the value chain" to high income status by promoting investment in higher value added manufacturing and service sectors. The National Economic Advisory Council (NEAC), a blue ribbon panel of experts on Malaysia's economy, in 2010 issued two reports identifying shortcomings in Malaysia's investment climate and proposing policies necessary to improve Malaysia's competitiveness as a foreign investment destination and meet the country's goal of becoming a high-income economy by 2020.

Since then, the Najib administration has progressively introduced a series of initiatives, including the Economic Transformation Program (ETP) in 2010, focusing on policy measures to improve competitiveness and investment in 12 key economic areas to accelerate economic growth. Another initiative, the Government Transformation Program (GTP) addresses governance and quality of life issues, and aims to reduce corruption and crime, to improve education, urban public transport and rural basic infrastructure, and to reduce the number of low-income households. The Tenth Malaysia Plan (10MP) underpins these programs and guides public sector capital expenditures. The ETP identified 12 specific sectors in which the Malaysian government is encouraging foreign and domestic investment, including: electrical & electronics; medical devices; green energy, machinery & equipment; oil and gas, and transportation equipment. Also targeted for growth are a number of resource-based industries and some services sub-sectors including logistics, although the sectors are subject to foreign investment conditions or restrictions. The ETP announced in mid-2013 that that 86% of committed investments for projects in 2011 and 2012 had been realized.

The ETP can be found at: http://etp.pemandu.gov.my/

The GTP can be found at: http://www.pemandu.gov.my/gtp/

The 10MP can be found at http://www.epu.gov.my/en/tenth-malaysia-plan-10th-mp-

U.S. investors have a significant presence in the oil and gas sector, manufacturing, and financial services. U.S. firms with significant investment in Malaysia's petroleum and petrochemical sector include: ExxonMobil, Caltex, ConocoPhillips, Murphy Oil, Hess Oil, Halliburton, Dow Chemical and Eastman Chemicals. Major semiconductor manufacturers, including Freescale, Texas Instruments, Intel, and others have substantial operations in Malaysia, as do electronics manufacturers Western Digital, Honeywell, Komag, Agilent, and Motorola. In recent years Malaysia has attracted significant investment in the production of solar panels, including from U.S. firms. Virtually all major Japanese consumer electronics firms (Sony, Fuji, Panasonic, Matsushita, Hitachi, etc.) have facilities in Malaysia.

1. Openness to, and Restrictions Upon, Foreign Investment

Malaysia has one of the world's most trade-dependent economies with trade reaching 165% of annual GDP according to the World Trade Organization. The Malaysian government values foreign investment as a powerful force for the continued economic development of the country, but is hampered by restrictions in some sectors and an at times burdensome regulatory regime. However, the government continues to liberalize and in some cases remove investment restrictions.

In 2009, Malaysia removed its former Foreign Investment Committee (FIC) investment guidelines, enabling transactions for acquisitions of interests, mergers, and takeovers of local companies by domestic or foreign parties without FIC approval. While the FIC itself still exists, it now only reviews the purchase by foreigners of commercial properties valued greater than at RM20 million (approximately $6.5 million) from Bumiputras (ethnic Malays and other indigenous ethnicities in Malaysia).

The Ministerial Functions Act grants relevant ministries broad discretionary powers over the approval of specific investment projects. Investors in industries targeted by the Malaysian government often can negotiate favorable terms with ministries regulating the specific industry or other regulatory bodies. This can include assistance in navigating a complex web of regulations and policies, some of which can be waived on a case-by-case basis. Foreign investors in non-targeted industries tend to receive less government assistance in obtaining the necessary approvals from the various regulatory bodies and therefore can face greater bureaucratic obstacles.

In 2009 the government liberalized 27 service subsectors such as tourism and computer related businesses. In 2011, the government announced plans to liberalize an additional 17 services subsectors during 2012. So far, the government has liberalized 15 of these subsectors, allowing 100 % foreign equity participation in private hospital services, medical specialist clinics, department and specialty stores, telecommunications Application Service Providers (ASP), incineration services, accounting and taxation services, courier services, private universities, vocational schools, dental specialist services, skills training centers, international schools, and vocational schools for special needs. The Malaysian government added an 18th sub-sector of quantity surveyors services. Of the remaining subsectors, liberalizing architectural services, quantity surveying services and engineering services requires new legislation. Legislation that permits the opening of legal services was passed in 2012, but awaits the completion of implementing regulations.

Malaysia's new National Auto Policy (NAP), launched in February 2014 after being under review since 2011 provides modest opportunities in Malaysia's auto sector for foreign investment in an effort to transform the country into a regional hub for producing energy efficient vehicles. Previously, manufacturing licenses were only given to foreign manufacturers for the assembly of passenger vehicles of at least 1.8 liter engine capacity and priced at no less than 150,000 Malaysian ringgit (about U.S. $50,000). This odd investment barrier limiting domestic production has been used to protect the national car company Proton.

Under the new NAP, licenses to foreign manufacturers to assemble energy efficient vehicles in Malaysia will not contain engine size-capacity restrictions or include additional requirements such as local equity requirements or minimum export or production volumes. The new NAP also extends import duty and excise tax exemptions on locally assembled hybrid cars until December 31, 2015. Finally, the Government will provide customized incentives for energy efficient vehicle manufacturers. The new NAP has an expansive definition of energy efficient vehicles that is not limited to hybrid or electric vehicles. Vehicles in seven classes ranging from "micro-cars" to large 4X4 trucks can qualify as energy efficient vehicles if they meet specific category specific curb weight and fuel efficiency requirements.

Foreign Direct Investment Statistics

According to Malaysian central bank, Bank Negara Malaysia (BNM) Malaysia received approximately $34.3 billion in new actual FDI in 2013, down from about $36 billion in 2012. According to BNM, the United States was the fifth largest source of new FDI to Malaysia in 2013 with $2.8 billion in new investments. BNM reported Singapore as Malaysia's largest source of new FDI, with $5.2 billion in investments, followed by Japan with just under $4.8 billion, the Netherlands with $4.1 billion, and Hong Kong with $3.7 billion. BNM lists the United States as Malaysia's third largest source of cumulative investment stock, with $11.7 billion as of 2012. BNM claims Singapore is Malaysia's largest holder of investment stock with $23.9 billion, followed by Japan at $19 billion.

However, Malaysia's Trade Minister has repeatedly said the United States is both Malaysia's largest cumulative investor and provided the most new FDI in 2013. In fact, there is reason to believe both official U.S. and Malaysian statistics likely undercount the amount both new and total stock U.S. investment, possibly due to underreporting by firms, failure to include investments in services and the oil and gas sector, and improbably large amount of investments into Malaysia from tax havens such as Bermuda and the Cayman Islands (totaling over $2 billion in 2013). For example, while official U.S. statistics estimate cumulative U.S investment in Malaysia totals $15 billion, a 2005 survey by the American Malaysian Chamber of Commerce claimed this number was actually more than US $30 billion.

There are no statistics available for actual new FDI by sector. According to the Malaysian Investment Development Authority (MIDA), Malaysia received $72.16 billion in new approved FDI in 2013, up 29 percent from $55.9 billion in 2012. MIDA reports that new approved FDI in 2013 included about $10 billion in the manufacturing sector, $6.3 billion in the services sector, and $3.3 billion in the primary sector (mining, agriculture, commodities, and upstream oil and gas activities).

MIDA reports that approved U.S. FDI in Malaysia is led by the manufacturing, oil and gas, financial services and consumer products sectors. According to MIDA, the total stock of approved U.S. manufacturing FDI in Malaysia was approximately $14.37 billion from 2002 to

2013. Including FDI in the services and oil and gas sectors, would make total U.S. FDI significantly higher (perhaps more than $30 billion).

(Note: Approval statistics are not directly comparable to actual FDI statistics and can be found at www.mida.gov.my. Also, MIDA's manufacturing and services statistics, BNM's, do not capture investments in some downstream oil and gas activities.)

The Malaysia Investment Performance 2013 can be found at:
http://www.mida.gov.my/env3/uploads/PerformanceReport/2013/MediaStatement-2.pdf

http://www.mida.gov.my/env3/uploads/PerformanceReport/2013/IPR2013

2. Conversion and Transfer Policies

The Malaysian central bank states that Malaysia maintains liberal foreign exchange administration policies. A series of sequenced and progressive liberalization initiatives gradually relaxed controls on foreign direct investment flows, wages, dividends, interest, and rental income earned in Malaysia, to the point that capital now moves freely in and out of Malaysia.

The government continues to control the use of Malaysian Ringgit outside of Malaysia for settlement. However, there are no longer restrictions on resident companies with export earnings from paying in foreign currencies to another resident company for the purchase of goods and services. Foreign investors are allowed to buy or sell Malaysian Ringgit on a forward or spot basis with licensed onshore banks to facilitate the settlement of investments in Ringgit. In June 2011, Malaysian central bank Bank Negara Malaysia (BNM) removed limits on outbound investment, non-bank inter-company loans, and trade financing.

BNM manages a floating exchange rate against a trade-weighted basket of currencies. The exchange rate against the USD stood at 3.28 on December 31, 2013. All payments to other countries must be made through authorized foreign exchange dealers. Banks must record the amount and purpose of each cross-border transfer over RM 200,000 (approximately $58,000). More information on Malaysia's foreign exchange administration can be found at http://www.bnm.gov.my/index.php?ch=fea_adm&pg=fea_adm&lang=en

3. Expropriation and Compensation

The Embassy is not aware of any cases of uncompensated expropriation of U.S.-held assets by the Malaysian government. The government's stated policy is that all investors, both foreign and domestic, are entitled to fair compensation in the event that their private property is required for public purposes. Should the investor and the government disagree on the amount of compensation, the issue is then referred to the Malaysian judicial system.

4. Dispute Settlement

Malaysia has signed and ratified the Convention on the Settlement of Investment Disputes between States and Nationals of Other States. Malaysia became a Contracting State on October 14, 1966 when the Convention entered into force, granting jurisdiction over investment disputes between the Government of Malaysia and non-Malaysian citizens to the International Center for Settlement of Investment Disputes (ICSID).
https://icsid.worldbank.org/ICSID/Index.jsp

Malaysia also is a signatory to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards. The domestic legal system is accessible but generally requires any non-Malaysian citizen to make a large deposit before pursuing a case in the Malaysian courts (i.e., $100,000), and can be slow, bureaucratic, and is regarded by some observers as politically influenced.

Many firms choose to include mandatory arbitration clauses in their contracts. The government actively promotes use of the Kuala Lumpur Regional Center for Arbitration (http://www.rcakl.org.my), established under the auspices of the Asian-African Legal Consultative Committee to offer international arbitration, mediation, and conciliation for trade disputes. The KLRCA is the only recognized center for arbitration in Malaysia. Arbitration held in a foreign jurisdiction under the rules of the Convention on the Settlement of Investment Disputes between States and Nationals of Other States 1965 or under the United Nations Commission on International trade Law Arbitration Rules 1976 and the Rules of the Regional Centre for Arbitration at Kuala Lumpur can be enforceable in Malaysia.

5. Performance Requirements and Investment Incentives

Fiscal incentives granted to both foreign and domestic investors historically have been subject to performance requirements, usually in the form of export targets, local content requirements and technology transfer requirements. Performance requirements are usually written into the individual manufacturing licenses of local and foreign investors.

The Malaysian government extends a full tax exemption incentive of fifteen years for firms with "Pioneer Status" (companies promoting products or activities in industries or parts of Malaysia to which the government places a high priority), and ten years for companies with "Investment Tax Allowance" status (those on which the government places a priority, but not as high as Pioneer Status). However, the government appears to have some flexibility with respect to the expiry of these periods, and some firms reportedly have had their pioneer status renewed. Government priorities generally include the levels of value-added, technology used, and industrial linkages. If a firm (foreign or domestic) fails to meet the terms of its license, it risks losing any tax benefits it may have been awarded. Potentially, a firm could lose its manufacturing license. The New Economic Model stated that in the long term, the government intends gradually to eliminate most of the fiscal incentives now offered to foreign and domestic manufacturing investors. More information on specific incentives for various sectors can be found at www.mida.gov.my.

Malaysia also seeks to attract foreign investment in the information technology industry, particularly in the Multimedia Super Corridor (MSC), a government scheme to foster the growth of research, development, and other high technology activities in Malaysia. Foreign investors who obtain MSC status receive tax and regulatory exemptions as well as public service commitments in exchange for a commitment of substantial technology transfer. For further details on incentives, see www.mdec.my. The Multimedia Development Corporation (MDeC) approves all applications for MSC status.

In the services sector, the government's stated goal is to attract foreign investment in regional distribution centers, international procurement centers, operational headquarter research and development, university and graduate education, integrated market and logistics support services, cold chain facilities, central utility facilities, industrial training, and environmental management. To date, Malaysia has had some success in attracting regional distribution centers and local campuses of foreign universities. For example, GE maintains its regional offices for ASEAN in Malaysia, and Bose, Hershey, and Darden all invested in new regional manufacturing, R&D, and distribution centers in Malaysia in 2013. During 2011, the government facilitated partnerships between local partners and MIT to develop a graduate program in logistics management and with Johns Hopkins University to develop its first graduate medical school located outside the United States.

Malaysia seeks to attract foreign investment in biotechnology, but sends a mixed message on agricultural and food biotechnology. On July 8, 2010, the Malaysian Ministry of Health posted amendments to the Food Regulations 1985 [P.U. (A) 437/1985] that require strict mandatory labeling of food and food ingredients obtained through modern biotechnology. The amendments also included a requirement that no person shall import, prepare or advertise for sale, or sell any food or food ingredients obtained through modern biotechnology without the prior written approval of the Director. There is no 'threshold' level on the labeling requirement. Labeling of "GMO Free" or "Non-GMO" is not permitted. The labeling requirements only apply to foods and food ingredients obtained through modern biotechnology but not to food produced with GMO feed. The labeling regulation was originally scheduled to be enforced beginning in July 2012. However, a Ministry of Health circular published on August 27, 2012 announced that enforcement would be deferred until July 8, 2014. A copy of the law and regulations respectively can be found at: http://www.biosafety.nre.gov.my/BiosafetyAct2007.shtml, and

http://www.biosafety.nre.gov.my/BIOSAFETY%20REGULATIONS%202010.pdf.

6. Right to Private Ownership and Establishment

Foreigners may purchase property worth over RM 1 million (approximately $310,000) without restriction. Although the Federal government no longer requires foreigners to get approval from the FICs (Foreign Investment Committee) for the purchase of residential property, the State governments at times can be more restrictive than Federal regulation and can delay the purchase.

Owning a business in Malaysia requires two local directors, though 100% of the shares can be held by foreign owners, except in sectors where foreign investment is restricted.

7. Protection of Property Rights

Real Property Rights

Land administration is shared among federal, state, and local government. State governments have their own rules about land ownership, including foreign ownership. Malaysian law affords strong protections to real property owners. Real property titles are recorded in public records and attorneys review transfer documentation to ensure efficacy of a title transfer. There is no title insurance available in Malaysia. Malaysian courts protect property ownership rights. Foreign investors are allowed to borrow using real property as collateral. Foreign and domestic lenders are able to record mortgages with competent authorities and execute foreclosure in the event of loan default.

Intellectual Property Rights

Malaysia was removed from the U.S. Special 301 Watch List in 2012 following improvements in recent years in protecting IPR. In December 2011, the Malaysian Parliament passed amendments to the copyright law designed to, inter alia, bring the country into compliance with the WIPO Copyright Treaty and the WIPO Performance and Phonogram Treaty, define Internet Service Provider (ISP) liabilities, and prohibit unauthorized camcording of motion pictures in theaters. Malaysia subsequently acceded to the WIPO Copyright Treaty and the WIPO Performance and Phonogram Treaty in September 2012. In addition, the Ministry of Domestic Trade, Cooperatives, and Consumerism (MDTCC) took steps to enhance Malaysia's enforcement regime, including active cooperation with rights holders on matters pertaining to IPR enforcement, ongoing training of prosecutors for specialized IPR courts, and the 2013 reestablishment of a Special Anti-Piracy Taskforce.

Malaysian authorities continue to cooperate with industry to take down domestic sites that carry infringing content and dramatically increased online enforcement against internet piracy in 2013. In March 2013, Royal Malaysian Police Officers arrested a man for hosting links to illegal downloads of popular films on the local message board and file sharing site SYOK.org. In June 2013, MDTCC enforcement officials raided and arrested a man in Kelantan believed to be operating the piracy site Jiwang.org, one of the most popular sources of pirated content online in Malaysia. In December 2013, Malaysian officials disabled access to five overseas-based piracy websites, the first such action since May 2011. That 2011 action against piracy ignited public controversy over fears of internet censorship and a concerted hacker attack that temporarily disrupted 41 government websites. Malaysian authorities held firm despite the backlash. In recent years, the MDTCC has also instructed its enforcement division to begin to take ex officio action, resulting in significant seizures of pirated products.

Despite Malaysia's success in improving its effective protection of IPR, key issues remain, including relatively widespread availability of pirated and counterfeit products in Malaysia, high rates of piracy over the Internet, and continued problems with book piracy. The United States continues to encourage Malaysia to accede to the WIPO Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure. In addition, the United States continues to urge Malaysia to provide effective protection against unfair commercial use, as well as unauthorized disclosure, of undisclosed test or other data generated to obtain marketing approval for pharmaceutical products, and to provide an effective system to address patent issues expeditiously in connection with applications to market pharmaceutical products.

For additional information about treaty obligations and points of contact at local IP offices, please see WIPO's country profiles at http://www.wipo.int/directory/en/.

Embassy point of contact: Philip Ingeneri ingeneripm@state.gov until mid-July 2014, and then Clayton Hays HaysCP@state.gov

Local lawyers list: email KLACS@state.gov for a list

Copyright Protection and Optical Media Piracy

Copyright protection lasts for 50 years after the author's death and extends to computer software. The Copyright Act includes enforcement provisions allowing government officials to enter and search premises suspected of infringement and to seize infringing copies and reproduction equipment. The amendments to the Act passed by the Malaysian Parliament in 2011 include new authority to combat camcording activities in cinemas.

The Optical Disc Act of 2000 established a licensing and regulatory framework to control the manufacture of optical discs and to fight piracy. Under the Act, manufacturers are required to obtain licenses from MITI and MDTCC, to place source identification (SID) codes on each disc, and to allow regular inspections of their operations. Malaysia has required inclusion of a hologram sticker on all copies of works on optical discs since 2003.

Despite these improvements, Malaysia continues to face challenges in ensuring the effective protection of copyrighted materials. Pirated optical discs remain available, although less conspicuously than in the past. Unauthorized photocopying of textbooks remains a particular concern. Reflecting global trends, on-line piracy and illegal downloading of cinematographic and musical works continues to grow.

Pharmaceuticals

The Ministry of Health in 2011 issued revised regulations to provide data exclusivity protection for pharmaceuticals for five years for new chemical entities, and three years for new indications. The time periods would be based on a drug's approval date in its country of origin. Applications for data exclusivity for new chemical entities must be made within 18 months from the date the product is first registered and granted marketing authorization and for second indications within 12 months from the date the second indication is approved. The Malaysian law allows for the regulatory approval of generic versions of pharmaceuticals that are still patented, but prohibits marketing and commercial manufacturing during the patent validity period.

Sales of counterfeit pharmaceuticals remain a problem in Malaysia. Counterfeit medicines that have been identified include "drugs" with the wrong ingredients, insufficient active ingredients, and those with fake packaging. Unregistered generic copies of patented products are also available in Malaysia.

The Ministry of Health and the MDTCC are improving their enforcement efforts, and share information and collaborate with industry on those efforts. The Ministry of Health in late 2012 circulated for comment draft legislation that would, if passed by Parliament, significantly increase penalties against those selling counterfeit medicines.

Trademarked Consumer Products

A number of U.S. consumer product companies also have suffered losses due to the presence in the market of counterfeit trademarked products. Counterfeiters have improved the quality of packaging and marketing so that consumers are misled into purchasing the products. Most of these counterfeit products are brought into the country from China, Thailand, and India.

In 2011, MDTCC launched a “Basket of Brands” initiative, a voluntary program where participating trademark holders receive more proactive protection efforts in exchange for a commitment to testify in any resulting prosecutions. In 2013, the Basket of Brands initiative was expanded to provide online verification for rights holders. MDTCC officials say over 200 companies have joined the program. Complicating enforcement of trademark-related violations is a Malaysian Court of Appeals interpretation of the trademark law that requires enforcement officials to have a “Trade Description Order” to conduct criminal raids when the counterfeit product seized is not identical to the trademarked original.

Patents

Patents registered in Malaysia generally have 20-year duration from date of filing, which can be extended under certain circumstances. The length of time required for patent registration averages five years and trademark registration averages two years. Registrations are handled by the MDTCC's Patents and Trademarks Department.

8. Transparency of the Regulatory System

In the World Bank's Global Doing Business 2014 report, Malaysia moved up from 8th to 6th place overall among the 183 economies covered in the survey. Malaysia's most improved rankings were in the standardized indicators "enforcing contracts, resolving insolvency and starting a business". Malaysia was up from 19th to 16th place for "starting a business." Malaysia's worst rankings are in "dealing with construction permits" at 43rd, "paying taxes" at 36, down two places from 2011, and "trading across borders" at 5th place, unchanged. Malaysia made tax compliance easier by improving electronic systems and the availability of software, although it also reintroduced a capital gains tax on real estate. Starting a business was made easier by merging company, tax and social security and employment fund registration at the one-stop shop and providing same-day registration.

Measure	Year	Ranking
TI Corruption Index	2013	53
Heritage Economic Freedom	2014	37
World Bank Doing Business	2014	6

To improve the business climate in Malaysia, the Malaysian government established the PEMUDAH task force, consisting of 23 top-level government officials and private sector representatives with a mandate to identify and evaluate bureaucratic impediments to conducting business in Malaysia and to make recommendations to the Prime Minister on how to address them. PEMUDAH's focus is specifically on administrative reforms designed to enhance the efficiency of the government bureaucracy's interaction with the private sector, not on deeper reform issues needed to address policy-level structural inefficiencies in Malaysia's economy. More information about the task force is available at www.pemudah.gov.my.

9. Efficient Capital Markets and Portfolio Investments

Banking

Foreign investors and foreign companies have access to credit on the local capital market. Foreign-controlled companies may seek any amount of Malaysian Ringgit credit facilities without Bank Negara Malaysia's (BNM) approval. There are no restrictions on foreign stock brokerage companies obtaining ringgit facilities to facilitate the settlement of transaction on the Malaysian stock and bond markets. There is no limit on the number of residential and commercial property loans allowed to foreigners. In 2008, the government liberalized the foreign exchange administration rules allowing borrowing in foreign currency by residents as well as borrowing and lending in ringgit between residents and non-residents. The Malaysian

Deposit Insurance Company insures deposit accounts of up to RM 250,000 ($80,645) with separate funds for conventional and Islamic banking institutions.

Malaysia adopted a new Financial Services Act in late 2012 that largely reflected its latest 10-year Financial Sector Blueprint and envisages further opening of the financial sector to foreign banks but does not contain specific market opening commitments or timelines. The new Act, which follows the previous 10-year Financial Services Master Plan, does not significantly break with the existing case by case approach of the central bank, BNM, towards granting foreign banks access to Malaysia. Under the Act, issuance of new licenses will be guided by prudential criteria and the "best interests of Malaysia". Prudential criteria include consideration of the financial strength, business record, experience, character and integrity of the foreign investor, soundness and feasibility of the business plan for the institution in Malaysia, transparency and complexity of the group structure, and the extent of supervision of the foreign investor in its home country. In determining the "best interests of Malaysia", BNM will consider the contribution of the investment in promoting new high value-added economic activities, addressing demand for financial services where there are gaps, enhancing trade and investment linkages, and providing high-skilled employment opportunities. BNM has also stated that it wants to ensure that local banks have at least 50 percent of total banking assets in Malaysia (the share at present is significantly beyond that).

Capital Markets and Securities Trading

Foreigners may trade in securities and derivatives. Malaysia houses Asia's third largest corporate bond market, behind only Japan and Korea in market capitalization. Both domestic and foreign companies regularly access capital in Malaysia's bond market. Malaysia provides tax incentives for foreign companies issuing Islamic bonds and financial instruments in Malaysia.

Malaysia's stock market (Bursa Malaysia) is open to foreign investment and foreign corporation issuing shares. However, foreign issuers remain subject to Bumiputra ownership requirements of 12.5% if the majority of their operations are in Malaysia. Listing requirements for foreign companies are similar to that of local companies. There are additional criteria for foreign companies wanting to list in Malaysia including, among others: approval of regulatory authorities of foreign jurisdiction where the company was incorporated, valuation of assets that are standards applied in Malaysia or International Valuation Standards and the company must have been registered with the Registrar of Companies under the Companies Act 1965.

Malaysia has taken steps to promote good corporate governance by listed companies. Publicly listed companies must submit quarterly reports that include a balance sheet and income statement within two months of each financial quarter's end and audited annual accounts for public scrutiny within four months of each year's end. An individual may hold up to 25 corporate directorships. All public and private company directors are required to attend classes on corporate rules and regulations.

Legislation also regulates equity buybacks, mandates book entry of all securities transfers, and requires that all owners of securities accounts be identified. A Central Depository System (CDS) for stocks and bonds established in 1991 makes physical possession of certificates unnecessary. All shares traded on the Bursa Malaysia must be deposited in the CDS. Short selling of stocks is prohibited.

10. Competition from State-Owned Enterprises

On April 21, 2010, the Parliament of Malaysia approved two bills, the Competition Commission Act 2010 and the Competition Act 2010. The Acts took effect January 1, 2012. The Competition Act prohibits cartels and abuses of a dominant market position, but does not create any pre-transaction review of mergers or acquisitions. Violations are punishable by fines, as well as imprisonment for individual violations. The Acts established a Competition Commission with broad investigative and enforcement powers, as well as a Competition Appeals Tribunal (CAT) to hear all appeals of Commission decisions. The CAC has since completed investigations and issued rulings since the Competition Law took effect. In the largest case to date, the CAC found national carrier Malaysian Airlines and budget airline AirAsia to have breached the Competition Act 2010 and fined both airlines of US$3.33 million each. The airlines are appealing against the decision, which will be the first case brought before the CAT.

State-owned enterprises play a very significant role in the Malaysian economy. Such enterprises have been used to spearhead infrastructure and industrial projects. The government owns approximately 36% of the value of firms listed on the Bursa Malaysia through its seven Government-Linked Investment Corporations (GLICs), including a majority stake in a number of companies. Only a minority portion of stock is available for trading for some of the largest publicly listed local companies. The government has indicated increasing interest in restarting its privatization efforts through the New Economic Model reforms. Khazanah, often considered the government’s sovereign wealth fund, owns stakes in companies competing in many of the country’s major industries. The Prime Minister chairs Khazanah’s Board of Directors. PETRONAS, the state-owned oil and gas company, is Malaysia’s only Fortune Global 500 firm.

In July 2011, the Government stated that 33 government-linked companies were ready for divestment, but did not identify them by name. Under the plan to rationalize the portfolio of government-linked companies (GLCs) in Malaysia, the Government will reduce its stakes in some of these companies, list a few others and sell the rest. In first quarter of 2012 Khazanah offloaded its stake in the national car company Proton to DRB-Hicom Bhd. In Sept 2013, Khazanah divested Time Engineering Bhd to private sector Bumiputra owned company Censof Holdings Bhd. Nonetheless, the majority of GLCs have not been affected by the divestment plan, and GLCs will retain a major role in Malaysia’s economy.

11. Corporate Social Responsibility

The development of corporate social responsibility in Malaysia is moving to higher levels and many larger companies have CSR programs and activities. In 2006, Malaysian stock market regulator, the Securities Commission, published a CSR Framework for all publicly listed companies, which are required to disclose their CSR programs in their annual financial reports.

In 2007 the Women, Family and Community Ministry launched the Prime Minister’s CSR’s Awards to recognize companies that have made a difference to the communities in which they are active through their CSR programs.

12. Political Violence

Malaysia has experienced political stability since its independence in 1957, with the exception of ethnic riots that followed the 1969 national elections. Najib Razak peacefully took office as Malaysia's 6th Prime Minister on April 2, 2009. The government historically denied assembly permits for anti-government street demonstrations. In April 2012, the Peaceful Assembly Act took effect, which eliminates the need for permits for public assemblies but outlaws street protests and places other significant restrictions on public assemblies. On April 28 2012, the police disrupted a large protest march that took place despite restrictions the government attempted to impose. Subsequent demonstrations and protest marches took place in 2013 and 2014 without disruption.

13. Corruption

Malaysia ranked in 53rd place in Transparency International's Corruption Perception Index in 2013 (the lower the ranking, the less perceived corruption). The Malaysian government has taken steps to address corruption, including through the establishment of the Malaysian Anti-Corruption Commission (MACC) in 2008, passage of legislation to make judicial appointments more transparent (the Judicial Appointments Commission Act) also in 2008, passage of a Whistleblower Protection Act in 2010, the introduction of procurement reforms and the launch of government initiatives to target corrupt practices. The Malaysian government considers bribery a criminal act and does not permit bribes to be deducted from taxes. Malaysia's anti-corruption law includes the criminal offense of bribery of foreign public officials, permits the prosecution of Malaysians for offense committed overseas, and also provides for the seizure of properties.

Critics have questioned the MACC's ability to effectively address high-level corruption, although a number of prosecutions are ongoing The MACC conducts investigations but prosecutorial discretion remains with the Attorney General. A lack of capacity and technical skills in some areas hampers MACC's overall effectiveness. The MACC introduced a public database of those convicted of corruption offenses. There is no systematic public disclosure of assets by senior officials. Critics also note that the Whistleblower Act does not protect those who disclose allegations to the media.

Government officials cite a four point approach to reducing corruption in government procurement, a key area of focus: increasing the number and decreasing the size of government procurement contract subject to open tenders, introducing the Transparency International "Integrity Pact" concept to be signed by all vendors that they understand bidding rules and anti-corruption laws prior to engaging in contract negotiations, issuing rules against Ministerial "referral letters" recommending specific contractors for government contracts, and fully implementing the new Whistleblower Act.

14. Bilateral Investment Agreements

Malaysia has bilateral investment treaties with 36 countries, but not with the United States. Malaysia does have bilateral investment guarantee agreements with over 70 economies, including the United States. The Government reports that 65 of Malaysia's existing investment agreements contain Investor State Dispute Settlement (ISDS) provisions. Malaysia has double taxation treaties with over 70 countries, though the double taxation agreement with the U.S. currently is limited to air and sea transportation.

15. OPIC and Other Investment Insurance Programs

Malaysia has a limited investment guarantee agreement with the U.S. under the U.S. Overseas Private Investment Corporation (OPIC) program, for which it has qualified since 1959. Few investors have sought OPIC insurance in Malaysia, though in mid-2013, the OPIC Board of Directors approved a $250 million loan to help build Malaysia's first fully-integrated private medical school,

16. Labor

Malaysia's shortage of skilled labor is the most oft-cited impediment to economic growth cited in numerous studies. Malaysia has an acute shortage of highly qualified professionals, scientists, and academics. The Embassy has heard reports from some U.S. companies that the shortage of skilled labor is resulting in companies reconsidering future expansion or investment in Malaysia.

The Malaysian labor market operates at essentially full employment, with unemployment for Malaysians averaging 3. 1% in 2013. In an effort to improve the employability of local graduates, the GOM offers additional training modules at public universities in English language skills, presentation techniques, and entrepreneurship.

Malaysia is a member of the International Labor Organization (ILO). Labor relations in Malaysia are generally non-confrontational. A system of government controls strongly discourages strikes. Some labor disputes are settled through negotiation or arbitration by an industrial court, though cases can be backlogged for years. Once a case is referred to the industrial court, the union and management are barred from further industrial action.

While national unions are proscribed due to sovereignty issues within Malaysia, there are a number of territorial federations of unions (the three territories being Peninsular Malaysia, Sabah and Sarawak). The government has prevented some trade unions, such as those in the electronics and textile sectors, from forming territorial federations. Instead of allowing a federation for all of Peninsular Malaysia, the electronics sector is limited to forming four regional federations of unions, while the textile sector is limited to state-based federations of unions, for those states which have a textile industry. Employers and employees share the costs of the Social Security Organization (SOSCO), which covers an estimated 12.9 million workers. No systematic welfare programs or government unemployment benefits exist; however the Employee Provident Fund (EPF), which employers and employees are required to contribute to, provides retirement benefits for workers in the private sector. Civil servants receive pensions upon retirement.

The regulation of employment in Malaysia, specifically as it affects the hiring and redundancy of workers remains a notable impediment to employing workers in Malaysia. The high cost of terminating their employees, even in cases of wrongdoing, is a source of complaint for domestic and foreign employers. The World Bank estimates that the financial cost of firing an employee averages 75 weeks of salary for that worker.

The Embassy hears reports from some U.S. companies that the government monitors the ethnic balance among employees and enforces an ethnic quota system for hiring in certain areas. Race-based preferences in hiring and promotion are widespread in government, government-owned universities and government-linked corporations. Implementation of the Minimum Wage Order 2012 began on January 1, 2014 and fixed the rate at just under $300 per month in Peninsular Malaysia and about $260 for those in East Malaysia.

Employing Expatriates

Foreign workers are categorized as follows: "expatriates" (anyone earning at least RM 5,000 or $1,429, per month); "foreign skilled workers," and "foreign unskilled and semi-skilled workers." The Malaysian Government has embarked on a number of immigration liberalization initiatives aimed at expatriates and foreign skilled workers.

Employing expatriates involves two phases. First, the company must be granted approval for the expatriate post; then the individual must be approved by receiving a "reference visa" from the Malaysian embassy in the expatriate's home country and approval from the Immigration Department. More details can be found at www.pemudah.gov.my/guidebook.pdf.

Companies in different sectors must apply for approval for expatriate posts through the respective government authority: manufacturing and manufacturing-related companies apply through MIDA; companies with "Multimedia Super Corridor" (MSC) status through the Multimedia Development Corporation; banking and insurance companies through Bank Negara Malaysia; securities brokers through the Securities Commission; biotechnology companies through Biotech Corp; and companies in other sectors through the Expatriate Committee. Each authority has its own set of requirements and decisions are made on a case-by-case basis.

Manufacturing companies that are 100% foreign-owned must have a minimum paid-in capital of RM 500,000 (as of January 1, 2010) to employ expatriates. Companies with joint foreign and Malaysian ownership must have a minimum paid-up capital of RM 350,000 while Malaysian-owned companies must have a minimum of RM 250,000. It appears that the larger a company's paid-in capital, the more expatriates the company can employ. Manufacturing-related companies in sub-sectors targeted by the government for development are given priority. These include regional establishments (operational headquarters, international procurement centers, regional distribution centers); support services (integrated logistics services, integrated market support services, central utility facilities, cold chain facilities); research and development; software development; hotel and tourism projects; technical and vocational training; some environment-related services; and film or video production. Except for manufacturing companies with automatic allowances, a firm wishing to employ expatriate personnel generally must demonstrate that there is a shortage of qualified Malaysian candidates and that a Malaysian citizen is being trained. In practice this is difficult for firms to document. In 2010, the government eliminated the six-month waiting period for determining a shortage of Malaysian candidates.

Expatriate visas are issued for a period of up to ten years. Unskilled foreign workers receive a three-year work permit, renewable annually up to five years, and foreign skilled workers can qualify for up to 12 months. If an unskilled worker acquires "skills certificates," he/she may apply for a permit as a skilled worker after exhausting the five-year maximum as an unskilled worker. Foreign domestic helpers are permitted to remain in Malaysia on a work permit beyond ten years. Malaysia's freeze on permanent resident visas was removed in 2010 with a point system introduced for residents living in Malaysia over five years. Malaysia also has the "Malaysia, My Second Home" program and the Residence Pass that provides long-term resident visas for expatriates. Launched in April 2011, the Residence Pass – Talent (RP-T) is offered to highly qualified expatriates who can contribute towards Malaysia's economic transformation. The ten-year Pass accords eligible holders many benefits, including the ability to change employers without having to renew the pass. Details are at http://www.talentcorp.com.my.

Government officials say they have taken steps to simplify and expedite permit approvals for some categories of foreign personnel. The PEMUDAH task force developed a guidebook clarifying the various procedures and requirements.

In 2010, the government implemented new regulations reducing application approval times, removing expatriate age limits, and allowing automatic approval for expatriate employees earning over $2,580 per month. The spouse of an expatriate holding a Dependent Pass is allowed to take up paid employment without converting the Dependent Pass to an “Employment Pass” or to a “Visit Pass for Temporary Employment” on the condition that permission to take up the paid employment is endorsed on his/her passport by an authorized Immigration officer.

In April 2013, the government set up of the Expatriate Services Division, an integrated facility offering services to expatriates and their dependents regarding the immigration process to facilitate and retain foreign talents.

17. Foreign Trade Zones/Free Ports

The Free Zone Act of 1990 authorized the Minister of Finance to designate any suitable area as either a Free Industrial Zone (FIZ), where manufacturing and assembly takes place, or a Free Commercial Zone (FCZ), generally for warehousing commercial stock. The Minister of Finance may appoint any federal, state, or local government agency or entity as an authority to administer, maintain and operate any free trade zone. Currently there are 13 FIZs and 12 FCZs in Malaysia. In June 2006, the Port Klang Free Zone opened as the nation's first fully integrated FIZ and FCZ, although the project has been dogged by corruption allegations related to the land acquisition for the site. The government launched a prosecution in 2009 of the former Transport Minister involved in the land purchase process, though he was later acquitted in October 2013

Raw materials, products and equipment may be imported duty-free into these zones with minimum customs formalities. Companies that export not less than 80% of their output and depend on imported goods, raw materials, and components may be located in these FZs. Ports, shipping and maritime-related services play an important role in Malaysia since 90% of its international trade by volume is seaborne. Malaysia is also a major transshipment center.

Goods sold into the Malaysian economy by companies within the FZs must pay import duties. If a company wants to enjoy Common External Preferential Tariff (CEPT) rates within the ASEAN Free Trade Area, 40% of a product's content must be ASEAN-sourced. In addition to the FZs, Malaysia permits the establishment of licensed manufacturing warehouses outside of free zones, which give companies greater freedom of location while allowing them to enjoy privileges similar to firms operating in an FZ. Companies operating in these zones require approval/license for each activity. The time needed to obtain licenses depends on the type of approval and ranges from 2-8 weeks.

18. Foreign Direct Investment and Foreign Portfolio Investment Statistics

Table One: Sources of Approved Manufacturing Investment in Malaysia

(Value in Millions of U.S. Dollars)

	2006	2007	2008	2009	2010	2011	2012	2013
Total Investment	**12,532**	**17,422**	**18,146**	**9,543**	**15,317**	**17,693**	**13,666**	**17,366**
Foreign	5,512	9,717	13,323	6,475	9,434	10,772	6,933	10,166
Domestic	7,021	7,705	4,823	3,068	5,883	6,920	6,733	7,200

Source: Malaysian Investment Development Authority.
Exchange Rates: U.S. $1.0=RM 3.42 (2009 rate), RM3.04 (2010 rate), 3.17 (2011 rate)

Note: Approved manufacturing investment only, does not include the upstream oil and gas industry or services. "Approved investments" represent planned or proposed investment, not actual investment flows.

Table Two: Leading Approved Foreign Investment Sources in the Manufacturing Sector

(Value in Millions of U.S. Dollars; Share in %)

	2006	2007	2008	2009	2010	2011	2012	2013
Germany	63	1,092	1,287	124	629	650	231	572
United States	675	878	2,544	672	3,811	836	985	2,106
Singapore	514	858	565	585	700	825	738	1,507
Netherlands	895	491	526	140	303	336	278	794
Japan	1,202	1,896	1,637	2,047	1,308	3,367	930	1,197
Australia	698	490	3,830	94	N/A	97	500	556
Hong Kong	N/A	N/A	24	1,550	898	131	30	151
China	N/A	N/A	10	47	N/A	398	659	1,005
Korea	N/A	N/A	58	98	N/A	1,728	545	1,826
Total Foreign	5,512	9,717	13,323	6,475	9,434	11,382	6,948	10,178
U.S. Share of Total Foreign	12.2%	9.0%	19.1%	10.4%	49.8%	7.3%	14.1%	20.7%
Foreign Share of Total	44.0%	55.8%	73.4%	67.9%	81.0%	60.4%	50.7%	58.6%

Source: Malaysian Investment Development Authority.

Exchange Rates: U.S. $1.0=RM 3.42 (2009 rate), RM3.04 (2010 rate), 3.17 (2011 rate)

Note: Approved manufacturing investment only, does not include the upstream oil and gas industry or services. "Approved investments" represent planned or proposed investment, not actual investment flows.

Table Three: Approved Foreign Manufacturing Investment by Sector

(Value in Millions of U.S. Dollars)

Sector	**2006**	**2007**	**2008**	**2009**	**2010**	**2011**	**2012**	**2013**
Chemicals	826	454	357	2,058	564	1,015	1,890	1,252
Petroleum Products	165	1,551	364	135	354	N/A	459	1,081
Electronics	2,344	3,993	5,068	1,162	3,844	5,900	1,084	2,831
Basic Metal	623	1,450	5,978	127	1,167	1,131	644	1,475
Food Manufacturing	244	107	313	273	N/A	810	372	765
Transport	59	89	249	158	N/A	336	941	720
Other	685	2,073	994	2,562	N/A	N/A	N/A	N/A
Total	**5,512**	**9,717**	**13,323**	**6,475**	**5,929**	**9,192**	**6,973**	**10,187**

Source: Malaysian Investment Development Authority.
Exchange Rates: U.S. $1.0=RM 3.42 (2009 rate), RM3.04 (2010 rate), 3.17 (2011 rate)

Note: Approved manufacturing investment only, does not include the upstream oil and gas industry or services. "Approved investments" represent planned or proposed investment, not actual investment flows.

Table Four: Foreign Direct Investment Flow in Malaysia by Countries

(Value in Millions of U.S Dollars)

	Singapore	*United States*	*Japan*	*Netherlands*	*Hong Kong, SAR*	*Germany*	*Thailand*	*Korea, Republic of*	*Cayman Islands*	*Australia*	*Bermuda*	*Virgin Islands (British)*	*China*	*Chinese Taipei*

2008		4,723	3,823	2,637	2,375	1,867	1,342	1,180	295	1,650	418	586	517	372	551
2009		4,093	1,277	2,519	2,134	2,357	1,009	889	377	47	436	424	554	264	147
2010		3,814	5,382	3,311	4,066	1,278	1,303	841	1,726	112	409	173	592	343	142
2011		5,748	3,966	5,584	2,784	2,377	2,112	854	364	466	500	506	-67	313	343
2012		5,659	3,819	4,520	2,673	3,197	1,161	662	450	701	1,054	433	561	773	346
2013		5,239	2,886	4,984	4,153	3,722	899	713	141	690	470	533	1,021	779	208

Source: Bank Negara Malaysia and Department of Statistics Malaysia

Exchange Rates: U.S. $1.0=RM 3.42 (2009 rate), RM3.04 (2010 rate), RM3.17 (2011 rate) RM3.05 (2012 rate)

Note: Credit refers to inflow of funds or amounts received by direct investment enterprise in Malaysia from foreign direct investor and affiliate in the form of equity capital, reinvested earnings, loan transactions, trade credits as well as other capital receipts

Table Five: Foreign Direct Investment Stock, Countries

(Value in Millions of U.S Dollars)

	Singapore	*Japan*	*United States*	*Netherlands*	*Chinese Taipei*	*Virgin Islands (British)*	*Germany*	*Hong Kong, SAR*	*Australia*	*Korea, Republic of*	*Cayman Islands*	*Bermuda*	*China*	*Thailand*
2008	15,095.80	10,504.20	12,050.90	7,875.70	724.1	4,579.60	4,063.70	2,100.60	793.2	909.4	2,449.90	1,697.80	363.4	227.9
2009	15,956.20	10,803.90	10,375.60	8,376.90	733.6	5,022.10	4,136.90	2,969.60	1,966.70	1,060.40	2,425.40	1,819.60	228.2	86.2
2010	17,549.20	12,499.20	11,431.90	9,169.20	644.3	5,525.60	4,177.10	3,905.20	2,969.70	2,648.70	2,838.80	2,203.40	335.1	-175.3
2011	22,146.00	15,662.60	12,799.90	9,956.90	615.2	5,516.80	5,353.00	3,818.30	3,419.70	2,793.70	1,055.40	2,875.80	375.4	84

2012	23,903	19,005.33	11,796.33	10,466.66	583.33	6,083.33	5,707	4,879.66	4,070	2,777	866	3,484.33	302.66	-230.33

Source: Bank Negara Malaysia and Department of Statistics, Malaysia

Exchange Rates: U.S. $1.0=RM 3.42 (2009 rate), RM3.04 (2010 rate), RM3.17 (2011 rate) RM3.05 (2012 rate)

Table Six: Foreign Direct Investment Stock in Malaysia, by Sector

(Value in Millions of U.S. Dollars)

End Period	*Manufacturing*	*Financial and Insurance/Takaful Activities [1]*	*Information and Communication*	*Wholesale and Retail Trade*	*Mining and Quarrying (including oil and gas)*	*Agriculture, Forestry and Fishing*	*Construction*	*Other Services*	*Total*
2008	41,756.00	17,861.60	6,567.00	6,268.20	4,889.90	2,930.10	372.1	4,340.00	84,984.90
2009	42,225.70	21,429.20	5,754.70	7,089.90	5,718.50	3,070.40	350.6	4,533.00	90,172.00
2010	48,918.60	24,632.00	7,149.90	8,503.20	6,121.70	3,119.80	456.8	5,433.30	104,335.30
2011	57,396.20	27,118.20	8,464.90	10,106.00	7,864.90	3,157.10	461.7	6,544.20	121,113.20
2012	62,348	29,050	11,218	11,310.66	9,183.66	3,300.33	529	8,031	134,970.33

Source: Bank Negara Malaysia and Department of Statistics, Malaysia

Exchange Rates: U.S. $1.0=RM 3.42 (2009 rate), RM3.04 (2010 rate), RM3.17 (2011 rate) RM3.05 (2012 rate)

Note: Includes investments by holding companies.

Source: Malaysian Industrial Development Authority

Source: Bank Negara Annual Report 2004-2007

- Bank Negara Malaysia: www.bnm.gov.my

- Securities Commission: www.sc.com.my
- MIDA: http://www.mida.gov.my
- World Intellectual Property Organization (WIPO): www.wipo.int/
- LawNet : www.lawnet.com.my
- E-Warta: http://www.e-warta.com.my/
- MITI: http://www.miti.gov.my/
- Companies Commission: http://www.ssm.com.my/
- MyIPO: http://www.myipo.gov.my/

Section 5 - Government

Chiefs of State and Cabinet Members:

For the current list of Chief of State and Cabinet Members, please access the following - Central Intelligence Agency online directory of Chiefs of State and Cabinet Members of Foreign Governments

Legal system:

mixed legal system of English common law, Islamic law, and customary law; judicial review of legislative acts in the Supreme Court at request of supreme head of the federation

International organization participation:

ADB, APEC, ARF, ASEAN, BIS, C, CICA (observer), CP, D-8, EAS, FAO, G-15, G-77, IAEA, IBRD, ICAO, ICC (national committees), ICRM, IDA, IDB, IFAD, IFC, IFRCS, IHO, ILO, IMF, IMO, IMSO, Interpol, IOC, IPU, ISO, ITSO, ITU, ITUC (NGOs), MIGA, MINURSO, MONUSCO, NAM, OIC, OPCW, PCA, PIF (partner), UN, UNAMID, UNCTAD, UNESCO, UNIDO, UNIFIL, UNMIL, UNWTO, UPU, WCO, WFTU (NGOs), WHO, WIPO, WMO, WTO

Exchange control

Malaysia continues to maintain a liberal foreign exchange administration (FEA) policy which are mainly prudential measures to support the overall macroeconomic objective of maintaining monetary and financial stability while safeguarding the balance of payments position. The FEA policies have been progressively liberalised to enhance competitiveness of the economy and to achieve greater efficiency in the conduct of trade and investments.

Rules applicable to Non-Residents

Investments in Malaysia

There are no FEA restrictions and the Malaysian markets are easily accessible by global investors. There is free mobility of inflow and outflow of capital for investments in Malaysia.

- Non-residents are free to invest in any form of ringgit assets either as direct or portfolio investments; and
- They are free to remit out divestment proceeds, profits, dividends or any income arising from these investments in Malaysia.

There are no restrictions for the non-residents to convert foreign currency to ringgit or vice versa, with licensed onshore banks, for the purchase of ringgit assets or for repatriation of funds arising from these ringgit investments. Non-residents are also allowed to undertake the settlement of ringgit investments through appointed overseas banks which are within the same banking group of banks with presence in Malaysia.

Treaty and non-treaty withholding tax rates

Malaysia has signed **74 agreements** (**73 DTC** and **1 TIEA** agreements) providing for the exchange of information.

Jurisdiction	Type of EOI Arrangement	Date Signed	Date entered into Force	Meets standard	Contains paras 4 and 5
Albania	DTC	24 Jan 1994	21 Aug 1995	No	No
Australia	DTC	20 Aug 1980	26 Jun 1981	Yes	Yes
Austria	DTC	20 Sep 1989	1 Dec 1990	No	No
Bahrain	DTC	14 Jun 1999	31 Jul 2000	Yes	Yes
Bangladesh	DTC	19 Apr 1983	1 Jan 1984	No	No
Belgium	DTC	24 Oct 1973	14 Aug 1975	No	No
Belgium	DTC Protocol	18 Dec 2009	not yet in force	Yes	Yes
Bermuda	TIEA	23 Apr 2012	4 Jun 1934	Yes	Yes
Bosnia and Herzegovina	DTC	21 Jun 2007	not yet in force	No	No
Brunei Darussalam	DTC	5 Aug 2009	17 Jun 2010	No	Yes
Canada	DTC	16 Oct 1976	18 Dec 1980	No	No

Jurisdiction	Type of EOI Arrangement	Date Signed	Date entered into Force	Meets standard	Contains paras 4 and 5
Chile	DTC	3 Sep 2004	25 Aug 2008	No	No
China	DTC	23 Nov 1985	14 Sep 1986	No	No
Croatia	DTC	18 Feb 2002	15 Jul 2004	No	No
Czech Republic	DTC	8 Mar 1996	9 Mar 1998	No	No
Denmark	DTC	4 Dec 1970	4 Jun 1970	No	No
Egypt	DTC	14 Apr 1997	9 Jul 2002	No	No
Fiji	DTC	19 Dec 1995	30 Jul 1997	No	No
Finland	DTC	28 Mar 1984	23 Feb 1986	No	No
France	DTC	24 Apr 1975	23 Jun 1976	Yes	Yes
Germany	DTC	23 Feb 2010	21 Dec 2010	Yes	Yes
Hong Kong, China	DTC	25 Apr 2012	28 Dec 2012	Yes	Yes
Hungary	DTC	22 May 1989	26 Oct 1992	No	No
India	DTC	9 May 2012	26 Dec 2012	Yes	Yes
Indonesia	DTC	12 Sep 1991	11 Aug 1992	No	No
Iran	DTC	11 Nov 1992	15 Apr 2005	No	No
Ireland	DTC	28 Nov 1998	10 Sep 1999	Yes	Yes
Italy	DTC	28 Jan 1984	18 Apr 1986	No	No
Japan	DTC	19 Mar 1999	31 Dec 1999	Yes	Yes
Jordan	DTC	2 Oct 1994	29 May 2000	No	No
Kazakhstan	DTC	26 Jun 2006	20 May 2010	No	No
Korea, Republic of	DTC	20 Apr 1982	3 Dec 1982	No	No
Kuwait	DTC	5 Feb 2003	29 May 2007	No	No
Kuwait	DTC Protocol	25 Jan 2010	not yet in force	Yes	Yes
Kyrgyzstan	DTC	17 Nov 2000	26 Dec 2006	No	No
Lao People's Democratic Republic	DTC	3 Jun 2010	23 Feb 2011	Unreviewed	No
Lebanon	DTC	20 Jan 2003	10 Nov 2004	No	No
Luxembourg	DTC	21 Nov 2002	2 Jul 2004	No	No
Malta	DTC	3 Oct 1995	1 Sep 2000	No	No
Mauritius	DTC	23 Aug 1992	19 Aug 1993	No	No
Mongolia	DTC	27 Jul 1995	7 Nov 1996	No	No
Morocco	DTC	2 Jul 2001	29 Dec 2006	No	No
Myanmar	DTC	9 Mar 1998	21 Jul 2008	No	No
Namibia	DTC	28 Jul 1998	13 Dec 2004	No	No
Netherlands	DTC	7 Mar 1988	2 Feb 1989	Yes	Yes
New Zealand	DTC	19 Mar 1976	2 Sep 1976	No	No
New Zealand	DTC Protocol	6 Nov 2012	not yet in force	Unreviewed	Yes
Norway	DTC	23 Dec 1970	9 Sep 1971	No	No
Pakistan	DTC	29 May 1982	9 Nov 1982	No	No
Papua New Guinea	DTC	20 May 1993	11 Jun 1999	No	No
Philippines	DTC	27 Apr 1982	27 Jul 1984	No	No
Poland	DTC	16 Sep 1977	15 Dec 1978	No	No
Poland	DTC	8 Jul 2013	not yet in force	Unreviewed	Yes
Qatar	DTC	3 Jul 2008	28 Jan 2009	No	No

Jurisdiction	Type of EOI Arrangement	Date Signed	Date entered into Force	Meets standard	Contains paras 4 and 5
Qatar	DTC Protocol	16 Feb 2011	not yet in force	Yes	Yes
Romania	DTC	26 Nov 1982	7 Apr 1984	No	No
Russian Federation	DTC	31 Jul 1987	4 Jul 1988	No	No
San Marino	DTC	19 Nov 2009	28 Dec 2010	Yes	Yes
Saudi Arabia	DTC	31 Jan 2006	1 Jul 2007	No	No
Senegal	DTC	17 Feb 2010	not yet in force	Unreviewed	Yes
Seychelles	DTC	3 Dec 2003	10 Jul 2006	No	No
Seychelles	DTC Protocol	22 Dec 2009	not yet in force	Yes	Yes
Singapore	DTC	5 Oct 2004	13 Feb 2006	No	No
South Africa	DTC	26 Jul 2005	6 Jul 2006	Yes	Yes
Spain	DTC	24 May 2006	28 Dec 2007	No	No
Sri Lanka	DTC	16 Sep 1997	13 Aug 1998	No	No
Sudan	DTC	7 Oct 1993	18 Dec 2002	No	No
Sweden	DTC	12 Mar 2002	28 Jan 2005	No	No
Switzerland	DTC	30 Dec 1974	8 Jan 1976	No	No
Syrian Arab Republic	DTC	26 Feb 2007	31 Aug 2007	No	No
Thailand	DTC	29 Mar 1982	2 Feb 1983	No	No
Turkey	DTC	27 Sep 1994	28 Jan 1997	No	No
Turkey	DTC Protocol	17 Feb 2010	not yet in force	Yes	Yes
Turkmenistan	DTC	19 Nov 2008	6 Oct 2009	No	No
United Arab Emirates	DTC	28 Nov 1995	18 Sep 1996	No	No
United Kingdom	DTC	10 Dec 1996	18 May 1998	Yes	Yes
Uzbekistan	DTC	6 Oct 1997	10 Aug 1999	No	No
Venezuela	DTC	28 Aug 2006	8 Jan 2008	No	No
Viet nam	DTC	7 Sep 1995	13 Aug 1996	No	No
Zimbabwe	DTC	28 Apr 1994	not yet in force	No	No

Methodology and Sources

Section 1 - General Background Report and Map

(Source: CIA World Factbook)

Section 2 - Anti – Money Laundering / Terrorist Financing

	Lower Risk	Medium Risk	Higher Risk
FATF List of Countries identified with strategic AML deficiencies	Not Listed	AML Deficient but Committed	High Risk
Compliance with FATF 40 + 9 recommendations	>69% Compliant or Fully Compliant	35 – 69% Compliant or Fully Compliant	<35% Compliant or Fully Compliant
US Dept of State Money Laundering assessment (INCSR)	Monitored	Concern	Primary Concern
INCSR - Weakness in Government Legislation	<2	2-4	5-20
US Sec of State supporter of / Safe Haven for International Terrorism	No	Safe Haven for Terrorism	State Supporter of Terrorism
EU White list equivalent jurisdictions	Yes		No
International Sanctions UN Sanctions / US Sanctions / EU Sanctions	None	Arab League / Other	UN , EU or US
Corruption Index (Transparency International) Control of corruption (WGI) Global Advice Network	>69%	35 – 69%	<35%
World government Indicators (Average)	>69%	35 – 69%	<35%
Failed States Index (Average)	>69%	35 – 69%	<35%
Offshore Finance Centre	No		Yes

Section 3 - Economy

General Information on the current economic climate in the country and information on imports, exports, main industries and trading partners.

(Source: CIA World Factbook)

Section 4 - Foreign Investment

Information on the openness of foreign investment into the country and the foreign investment markets.

(Source: US State Department)

Section 5 - Government

Names of Government Ministers and general information on political matters.

(Source: CIA World Factbook / https://www.cia.gov/library/publications/world-leaders-1/index.html)

Section 6 - Tax

Information on Tax Information Exchange Agreements entered into, Double Tax Agreements and Exchange Controls.

(Sources: OECD Global Forum on Transparency and Exchange of Information for Tax Purposes PKF International)

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Gary Youinou

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