



Doing Business in Malaysia:

2011 Country Commercial Guide for U.S. Companies

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Chapter 1: Doing Business In Malaysia

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Market Overview

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For centuries, Malaysia has profited from its location at a crossroads of trade between the East and West, a tradition that carries into the 21st century. Geographically blessed, peninsular Malaysia stretches the length of the Strait of Malacca, one of the most economically and politically important shipping lanes in the world. Capitalizing on its location, Malaysia has been able to transform its economy from an agriculture and mining base in the early 1970s to a high-tech competitive nation, where services and manufacturing now account for 85% of GDP (57% in services and 28% in manufacturing, from January to September 2010).

- In 2010 U.S.-Malaysia bilateral trade was US\$36.429 billion (up from US\$33.7 billion in 2009), ranking Malaysia as America's 17th largest trade partner
- The U.S. goods trade deficit with Malaysia was US\$11.079 billion in 2010 – goods exports totaled US\$12.675 billion, and goods imports totaled US\$23.754 billion. U.S. trade in services with Malaysia totaled US\$2.8 billion in 2009 -- services exports from U.S. were US\$1.7 billion, services imports from Malaysia were US\$1.1 billion.
- The U.S. has consistently been one of the largest foreign investors in Malaysia, with significant presence in the oil and gas sector, manufacturing, and financial services. The U.S. foreign direct investment in Malaysia was \$13.5 billion at the end of 2009.
- Gross Domestic Product (GDP) expanded by 5.3 per cent growth in the third quarter of 2010. On the supply side, all sectors continued to record positive growth with the exception of the Mining & Quarrying. The Services and Manufacturing sectors remained as the main drivers to the growth. 2011 GDP growth forecasts range between 5% and 6%.

The Government of Malaysia actively continues to manage the development and industrialization of the Malaysian economy. This includes facilitating infrastructure projects through significant state investment, fostering a close alliance between government and the private business sector, and designing and implementing a variety of policies and programs to bolster the overall economic environment, with special attention to the economic status of the ethnic Malay and other indigenous majority, or *Bumiputra*.

Market Challenges

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- Duty rates and systems of import permits in protected industries, such as automobiles and motorcycles, combined with excessive excise taxes, continue to block open trade in these sectors.
- Government restrictions hamper foreign involvement in several areas, including: government procurement contracts; financial, business, and professional services; and telecommunications. In many cases it is imperative to have a local partner, usually a *Bumiputra*, in order to effectively compete in the market.

Despite Malaysia's recent improvements in IPR laws and enforcement, there remain concerns regarding Malaysia's effectiveness in protecting IPR, as evidenced by the continued high rate of production and export of pirated optical disc media, counterfeiting, lack of effective patent and data protection for pharmaceutical products, and lax enforcement and prosecution. Insufficient IPR protection will impact the country's goal of increasing foreign investment in new areas, such as biotech and other R&D-intensive industries.

- Malaysia's economic freedom score is 64.6, making its economy the 58th freest in the 2009 Index. Its score is 0.7 point better than 2008, largely reflecting slight improvements in trade freedom and business freedom. Malaysia is ranked 9th out of 41 countries in the Asia/ Pacific region.

Market Opportunities

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- Malaysia's projected per capita income is US\$7,000 (2010) and forecasted to be US\$15,000 in 2020 and its purchasing power is among the highest in Asia, as evidenced by the strong consumer market. In 2009, almost 44% of the franchises operating in Malaysia are foreign franchises. U.S. franchises account for around 34% of foreign franchises.
- The U.S. and Malaysia signed a Trade and Investment Framework Agreement (TIFA) in May 2004, leading to a series of bilateral meetings to address such issues as market access, investment, intellectual property rights, and regulatory issues. The U.S. is now focused on pursuing the regional Trans Pacific Partnership (TPP) multilateral free trade negotiations and Malaysia has joined those negotiations as a full member.
- In July 2005, just after China revalued the yuan, Malaysia allowed the ringgit to operate in a managed float against a currency basket. The ringgit, which was previously pegged to the dollar at a rate of RM3.8 = USD1, was readjusted to a trade-weighted index of Malaysia's major trading partners. At the time of this report the exchange rate is RM3.05 to one US dollar.
- In 2010, the GOM removed 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. The GOM also embarked on four different economic programs to spur additional investment: the New Economic Model economic policy reform

platform, the Economic Transformation Program (ETP) intended to stimulate foreign and domestic private investment, the Government Transformation Program (GTP) to decrease corruption and improve Malaysia's social safety net, and the Tenth Malaysia Plan (10MP) to guide public sector capital expenditures. The NEM proposes reforming ethnic biases in business ownership and social safety net programs by improve the government delivery system and reduce the cost of doing business as well as divesting state enterprises.

- For more information on best prospects, please see Chapter 4.

Market Entry Strategy

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- Most exporters find using local distributors an easy first step for entering the Malaysian market. A local distributor is typically responsible for handling customs clearance, dealing with established wholesalers/retailers, marketing the product directly to major corporations or the government, and handling after-sales service.
- Sales to the government require a local agent and/or a joint venture partner, usually a *Bumiputra*. Additionally, direct involvement by the U.S. company and demonstrations of long-term commitment to the local market are essential for contracts of significant size.

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Chapter 2: Political and Economic Environment

For background information on the political and economic environment of the country, please click on the link below to the U.S. Department of State Background Notes.

<http://www.state.gov/r/pa/ei/bgn/2777.htm>

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Using an Agent or Distributor

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Many exporters designate a Malaysian-based trading company as their local sales agent responsible for handling customs clearance of imported goods, for dealing with established wholesalers and/or retailers, for marketing the product directly to major corporations or the government, and for handling after-sales service. In some cases, especially when selling to the government, a Malaysian distributor is required.

Establishing an Office

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A number of international accounting and consulting firms are located in Kuala Lumpur, which can assist with the procedures and requirements for setting up a business in Malaysia. AmCham (American-Malaysian Chamber of Commerce) can be a useful resource for those interested in setting up an office or plant (see contacts in Chapter 9). The following information is intended to provide a guideline for establishing an office, and is not meant to substitute for qualified legal and consulting services.

The primary concerns for those considering setting up an office or factory in Malaysia are registration and taxes, labor, wages, rental/construction prices, utilities, and insurance.

Registration of Foreign Companies

Foreign companies interested in doing business in Malaysia must register with the Companies Commission of Malaysia (CCM), formerly known as the Registrar of Companies (ROC). The same registration procedure applies whereby an application

must be submitted on Form 13A to the CCM in Kuala Lumpur or any of its branch offices in Malaysia, with a payment of RM30 (approx.US\$10.00). If the intended name of the foreign company is available, the application will be approved and the name reserved for three months. Fees, including application and name reservation, depend on nominal share capital and range from RM1,000 to RM70,000 (US\$333 to US\$23,333). Please see the [Malaysian Industrial Development Authority \(MIDA\)](#) website for a more specific breakdown of fees.

Upon approval, applicants must lodge the following documents with the CCM:

- A certified copy of its Certificate of Incorporation (or a document of similar effect) from the country of origin;
- A certified copy of its Charter, Statute or Memorandum and Articles of Association or other instrument constituting or defining its constitution;
- A list of its directors and certain statutory particulars regarding them (Form 79);
- Where there are local directors, a memorandum stating the powers of those directors;
- A memorandum of appointment or power of attorney authorizing one or more persons resident in Malaysia to accept on behalf of the company, service of process and any notices required to be served on the company;
- A statutory declaration in the prescribed form made by the agent of the company (Form 80).

The appointed agent undertakes all acts required to be done by the company under the Companies Act 1965. Any change in agents must be reported to the CCM. Every foreign company shall, within a month of establishing a place of business or commencing business within Malaysia, lodge with the CCM for registration a notice of the situation of its registered office in Malaysia using the prescribed form.

A foreign incorporated company must file a copy of its annual return each year within one month of its annual general meeting. Within two months of its annual general meeting, the company must file a copy of the balance sheet of the head office, a duly audited statement of assets used in, and liabilities arising out of, its operations in Malaysia, and a duly audited profit and loss account.

Taxation

Most income of companies and individuals accrued in, derived from, or remitted to Malaysia is liable to tax. However, income remitted to Malaysia by non-resident companies and individuals is tax-exempt, except in the case of the banking and insurance business, and sea and air transport undertakings. A company is considered a resident in Malaysia if the control and management of its affairs are exercised in Malaysia. Taxation rates can be found on the [MIDA](#) website (click on "Costs of Doing Business" and then "Taxation").

Rates of Capital Allowances

Capital allowances are given on qualifying capital expenditures. Initial allowances are given only once while annual allowances are given every year using the straight-line method. Some of the items accorded allowances are shown below. For plant and machinery, companies are advised to verify with the [Inland Revenue Board](#) on the specific items that qualify.

Initial Allowances:

Industrial buildings	10%
Computer and IT equipment	20%
Environmental control equipment	40%
Heavy machinery & motor vehicles	20%
Plant & machinery	20%
Others	20%

Annual Allowances:

Industrial buildings	3%
Computer and IT equipment	40%
Environmental control equipment	20%
Motor vehicles, heavy machinery	20%
Plant and machinery	14%
Others	10%

Labor Standards

The Employment Act of 1955 (Amendments 1998) is the main legislation on labor standards in Malaysia. Normal work hours are not to exceed 48 hours per week or eight hours per one day. A paid maternity leave of 60 days must be granted, as well as ten paid holidays, annual leave of 8 to 16 days, paid sick leave 14 to 60 days per year and overtime pay of time-and-a-half for normal work days, two-times for rest days and three-times for public holidays.

Under the Employees Provident Fund Act 1991, minimum contributions of 8% of employees' monthly wages and 12% of employers' monthly wages are compulsory. The [Social Security Organization \(SOCSO\)](#) administers social security schemes for workers earning wages not exceeding RM 3,000 (US\$1000) per month. The Human Resources Development Fund (HRDF) operates on the basis of a levy/grant system where contributing companies can apply for grants to subsidize the costs incurred in training their Malaysian employees. Mandatory contributions of 1% of monthly employee wages must be made by manufacturing companies that employ 50 or more Malaysians and companies employing from 10 to 49 employees and with a paid-up capital of RM2.5 million (US\$833) and above.

Any expatriate on staff requires a work permit. Obtaining a permit may take from two to three weeks with a fee ranging from RM200 - RM300 (US\$67 – US\$100) per month payable in advance for one year.

Wages

There is no national minimum wage law applicable to the manufacturing sector in Malaysia. Basic wage rates vary according to location and industrial sector, while supplementary benefits, which may include bonuses, free uniforms, free or subsidized transport, and performance incentives, vary from company to company. Wage rates can be found on the [MIDA](#) website (click on "Costs of Doing Business" and then "Human

Resources”). Most companies provide medical benefits to both executives and non-executives. Personal accident insurance is more commonly provided than life insurance and coverage is generally RM100,000 (US\$33,333) or above (senior-middle executive) and RM50,000 (US\$16,667) or below (non-executives).

Rental/Construction Prices and Utilities

For a detailed table of rental and construction rates, please see the [MIDA](#) website (click on “Costs of Doing Business” and then “Starting a Business”). For a detailed table of utility costs, please see the MIDA website (“Costs of Doing Business” and then “Utilities”).

Franchising

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The Malaysian franchise industry registered a healthy 27% growth in 2010 and is expected to continue this trend for 2011. Almost 31% of the franchises operating in Malaysia are foreign franchises. U.S. franchises account for around 42% of these franchises. U.S. franchises dominate the food and beverage industry. While most of the populace still needs to be educated on franchise concepts, the market is gradually becoming more aware of franchise as a means to producing entrepreneurs.

The Malaysian government’s constant encouragement and promotion of franchise as a means to improve the number of entrepreneurs is slowly gaining traction. Perbadanan Nasional Berhad (PNS) is a corporatized government entity tasked as lead agency in developing the Franchise Development Program under the 9th Malaysian Economic Plan. It also comes under the guidance and purview of the Ministry of Domestic Trade, Co-operatives and Consumerism. Even though PNS’s main focus is in encouraging more home grown franchise concepts, they are not adverse to exploring collaboration with foreign franchise concepts. Primarily, its function is to identify, acquire, launch, facilitate and encourage both local and international franchise brands. PNS is leaning towards lower cost service sectors as the next prime mover for the entrepreneurs.

In Malaysia, franchising is governed by the Malaysian Franchise Act 1998. This Act applies to the sale of franchises throughout Malaysia. All franchisors that are selling their franchises in Malaysia are required to register with the Registrar of Franchise (ROF). ROF comes under the purview of the Ministry of Domestic Trade, Co-operatives and Consumerism. A franchisor would need to lodge the document with the ROF at least 10 days prior to signing of franchise agreement.

Section 54 of the Franchise Act 1998 states that a foreign person who intends to sell a franchise in Malaysia or to any Malaysian citizens is required to submit an application for approval from ROF. Currently, a processing fee of RM50 (approximately US\$16.70) applies for each application. Basic documentation required for ROF applications are as follows.

- The letter of intent should include the following information: date of incorporation, and commencement of business, franchise concept and background of company, franchise experience (if it is self-owned, and the number of existing franchise outlets), and the identity of proposed Malaysian master franchisee/ franchisee.
- Certified true copy of incorporation from the relevant agencies in the country of origin.

- Certified true copy of proof of trademark and/or intellectual property mark registration.
- Company brochure and annual report with photograph of the outlets.

As over 60% of the Malaysian population is Muslim, US food and beverage related franchise companies that intend to sell to Muslim consumers should be aware of Halal requirements. Halal is defined as what is permissible under the Islamic Shariah Law. Malaysian standard MS1500:2400 is used in the production, preparation and handling of Halal food. This standard prescribes to the practical guidelines for the food industry on the preparation and handling of Halal food and serves as a basic requirement for food product and food trade or business in Malaysia. It is used by JAKIM as the basis for certification. JAKIM is Malaysia's Halal certifying body.

Please see Chapter 4 Franchise section for more information.

Direct Marketing

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Over the last ten years Malaysia has used technology to more effectively target its broad consumer base, using improved databases to achieve one-to-one marketing. Direct marketing in Malaysia is now on par with other developed consumer societies, and includes a full range, from technology driven Internet banners and SMS messaging to traditional billing inserts. For a list of direct marketing firms, contact the [Direct Marketing Association of Malaysia](#) (DMAM).

Joint Ventures/Licensing

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Some exporters find it advantageous to establish their own subsidiary in Malaysia to directly handle sales, distribution, and service. While this provides more direct control, it requires a commitment of capital and the identification of suitable local joint venture partners. The selection of a joint venture partner is perhaps the single most important decision made by a potential investor in Malaysia.

All partnerships must be registered with the [Companies Commission of Malaysia](#) (CCM) under the Registration of Businesses Ordinance 1956. Partners are both jointly and separately liable for the debts and obligations of the partnership should its assets be insufficient. Formal partnership deeds may be drawn up governing the rights and obligations of each partner, but this is not obligatory.

U.S. exporters interested in establishing a joint venture should contact MIDA for more information about other government policies that may affect contract arrangements within their specific industry. MIDA may also be able to assist with the identification of a suitable partner. Any firm intending to establish a local office should secure the services of a local attorney.

Selling to the Government

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Sales to the government require a local agent and/or a joint venture partner, and may require a local partner that is *bumiputra* (ethnic Malay). Additionally, direct involvement by the U.S. company (including its senior leadership) and demonstrations of long-term commitment to the local market are essential for contracts of significant size. Offsets

and/or technology transfer are usually an integral part of any large deal. Prices on major government projects tend to be negotiated, often after a bidding process has narrowed the range of potential candidates.

The Government of Malaysia is interested in attracting foreign investment and encouraging companies to establish offices in Malaysia to service both the local and regional market. When considering bids on major items, there appears to be a definite government preference for companies with a local presence. The [Multimedia Development Corporation](#) (MDC) has publicly announced that bids from firms investing in the Multimedia Super Corridor will receive priority consideration when the government awards major contracts associated with development of the corridor (i.e., flagship applications). Companies represented by offices outside of Malaysia are often at a disadvantage in such major competitions or in establishing long-term markets with major private sector firms, especially in the architecture, construction management, and engineering sectors. A local presence usually ensures that the customer will have access to after-sales service and follow-up, which are greatly valued by Malaysians.

Malaysia is not a member of the multilateral WTO Government Procurement Agreement. Malaysia's tender process has not always been transparent. Though Malaysia subscribes to APEC principles on transparency standards, it continues to work towards implementing the APEC government procurement standards. More recently Malaysia has developed an e-procurement pilot project, which seeks to develop a central tender website and common tendering standards that all ministries will follow. It is hoped that this new system will help ensure a more transparent system.

Distribution and Sales Channels

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U.S. exports to Malaysia move through a wide variety of sales channels, depending on the product or service. U.S. export wholesalers typically sell food and other consumer goods to Malaysian general import houses, which then handle distribution to supermarkets and other outlets. Major equipment sales to corporations in both the public and private sector require a local presence and local agents, as well as the active engagement of corporate leadership. It should be noted that bumiputra (ethnic Malay) firms are often given preference in securing government contracts and privatization projects.

Capital equipment is almost always handled by in-country representation, either through locally hired firms or a corporate representative in Malaysia. Electronic components are purchased directly from the U.S. by major U.S. and other multinational companies with manufacturing facilities in Malaysia. Much of that business is intra-firm. A large number of retail outlets and local and international consulting companies handle computer software. Many software companies have offices and joint ventures in Malaysia.

Selling Factors/Techniques

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When marketing general consumer goods, U.S. companies should keep in mind the cultural norms and standards of the Malaysian population, as well as the fact that Malaysia is a multiethnic country (Malays, Chinese, and Indians constitute 90% of the population, while the other 10% is composed of various indigenous groups). For example, a majority of the population is Muslim which means that certain food products

must be "halal" (meaning lawful and permissible to use/consume in Islam) in order to appeal to a larger market. It is also advisable to conduct some research on the possible implications of advertising or promotional activities before initiating them in Malaysia.

U.S. food and other consumer goods are primarily marketed to the rapidly growing urban middle class, and so tend to occupy the upper end of the local retail price spectrum. While value for dollar/ringgit is important, the "brand name" status of certain products appeals to a segment of Malaysians with a higher level of purchasing power. However, the same techniques used to market upscale goods and services in the U.S. may not be as effective in Malaysia.

Sales of equipment and material for a specific industry, such as electronics, depend heavily on specialized trade fairs, publications, and visits by company representatives. Sales to the government or for large-scale projects involving major equipment require extensive high-level contact by local representatives and visiting company representatives. Major companies with investments in Malaysia or interest in significant export sales also engage in continuing programs of company image building through articles and advertising in local business journals, sponsorship of conferences and other events, and participation in public-private sector consultative bodies.

U.S. exporters face strong competition from producers such as China, Australia, India, Thailand, Holland, New Zealand, and Indonesia when marketing agricultural products. Although the Malaysian market is price sensitive, price is not the only factor that determines the success of U.S. exporters operating within the Malaysian agricultural market. Developing strong business relationships with local industry players (including importers), maintaining the availability and the quality of the produce, effective promotional campaigns, and targeting the right markets are other important marketing factors to consider when operating in Malaysia.

Electronic Commerce

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It has only been in the last few years that Malaysians have slowly adopted e-commerce. Commercial banks were among the initiators of e-commerce deployment in Malaysia, with other sectors following suit. The national air carrier Malaysia Airlines and its low-cost competitor Air Asia now both provide on-line reservation systems. Transactional security over the Internet remains a major concern of Malaysian consumers and Malaysians are slowly being educated and eased into e-commerce as a way of doing business.

Trade Promotion and Advertising

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Advertising approaches differ according to the market sector. For consumer goods, advertising techniques include the full range of television, radio, newspaper, outdoor advertisements and other approaches. Extravagant product launches, once deemed necessary only in Singapore, are becoming the norm. Due to health/religious concerns, there are prohibitions on most types of advertising for tobacco and alcoholic beverages.

There are six nationwide TV channels in Malaysia: two government channels (TV1 and TV2) and four private channels (TV3, 8TV, TV9 and NTV7). Most television channels broadcast programs in the local language (Bahasa Malaysia), as well as in English,

Mandarin, and Tamil. As to pay TV, there are currently three providers (Astro, MiTV, and Fine TV). The TV market has some 6 million viewers, including 2.9 million ASTRO subscribers.

Malaysia has several English-language newspapers, the largest being the *New Straits Times* and the *Star*. The primary business-oriented paper is the *The Edge*. The major Malay-language newspapers are *Utusan Malaysia* and *Berita Harian*, while the largest Chinese papers are *Sin Chew Jit Poh* and *Nanyang Siang Pau*. There are also Tamil and other language newspapers. Business-oriented magazines include *Malaysian Business*, *Malaysian Industry*, and the *Malaysian Investor*. Published news on Malaysia can be accessed through various sites including www.malaysianews.net and www.asiadragons.com/world/malaysia.

A brief list of local firms that provide professional services and have expressed interest in working with U.S. companies can be found on the [Commercial Service KL](#) website. U.S. firms can also advertise themselves on the same site through the [Featured US Exporter](#) service.

Domestic trade fairs (as well as trade fairs in Singapore) also provide U.S. firms with an opportunity to increase brand awareness and find trade partners. The following is a list of trade exhibition centers: [Kuala Lumpur Convention Centre](#), [Malaysian International Exhibition & Convention Centre](#), [Midvalley Exhibition and Event Services](#), [Putrajaya Convention Centre](#), [Putra World Trade Centre](#), [Sunway Pyramid Convention Centre](#), [Malacca International Trade Centre](#), and Mahsuri International Exhibition Centre (in Langkawi). Major trade event organizers include: Malaysian Exhibition Services (www.mesallworld.com), [ABC Exhibitions](#), [AMB Exhibitions](#), [CIS Network](#), [Interexpo](#), [Mines Exhibition Management](#), [Protemp Exhibitions](#), and [Trade-Link](#).

Pricing

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A number of factors should be taken into consideration when determining appropriate product prices. Some factors to consider are the exchange rate (3.0 RM = U.S. \$1 at the time this report was published) and applicable taxes and duties. There may also be some government regulations for certain industries that affect the price charged to customers and other end-users. Another factor to consider is the standard of living in Malaysia. The country is one of the most affluent in the Southeast Asia region, which means that higher-priced products and services have a niche market. However, prices of general consumer goods should reflect the lower cost of living and purchasing power of the average Malaysian. [MIDA](#) maintains a table of prices of select consumer goods (click on "Living in Malaysia").

In addition, U.S. exporters should generate a price survey of competitor products and services from both domestic and international firms. The U.S. Commercial Service in KL can assist exporters by providing a Customized Market Research report that specifically identifies competitive factors within the market sector or industry.

Sales Service/Customer Support

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Malaysian customers, both corporate and individual, expect high-quality sales service and after-sale customer support like many other customers in markets worldwide. While

it is not often necessary to establish a local branch or subsidiary, it is usually crucial for U.S. companies to have a local agent (especially those that are interested in exporting products or operating services on a continual basis). This agent should be available for clients to contact immediately should any problems arise.

Protecting Your Intellectual Property

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Introduction

Several general principles are important for effective management of intellectual property rights in Malaysia. First, it is important to have an overall strategy to protect IPR. Second, IPR is protected differently in Malaysia than in the U.S. Third, rights must be registered and enforced in Malaysia under local laws. Companies may wish to seek advice from local attorneys or IP consultants. The U.S. Commercial Service can often provide a list of local lawyers upon request.

It is vital that companies understand that intellectual property is primarily a private right and that the US government generally cannot enforce rights for private individuals in Malaysia. It is the responsibility of the rights' holders to register, protect, and enforce their rights where relevant, retaining their own counsel and advisors. While the U.S. Government is willing to assist, there is little it can do if the rights holders have not taken these fundamental steps necessary to securing and enforcing their IPR in a timely fashion. Moreover, in many countries, rights holders who delay enforcing their rights on a mistaken belief that the USG can provide a political resolution to a legal problem may find that their rights have been eroded or abrogated due to doctrines such as statutes of limitations, laches, estoppel, or unreasonable delay in prosecuting a law suit. In no instance should USG advice be seen as a substitute for the obligation of a rights holder to promptly pursue its case.

It is always advisable to conduct due diligence on partners. Negotiate from the position of your partner and give your partner clear incentives to honor the contract. A good partner is an important ally in protecting IP rights. Keep an eye on your cost structure and reduce the margins (and the incentive) of would-be bad actors. Projects and sales in Malaysia require constant attention. Work with legal counsel familiar with Malaysia laws to create a solid contract that includes non-compete clauses, and confidentiality/non-disclosure provisions.

It is also recommended that small and medium-size companies understand the importance of working together with trade associations and organizations to support efforts to protect IPR and stop counterfeiting. There are a number of these organizations, both Malaysia or U.S.-based. These include:

- The U.S. Chamber and local American Chambers of Commerce
- National Association of Manufacturers (NAM)
- International Intellectual Property Alliance (IIPA)
- International Trademark Association (INTA)
- The Coalition Against Counterfeiting and Piracy
- International Anti-Counterfeiting Coalition (IACC)
- Pharmaceutical Research and Manufacturers of America (PhRMA)
- Biotechnology Industry Organization (BIO)

Protecting Your Intellectual Property in Malaysia:

Several general principles are important for effective management of intellectual property (“IP”) rights in Malaysia. First, it is important to have an overall strategy to protect your IP. Second, IP is protected differently in Malaysia than in the U.S. Third, rights must be registered and enforced in Malaysian, under local laws. Your U.S. trademark and patent registrations will not protect you in Malaysia. There is no such thing as an “international copyright” that will automatically protect an author’s writings throughout the entire world. Protection against unauthorized use in a particular country depends, basically, on the national laws of that country. However, most countries do offer copyright protection to foreign works under certain conditions, and these conditions have been greatly simplified by international copyright treaties and conventions.

Registration of patents and trademarks is on a first-in-time, first-in-right basis, so you should consider applying for trademark and patent protection even before selling your products or services in the Malaysian market. It is vital that companies understand that intellectual property is primarily a private right and that the US government generally cannot enforce rights for private individuals in Malaysia. It is the responsibility of the rights’ holders to register, protect, and enforce their rights where relevant, retaining their own counsel and advisors. Companies may wish to seek advice from local attorneys or IP consultants who are experts in Malaysian law. The U.S. Commercial Service can provide a list of local lawyers upon request.

While the U.S. Government stands ready to assist, there is little we can do if the rights holders have not taken these fundamental steps necessary to securing and enforcing their IP in a timely fashion. Moreover, in many countries, rights holders who delay enforcing their rights on a mistaken belief that the USG can provide a political resolution to a legal problem may find that their rights have been eroded or abrogated due to legal doctrines such as statutes of limitations, laches, estoppel, or unreasonable delay in prosecuting a law suit. In no instance should U.S. Government advice be seen as a substitute for the obligation of a rights holder to promptly pursue its case.

It is always advisable to conduct due diligence on potential partners. Negotiate from the position of your partner and give your partner clear incentives to honor the contract. A good partner is an important ally in protecting IP rights. Consider carefully, however, whether to permit your partner to register your IP rights on your behalf. Doing so may create a risk that your partner will list itself as the IP owner and fail to transfer the rights should the partnership end. Keep an eye on your cost structure and reduce the margins (and the incentive) of would-be bad actors. Projects and sales in Malaysia require constant attention. Work with legal counsel familiar with Malaysian laws to create a solid contract that includes non-compete clauses, and confidentiality/non-disclosure provisions.

It is also recommended that small and medium-size companies understand the importance of working together with trade associations and organizations to support efforts to protect IP and stop counterfeiting. There are a number of these organizations, both Malaysia or U.S.-based. These include:

- The U.S. Chamber and local American Chambers of Commerce

- National Association of Manufacturers (NAM)
- International Intellectual Property Alliance (IIPA)
- International Trademark Association (INTA)
- The Coalition Against Counterfeiting and Piracy
- International Anti-Counterfeiting Coalition (IACC)
- Pharmaceutical Research and Manufacturers of America (PhRMA)
- Biotechnology Industry Organization (BIO)

IP Resources

A wealth of information on protecting IP is freely available to U.S. rights holders. Some excellent resources for companies regarding intellectual property include the following:

- For information about patent, trademark, or copyright issues -- including enforcement issues in the US and other countries -- call the STOP! Hotline: **1-866-999-HALT** or register at www.StopFakes.gov.
- For more information about registering trademarks and patents (both in the U.S. as well as in foreign countries), contact the US Patent and Trademark Office (USPTO) at: **1-800-786-9199**.
- For more information about registering for copyright protection in the US, contact the US Copyright Office at: **1-202-707-5959**.
- For more information about how to evaluate, protect, and enforce intellectual property rights and how these rights may be important for businesses, a free online training program is available at www.stopfakes.gov.
- For US small and medium-size companies, the Department of Commerce offers a "SME IP Advisory Program" available through the American Bar Association that provides one hour of free IP legal advice for companies with concerns in Brazil, China, Egypt, India, Russia, and . For details and to register, visit: http://www.abanet.org/intlaw/intlproj/iprprogram_consultation.html
- For information on obtaining and enforcing intellectual property rights and market-specific IP Toolkits visit: www.StopFakes.gov This site is linked to the USPTO website for registering trademarks and patents (both in the U.S. as well as in foreign countries), the U.S. Customs & Border Protection website to record registered trademarks and copyrighted works (to assist customs in blocking imports of IP-infringing products) and allows you to register for Webinars on protecting IP.
- The U.S. Commerce Department has positioned IP attachés in key markets around the world. You can get contact information for the IP attaché who covers Malaysia at: [Jennifer Ness](#), Commercial Officer (Intellectual Property Rights).

IPR Climate in Malaysia

Trademark counterfeiting is a major problem in Malaysia and impacts a broad range of industries, including: optical media, apparel and luxury goods, tobacco, and electrical items. More information is available on this subject in [Chapter 6](#).

Though Malaysia is a party to international agreements to protect intellectual property (including the WIPO, Berne and Paris Conventions, among others), it is recommended that a company register its patents and trademarks with the appropriate Malaysian agencies and authorities. Because intellectual property rights are private rights, the U.S. government can provide only limited direct assistance and cannot provide American companies with legal advice or advocate on a company's behalf where a matter is before a court or administrative agency. Once a company decides to pursue a remedy, the U.S. government will monitor the case, if requested to do so by the company. The U.S. government cannot intervene in these cases. However, we can inquire about their status or contact government officials about concerns related to the effective administration of legal remedies available to IP holders as a general matter. To report an IPR-related trade complaint or get more information, call 1-866-999-4258. In addition, the Department of Commerce's Trade Compliance Center (TCC) actively monitors and tracks trade barrier complaints filed by U.S. businesses. As well, the TCC maintains a trade barrier toolkit on its website, which provides comprehensive advice on dealing with trade problems.

Due Diligence

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Several firms gather information and publish reports on Malaysian companies, including [Rating Agency Malaysia](#), United Management Services, and D&B Information Services (M) Sdn. Bhd. For major corporate transactions, financial advisors and lawyers can perform due diligence. Publicly listed companies are required to publish audited financial results, which can be checked prior to entering into business agreements. In smaller transactions, letters of credit are a standard requirement of potential customers, while bank references and track records can be checked prior to appointing agents.

Local Professional Services

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A brief list of local firms that provide professional services and have expressed interest in working with U.S. companies can be found on the [Commercial Service KL](#) website. For a more complete list of service providers in a certain sector (i.e. legal, financial, accounting), please contact the [U.S. Commercial Service in Kuala Lumpur](#).

Web Resources

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Companies Commission of Malaysia: www.ssm.gov.my
Inland Revenue Board: www.hasilnet.org.my/english/eng_index.asp
Malaysian Franchise Organization www.mfa.org.my/
Malaysian Industrial Development Authority (MIDA): www.mida.gov.my
Malaysia news sites: www.malaysianews.net and www.asiadrasons.com/world/malaysia
Ministry of Entrepreneur Development:
<http://mcsl.mampu.gov.my/english/fedgovt/entre.html>
Multimedia Development Corporation: www.mdc.com.my/

Rating Agency Malaysia: www.ram.com.my/

Social Security Organization: www.perkeso.gov.my/english/introduction.html

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Chapter 4: Leading Sectors for U.S. Export and Investment

Commercial Sectors

- [Aircraft & Parts \(MRO\)](#)
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- [Renewable Energy \(RE\) & Efficient Energy \(EE\)](#)
- [Digital Broadcasting & Product Content](#)
- [Broadband](#)
- [Franchising](#)
- [Medical and Dental Healthcare](#)

Agricultural Sectors

- [Pet Food - Dogs and Cats](#)
- [Temperate Fresh Fruits](#)
- [Temperate Hardwood Lumber](#)

Aircraft & Parts (MRO)

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MRO	2008	2009	2010	2011*
Total Market Size	1,609	1,301	1,433	1,565
Total Local Production	600	676	720	766
Total Exports	597	775	800	827
Total Imports	1,606	1,400	1,533	1,630
Imports from the U.S.	319	280	308	336

*Unofficial estimates generated by the Commercial Service in Kuala Lumpur
Figures given in U.S. dollars in millions. Exchange rate: U.S. \$1= RM(Ringgit Malaysia)3.46 (2008); US\$1 = RM3.47 (2009), US\$1 = RM3.35 (2010). US\$1=RM3.00 (2011).

- The Malaysian government has identified the aerospace industry, particularly aerospace maintenance, repair and overhaul (MRO) services, as a new growth industry for Malaysia to exploit.
- Malaysia Airlines (MAS) is embarking on fleet modernization. It has upgraded its fleet of 35 B737-800 (delivery of aircraft between 2010 and 2014) and order of 15 A330-300 (delivery of aircraft between 2011 and 2014). It also has optional orders for 20 B737-800 and 10 A330-300. MAS expects to receive six A380 (ordered several years ago) in 2011-2012.
- AirAsia has placed orders of 175 A320s since 2005. It has so far received 70 of the aircraft. The other 80 aircraft will be received from 2011 to 2014. Over time, Airbus aircraft will completely replace the Boeing 737-300 fleet currently used by AirAsia Group, which are operating in Malaysia, Thailand and Indonesia
- Firefly, the newest budget airline, is expected to increase their capacity challenging the pole position of AirAsia in the budget travel category. Firefly planned to have seven 737-800 aircraft by 2011 and 30 by 2015.
- The Royal Malaysian Air Force (RMAF) today operates some 80 combat aircraft such as Hawks, MiG-29N, F/A-18DHornets and Sukhoi Su-30MKM. Altogether, the RMAF has about 200 aircraft of various makes.

Best Prospects

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- The best prospects in the Malaysian aviation sector are airliners – Malaysia Airlines is planning to acquire up to 55 wide-body aircraft for long haul routes – in addition to the recent order of 55 narrow-body planes B737-800 from Boeing. Aircraft engines are also a best prospect because of the purchase of those airplanes.

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- As the airlines in the region grow, Malaysia's aircraft MRO operators grows seeking to expand their services catering to airlines in the region. In order to be competitive and up-to-date, operators have to invest to cater to the needs of their customers who are at the same time expanding and acquiring new planes.
- U.S. exports of aircraft parts have consistently enjoyed a dominant position in the market, due to consistently superior quality and performance in comparison to other makes.

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For more information about this sector, please read the market research entitled *Malaysia's Safety & Security Equipment Market* available in our market research database. See "Chapter 9: Market Research" for instructions about accessing the report.

Air Asia: <http://www.airasia.com>

Malaysia Airlines: <http://mas.com.my>

Firefly: <http://www.fireflyz.com.my/>

Ministry of Defense Malaysia: www.mod.gov.my

Langkawi Int'l Maritime & Aerospace Exhibition, Dec 1-5, 2011: www.lima2011.com.my

Defense Services Asia, 16-19 April 2012: www.dsaexhibition.com

For more information please contact [Randall.Liew](#)

Oil & Gas Equipment

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O&G	2008	2009	2010	2011*
Total Market Size	806	800	830	860
Total Local Production	166	170	180	190
Total Exports	75	70	70	70
Total Imports	715	700	720	740
Imports from the U.S.	408	395	400	405

*Unofficial estimates generated by the Commercial Service in Kuala Lumpur
Figures given in U.S. dollars in millions. Exchange rate: U.S. \$1= RM(Ringgit Malaysia)3.46 (2008); US\$1 = RM3.47 (2009), US\$1 = RM3.35 (2010). US\$1=RM3.00 (2011).

- Malaysia has the world's 24th largest crude oil reserve of about 5.25 billion barrels inclusive of condensate, and ranked 13th in terms of gas reserve of almost 15 billion barrels.
- Malaysia's crude oil production, including condensates, averaged 658,000 barrels per day in 2009; and the production of natural gas was 940,000 barrels of oil equivalent (BOE) per day. Malaysia's total reserves (as of January 1, 2009): 5.52 billion barrels of oil, and 14.66 billion BOE of gas.
- Prospects for Malaysia's oil and gas industry remain optimistic, especially in deepwater and ultra-deepwater areas.
- US\$6.0 billion was spent in the Malaysian exploration and production sector in 2009. Of this, about US\$4.0 billion was spent on development and production projects and exploration activities, and the balance on operations.
- The Malaysian market for offshore oil and gas equipment (excluding rigs, platforms, modules, jackets, marine vessels) in 2009 was estimated at US\$800 million.
- To spur this sector the Government of Malaysia had at the end of 2010 introduced incentives such as tax allowance of up to 100% capital expenditure deduction.

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- Strong market prospects include drilling tools, fishing tools, pressure control equipment, mud equipment, cementing equipment, perforating systems, multilateral well completion systems, core completion products, down-hole

testing systems, blowout preventer systems, artificial lift systems, sub-sea Christmas trees, etc.

- Everything from completion fluids and perforating optimization to completion hardware geared toward maximizing recovery for justifying large capital investments in deepwater fields will have high market potential.
- Intelligent completion and control architectures, multilateral systems, sand control solutions and expandable completion systems, which ensure that production maintains high levels, will also, have strong potential.
- Enhanced Oil Recovery, high CO₂ gas fields, high pressure high temperature, deepwater and infrastructure projects for petroleum operations.
- Development of viable marginal oil fields and improve commerciality of such fields.

Opportunities

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- The 2004-2006 period has seen several significant oil and gas finds in Malaysia and great excitement has been generated with recent major discoveries in the deep water offshore Sabah, in Eastern Malaysia. With these discoveries, foreign investors have shown renewed interest in Malaysian waters. Deepwater development presents complex operational challenges – high cost and high risk. American equipment/systems/services that are technologically advanced will have very solid prospects in this market over the next several years.
- Exxon/Mobil produces almost half of Malaysia's present hydrocarbon output. Triton, Amerada Hess, and Murphy are likely to be joining existing producers Exxon/Mobil and Shell in the next few years as large hydrocarbon producers. Other U.S. companies presently working as production sharing contractors in Malaysia are ConocoPhillips and Newfield. The U.S. market position and share of oil and gas equipment will likely be enhanced over the next several years, as U.S. firms will produce more hydrocarbons.

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For more information about this sector, please read the market research entitled *Malaysia's Oil & Gas Industry* available in our market research database. See "Chapter 9: Market Research" for instructions about accessing the report.

OGA 2011 (Oil & Gas Asia Exhibition), June 8-10, 2011: www.oilandgas-asia.com

Petronas: www.petronas.com.my/

For more information please contact Commercial Specialist [Randall.Liew](#)

Renewable Energy (RE) & Efficient Energy (EE)

Overview

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RE & EE	2008	2009	2010	2011*
Total Market Size	367	385	405	425
Total Local Production*	0	0	0	0
Total Exports+	0	0	0	0
Total Imports	317	385	405	425
Imports from the U.S.	76	92	101	110

*Unofficial estimates generated by the Commercial Service in Kuala Lumpur
Figures given in U.S. dollars in millions. Exchange rate: U.S. \$1= RM(Ringgit Malaysia)3.46 (2008); US\$1 = RM3.47 (2009), US\$1 = RM3.35 (2010). US\$1=RM3.00 (2011).

*Unofficial estimates

** Unofficial Projections

Sustainable development of the *energy* sector is a priority to the economic competitiveness of Malaysia, particularly the industrial, transportation and commercial sectors. Efforts will continue to be undertaken to manage both depletable and renewable energy resources to cater to the demands of a rapidly growing economy. The main thrust will be to ensure an adequate, secure, and cost-effective supply of energy, promote its efficient utilization and minimize the negative impact on the environment. The framework conditions for formulation of energy policy with more focus on Renewable Energy (RE) and Energy Efficiency (EE).

- Malaysia will experience a large increase in overall energy demand. Use of oil products, natural gas and coal are increasing to meet increasing demands in all sectors, particularly manufacturing, service & commercial, and transportation
- The final energy demand is expected to double to almost 74 Mtoe by 2020¹
- Electricity's share of final energy demand is expected to increase from 18% in 2009 to 21% in 2020*
- The fuel mix contribution from renewable energy will be 5% in 2010 to 11% in 2020
- The energy supply needs is expected to increase to 125 Million Mtoe by 2020*
- In 2015 Malaysia will be net importer of energy²
- If prices and subsidies remain at today's level, the annual fiscal burden is expected to be US\$7 Billion in 2010 and US\$12 Billion by 2020*

¹ Malaysian Industrial Development Authorities, 2009

²² Malaysia Energy Centre

Drivers that will spur the growth of RE and EE are:

- The Malaysia Institute of Architects (PAM) and Association of Consulting Engineers Malaysia (ACEM) has recently developed the Green Building Index, which incorporates recognised practices in designing and constructing environmentally friendly operations in Malaysia.
- The advocacy of Energy Efficiency (EE) and sustainable townships with houses that will be equipped with eco-friendly features such as solar power heating and photovoltaic. generators
- Tax exemptions on capital expenditure for the development of green technology.
- Soft loans from the Ministry of Green Technology and Water to companies that are involved in green technologies.

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- Priority will be to reduce wastage and increase efficiency.
- Companies supplying technology, equipment and know-how within the area of RE and EE products and equipment
- Most frequently asked for or requested for are efficient solar accumulators and hybrid generators.
- Environmentally friendly energy sources and equipment

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- Companies for joint ventures and/or transfer of technology in the fields of RE and EE equipment or systems
- Other alternative source of RE besides the traditional Biomass, Solar, Wind.
- Most interestingly are the “*waste-to-wealth*” type resources

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[Ministry of Energy, Green Technology and Water](#)

[Energy Commissions of Malaysia](#)

[Ministry of Natural Resources and Environment](#)

[Institute for Environment and Development](#)

Malaysia Environmental Shows:

For more information contact Commercial Specialist [Randall Liew](#)

Digital Broadcasting & Product Content

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Unit: USD thousands

Digital Broadcast Infrastructure Spending	2009	2010	2011 (forecasts)
RTM	17.6	20.6	21.6
Media Prima	7.3	8.8	9.2
Astro	19.1	22.1	23.2
Total	44.0	51.5	54

**figures are in Ringgit Malaysia million and are rough estimates provided by the Broadcasters.
Exchange rate: US\$1=RM3.0.*

As Malaysia transition into various forms of digital TV, i.e. high definition TV (HDTV), mobile TV and Internet Protocol TV (IPTV); it naturally translate into increase demand for digital broadcasting products and content. The government plans to switch off Free-to-Air (FTA) analog broadcast service in 2015. The estimated cost for the industry to migrate from analog to digital TV is \$588 million.

Malaysia's Free-To-Air (FTA) broadcasting, presently in analog format, comprise of six television stations. The government owns two stations (RTM1, RTM2) and Media Prima Berhad owns four stations (TV3, ntv7, 8TV and TV9). About 98% of Malaysian households (6.1 million in a population of 27.8 million), have access to FTA terrestrial TV and radio. Media Prima holds more than 70% of the FTA market.

Direct-To- Home (DTH) satellite pay-TV started in 1996 in Malaysia by Astro. Telekom Malaysia (TM) has launched its IPTV service in 2010. As of January 2011, they have about 40,000 IPTV subscribers. Another nascent IPTV provider, DE Multimedia Sdn Bhd has about 10,000 subscribers as of January 2011. YTL Communications will be launching its multiple platforms digital TV in the near future.

Maxis, Celcom and Digi launched their mobile TV service in 2008. Take up has been slow due to the poor quality as the service is delivered through video streaming. Mobile broadcast TV service is expected to be launched sometime in 2011.

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Market demand include set top decoder boxes, transmitters, encoders, multiplexes, studio cameras, automation system, monitoring & quality system, content management system, editing & video server system, microwave system, television receive only (TVRO) equipment and earth stations. High definition content is an increasingly growing demand.

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High definition content will be the main demand driver for the broadcasting sector. Additionally, many alternative broadcasters, i.e. IPTV and multiple platforms broadcasters are seeking various content genres. Lifestyles programs, animation and children programs, documentaries are especially in demand in the market.

All of the FTA stations are in the midst of upgrading to HD format. Most pay-TV providers are utilizing HD programs as an offering to capture premium early adopter customer segment.

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- [ACM Asean ICT Expo & Forum](#)
- [Malaysian Communications and Multimedia Commission](#)
- [Ministry of Information, Communication and Culture](#)
- [SIRIM Bhd](#)

For more information contact Commercial Specialist [Tracy Yeoh](#)

Broadband

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Telco Infrastructure Spending	2009	2010	2011 (forecast)
TM	588	647	680
Maxis	294	294	308
Celcom	235	294	309
Digi	220	235	247
Total	1,337	1,470	1544

**figures are in Ringgit Malaysia million and are rough estimates given by the Telcos
Exchange rate: US\$1=RM3.0.*

Malaysia is seeing a slight increase in consumer confidence in 2011. This will be reflected in renewed Information Technology hardware and packaged software. Most of the PC manufacturers have bundled affordable entry level laptops and PCs offerings to consumers. With this renewed confidence, we can expect demand for internet connectivity to increase in tandem.

The Government of Malaysia will continue to place heavy emphasis on increasing broadband penetration. Wireless broadband technology will continue to play an important role for digital divide reduction, especially for the rural areas. In the urban areas, the focus is to have more affordable and faster broadband made available.

The broadband market (fixed and mobile) has a high potential for growth, creating a large demand for broadband products. As of September 2010, Malaysia's broadband household penetration rate is 40.7% out of 6.29 million households, (11.4% population penetration rate out of a population of 28.9 million). The prime minister of Malaysia announced in January 13, 2011 that Malaysia's broadband penetration rate is now at 55.6%.

In its efforts to become an industrialized nation by year 2020, the government is targeting 50% household penetration by 2010. It is undertaking a nationwide broadband strategy, with the following two categories of broadband, to achieve the target, using a mixture of fixed, mobile and satellite technologies.

Malaysia utilizes ADSL, ADSL and other fixed-broadband technology to deploy its wire-line connectivity. Wireless broadband connectivity is fast outpacing wire-line broadband subscribers. As of Q2 2010, the subscribers of each wire-line technology are: 1.6 million ADSL, 0.0116 million SDSL, 0.182 million other. There are 1.4 million mobile broadband subscribers, while 0.025 million utilizes other wireless technology.

To help achieve the broadband target, the government awarded four WiMAX (2.3GHz spectrum) licenses to Packet One, Red Tone International Bhd, YTL Communications Sdn Bhd and Asia Space Sdn Bhd (Asia Space). All licensees are allowed nationwide coverage except for Redtone whose license covers only the states of Sabah and Sarawak.

Malaysia is one of the most mature mobile phone markets in the region, with penetration rate of 108.8% as of Q2 2010. The keen competition among the mobile operators, Maxis, Celcom and Digi has helped push forward the mobile subscriber growth. Maxis and Celcom hold more than 75% of the mobile market share. The new mobile operator, UMobile which launched its service in 2008 is trying to gain market share due to the intense competition. Since the mobile phone market is getting saturated, the mobile operators are looking at mobile broadband as their key growth area over the next few years.

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As the market demand for broadband increases, wire-line and wireless network connectivity would be in demand i.e. HSDPA, WiMAX, WiFi, ADSL, SDSL, VDSL, ETTH, FTTH and satellite. Networking equipment and solutions such as routers, switches, firewall; and interconnectivity products such as modems etc. would be in demand.

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TM is rolling out phase one over 2009-2012, starting with parts of the Kuala Lumpur metropolitan area. Opportunities on fiber optic last mile connectivity, core network and improvements to international connectivity is foreseen for the next ten years for the High Speed Broadband project. For the rollout to rural areas, a mixture of fixed, mobile and satellite technologies will be used.

Maxis, Celcom and Digi will continue to invest to expand its network coverage for 3G and HSDPA. The four WiMAX players will continue to invest in infrastructure to deploy their broadband services. Celcom's parent company, Axiata and Maxis are aggressively expanding overseas in Asia. This will create demand by these operators for more broadband products in the future.

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- [ACM Asean ICT Expo & Forum](#)
- [Malaysian Communications and Multimedia Commission](#)
- [Ministry of Information, Communication and Culture](#)
- [SIRIM Bhd](#)

For more information contact Commercial Specialist [Tracy Yeoh](#)

Franchising

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	2008	2009	2010
Total Franchises in Malaysia	326	388	492
Total Malaysian Franchises	213	262	339
Total Malaysian Franchises currently exporting	26	28	29
Total Foreign Franchises in Malaysia	113	126	153
Number of U.S. Franchises in Malaysia	38	43	65

Source: Malaysian Franchise Association

The Malaysian franchise industry registered a healthy 27% growth in 2010. Almost 31% of the franchises operating in Malaysia are foreign franchises. U.S. franchises account for around 42% of these franchises.

Out of the entire Malaysian franchise market, 69% are home-grown. Twenty-nine of the domestically grown franchise brands have made inroads to overseas markets. These brands are mostly in the food, early child education, clothing and accessories and beauty sectors. As of October 2010, there are 492 franchise businesses operating in the country.

Food and beverage takes up majority of these franchises, while maintenance and services have are the next biggest franchise segment. The Government of Malaysia will continue to emphasize and encourage Franchising as a catalyst for entrepreneur growth.

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The Food and Beverage will remain the main interest driver for franchise concept for Malaysia. Although many investors are looking to other franchise concepts, however, the majority of the successful franchise concept is F&B related. Unique food and beverage franchise concepts that are presently not available in the market would be big selling point. This is especially so if the menu is Halal or can be customized.

Besides F&B, education has always been and will remain important to Malaysians. Private education for K-12 is fast gaining popularity for the upper-middle income group. U.S. based syllabus education system are increasingly gaining popularity among consumers of private education. In terms of tertiary education, in-country collaborative dual degrees programs are the next trend in fulfilling the education need of the population.

Other franchise service sectors gaining market acceptance are in the health and beauty and retail sectors. Majority of franchise investors that are thinking of venturing into non F&B related concepts are looking into retail and service franchise concepts.

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Most of the successful US franchise concepts in the market are in the food and beverage industry. Niche selling points and renowned branding is absolutely essential in attracting the large conglomerate investors.

Large corporations and conglomerates notwithstanding, the other Malaysian franchise investors are constantly on the lookout for moderate price range franchise potential. Although food and beverage sectors continue to be in the forefront of demand, increasingly the education, health and retail sectors are gaining popularity.

Web Resources

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- [Ministry of Domestic Trade, Co-operatives and Consumerism \(MDTCC\)](#)
- [Malaysia Franchise Association](#)
- [Perbadanan Nasional Berhad \(PNS\)](#)
- [Halal Malaysia](#)
- [Malaysian Qualification Agency \(MQA\)](#)
- [Malaysian-American Commission on Educational Exchange \(MACEE\)](#)

For more information, please contact Commercial Specialist [Tracy Yeoh](#).

Medical and Dental Healthcare

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	2007	2008	2009
Total MOH Hospitals	130	130	130
Total MOH Hospitals Beds	32,149	33,004	33,083
Total MOH Dental Clinics	2,109	2,200	2,284
Total MOH Dental Chairs	3,744	4,059	4,344
Total Public Doctors: Dentists	14,298:1,540	15,096:1,922	20,192:1,858
Total Private Hospitals	195	209	209
Total Private Hospitals Beds	11,291	11,689	12,216
Total Private Dental Clinics	937	1,435	1,484
Total Private Doctors: Dentists	9,440:1,625	10,006:1,718	10,344:1,709
Total MOH Per Capita Allocation	RM412.34 (US\$137.50)	RM465.29 (US\$155.10)	RM484.55 (US\$161.52)

Source: *Health Facts, Malaysian Ministry of Health (MOH)*.
Exchange Rate: US\$1=RM3.0

The Malaysian Ministry of Health manages the national healthcare program which is responsible for roughly 90% of the health expenditures in Malaysia. The Malaysian healthcare program offers all services Malaysian citizens need for small co-pay in public facilities. A newer system, the National Health Insurance Scheme (NHIS) has been in the works since 2002, but to date, implementation has not yet occurred. The NHIS would theoretically create a universal insurance scheme in which all citizens are required to contribute towards a fixed operating budget. A limited private system operates concurrently, which is primarily used by affluent Malaysian individuals and a number of medical tourists from less developed countries in the region. One of the Government of Malaysia (GOM) goals is to transform the healthcare delivery system to improve quality, efficiency and affordability.

The GOM continues to upgrade and expand its healthcare facilities. Under the 10th Malaysian Economic Plan (10MP), GOM has allocated US\$212 million for 197 new clinics; 156 clinics in rural areas and 41 community health clinics. Fifty additional 1Malaysia branded clinics will be set up in the urban poor and rural underserved areas. An additional US\$200 million has been set aside to build four new hospitals and four replacement hospitals. This includes National Cancer Institute and the Cheras Rehabilitation Center. Mapping of existing healthcare providers to identify gaps to streamline health service delivery, mobile clinics, flying doctor services to remote areas are also under GOM's to-do list.

Private healthcare providers are expected to continue the lead in healthcare tourism development. The GOM remain optimistic over healthcare travel industry, targeting an upside of 10% annual revenue growth for 2011-2015. As a frame of reference, the growth rate for this industry for year 2006-2008 is about 12.3% per annum. During this period, there were about one million foreign patients in Malaysia with total medical receipts of about RM800/ US\$267 million.

Overall, there are a lot of potential for Malaysia's private healthcare market. Middle to upper income segment of the Malaysian population that want speedy and quality healthcare would frequent private hospitals. This is especially so among the upper-middle and high income population. Even though this segment of the population can afford private healthcare, however, they are increasingly adopting the "prevention is better than a cure mentality". Food and vitamin supplements are seen as preventive measures towards maintaining optimal health.

On the dental side, one of the major requirements from Malaysia is a one-stop dental trauma center as most of the dental clinics provide basic dental care, with subspecialty clinics scattered in various locations across the country. The public dental health division has recognized a need for this and is working towards realizing it within the next five years under the 10MP. Majority of the private sector dental care providers have their own practice. Although there are many basic private dental clinics, we are seeing subspecialties in the area of orthodontics, implant and esthetic procedures increasingly being offered in these private clinics. The middle and upper-middle income group makes up the bulk of this consumer group. The United States of America is one of the leading suppliers of orthodontics products in Malaysia.

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To promote healthcare tourism, strategic alliances between Malaysian and foreign healthcare service providers, medical insurance groups and travel organization comes into play. On the top most important list are collaborative efforts between Malaysian and U.S. healthcare service providers.

With GOM having plans to make Malaysia a dental spa destination, opportunities abound for the demand of both in the study of dentistry, as well as the products and equipment associated in the provision of dental services.

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Besides the physical products and equipment, there is demand on skills-sets improvement front. Interests in cross training for medical and dental specialists and post graduate education are high. Hence, opportunities in cross training TDYs with US hospitals in specialty medical and dentistry would be very welcomed in Malaysia.

Many of the older dental schools are in the midst of new facilities expansion, upgrades and refurbishment. As a result, the most basic necessity of this requirement is dental chairs, x ray and 3D imaging equipment, dental compressors and generators, dental laboratory equipment, clinical computer systems, simulators etc. Certain segments of Malaysian dental specialists are using cone beam 3D dental radiography, laser systems, computerized dental record systems, CAD/CAM intra-oral camera, digital x-rays implants etc. Demand for orthodontics and endodontic appliances and services, implants and prosthetics solutions, lab equipment is expected increase in the near future. Further, there will always be demand for dental materials/ consumables.

As to preventive health maintenance, the mainstay of basic vitamin and pro-vitamins; natural and organic supplements are slowly gaining popularity. Joint-support care, fish oils, heart-care, cholesterol lowering supplements, CoQ10, Gingko, and male urinary health supplements are some of the market best sellers. There are 140 manufacturers

licensed to produce traditional medicines and 40 OTC product producers in Malaysia. The U.S. is the largest supplier of healthcare supplements to Malaysia commanding about 28% of the market share. U.S. brands are both trusted and well received by the Malaysian consumers.

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- [Ministry of Health Malaysia](#)
- [Malaysian Medical Association](#)
- [Malaysia Dental Association](#)
- [Association of Private Hospital of Malaysia](#)
- [Malaysian Organization of Pharmaceutical Industries \(MOPI\)](#)
- [Nutrition Society of Malaysia](#)

For more information, please contact Commercial Specialist [Tracy Yeoh](#).

Pet Food (Dogs and Cats)**Overview**

Unit: USD thousands

	2009	2010*	2011* (estimated)	2012* (estimated)
Total Market Size	51	53	55	58
Total Local Production	0	0	0	0
Total Exports	0	0	0	0
Total Imports	51	53	55	58
Imports from the U.S.	11	13	16	18

** Unofficial estimates*

- As Malaysians become more affluent, keeping pets especially pedigree, is regarded as a lifestyle.
- Pet shops, complete with full range of pet care products and specialists on hand for advice, are increasingly popular among pet lovers.
- With education and awareness, pet owners are feeding their pets with prepared food as opposed to food scraps from the dining table. With increase popularity of pedigree animals, sales of prepared pet food will continue to grow.
- Most dog and cat foods are sold through hypermarkets and supermarkets because of their price and affordability. Premium pet foods are sold through pet shops.

Sub-Sector Best Prospects

- Wet dog and cat foods (premium and economy), dry dog and cat foods (premium and economy), dog treats such as biscuits, meat jerky, raw hides and meal bones.

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Temperate fresh fruits

Overview

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Unit: USD thousands

	2009	2010*	2011* (estimated)	2012* (estimated)
Total Market Size	158.2	163.2	166.3	168.3
Total Local Production	0.2	0.2	0.3	0.3
Total Exports	-	-		
Total Imports	158	163	166	168
Imports from the U.S.	22	23	25	27
Exchange Rate: 1 USD				

* Unofficial estimates

- Since Malaysia has a tropical climate, almost all temperate fruits are imported, which is why the total market size is not much greater than total imports.
- Apples, oranges, mandarin oranges, pears, quinces and grapes are the major fruits imported into Malaysia. China, Australia, New Zealand and the U.S. are market leaders for these fruits. Australia and the U.S. are the market leaders for oranges and grapes. China leads in mandarin oranges, apples and pears.
- These fruits are widely consumed by consumers in the urban and rural areas and across various income levels.
- Premium imported fruits such as grapefruit, apricot, cherries, peaches and berries are confined to consumers in the middle income and above.
- Malaysian consumers prefer to “see, feel and pick” when purchasing their fruits.

Most retail outlets sell fresh fruits loose; however, packed fresh produce in transparent materials is gaining acceptance among consumers. The preferred packing size for fruits, such as apples, pears and oranges is 6-10 fruits per pack; 0.5-1.0lb for grapes and 0.5lb for berries and cherries.

Sub-Sector Best Prospects

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- Oranges, grapes and apples are the existing best product prospects for this sector. Higher end fruits, such as plums, peaches, cherries, and grapefruits are gaining popularity among consumers.

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General guidance to food exporters can be found in the Malaysia Exporter Guide on the [Foreign Agricultural Service](#) website.

Temperate Hardwood Lumber

Overview

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	2009	2010+	2011+ (estimated)	2012+ (estimated)
Total Market Size**	27	21	33	40
Total Local Production	0	0	0	0
Total Exports	0	0	0	0
Total Imports	27	21	33	40
Imports from the U.S.	10	8	13	16

Unit: USD millions

+Unofficial estimates

**Total market size for temperate hardwood is exactly the same as total imports because only tropical hardwood is available in Malaysia. Therefore all temperate hardwood in Malaysia is imported.

- Temperate hardwood lumber is mainly used in the Malaysian furniture/interiors sector. Overseas demand from the western world for Malaysian-made furniture declined in 2008 and 2009 following the financial/economic downturn. Malaysian export earnings from furniture are recovering and show a double-digit growth in 2010.
- The furniture industry more optimistic for 2011. The 16th MIFF, to be held in Kuala Lumpur on March 1 – 5, 2011, will again showcase the best of Malaysian manufactured furniture. With the exhibition space expected to be at about 80,000 sq meters, MIFF is touted as the largest furniture fair in Southeast Asia and offers itself as a gateway for international players to penetrate the regional market. More than 500 leading furniture manufacturers and exporters from Malaysia and Asia are expected to participate at the Fair. It is estimated that MIFF accounts for about 40 percent of Malaysia's total annual furniture exports.

Best Prospects

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- Much of the opportunities for U.S. exporters in the Malaysian furniture industry arise from coupling cheaper native woods, such as rubberwood with high-value veneers from the U.S. Strong increases in market share of U.S. temperate hardwood lumber and veneer in past years confirm this trend. As Malaysia moves into the top ten furniture exporters in the world, the U.S. wood industry, if properly positioned, would largely benefit from the development.

Opportunities

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- The American Hardwood Export Council (AHEC) does a commendable job of increasing the awareness of U.S. hardwoods in Malaysia. Its main activities are participating in trade shows, conducting a technical seminar, holding regional conferences involving speakers/panelists from Malaysia.

- U.S. wood suppliers should team up with AHEC to participate at trade shows in order to increase their visibility in the local market and to make direct contact with local furniture manufacturers.

Web Resources

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Malaysian International Furniture Fair (MIFF) Mar 1-5, 2011 www.miff.com.my

American Hardwood Export Council: www.ahec.org/

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Chapter 5: Trade Regulations, Customs and Standards

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Import Tariffs

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Tariffs are the main instruments used to regulate the importation of goods in Malaysia, and the simple average applied normal trade relations (NTR) tariff rate is 8.56%. Import duties range from 0% to 50% and can be found on the [US-ASEAN Business Council's](#) website (note: the site provides both CEPT rates under AFTA, as well as NTR rates applicable to U.S. goods, and Malaysia follows the Harmonized Tariff System (HTS) for the classification of goods). The higher rates apply to luxury goods and protected sectors. The level of tariff protection is generally lower on raw materials and increases for those with value-added content or which undergo further processing. Seventeen percent of Malaysia's tariff lines (principally in motor vehicle, construction equipment, forestry, logging, agricultural, and minerals sectors) are also subject to non-automatic import licensing designed to protect import-sensitive or strategic industries. The Malaysian government continually reviews tariff rates in line with its objective of achieving a more open and liberal economy, and applied tariff rates have fallen over the past ten years.

In 2004 and again in 2005, Malaysia lowered some of the substantial import duties to which foreign-made automobiles and motorcycles were previously subject. At the same time, the government applied equally high excise taxes, leaving the tax burden on imported vehicles virtually unchanged. In October 2005 the government issued the New Automobile Policy framework that eventually could enhance competition; for example, the framework eliminated a 50% rebate on the auto excise tax for which only national car manufacturers were eligible. The government unveiled its long awaited new National Automotive Policy (NAP) in March 2006. With this policy, the government is attempting to eliminate disparities in the treatment of local and foreign automakers and to turn Malaysia into a regional hub for the manufacturing, assembly and distribution of automotive vehicles. As of the NAP review, the rates of import duty for most favored nation and excise duty for Complete Built-Up and Complete Knocked-Down vehicles are maintained. However, per 2009 National Budget, imports of complete build-up hybrid cars are exempted from duty and are granted 50% excise duty exemption. These exemptions are given for a period of two years, until December 31, 2010. Moreover, in the 2011 National Budget announced in October 2010, hybrid cars can now be imported with full exemption of import and excise duty. This exemption is now extended to December 31, 2011. This incentive is also extended to electric cars as well as hybrid

and electric motorcycles. Currently there is no electric vehicle manufacturing available in the country.

Under the recent NAP review, the Approved Permit (AP) for importation of automotive vehicle commitments has been extended:

- Open AP for used vehicles (commercial, passenger and motorcycles) has been extended to end by 31 December 2015; and
- Franchise AP to be terminated by 31 December 2020.

Further information about tariffs may be found on the website of the [Royal Malaysian Customs](#).

In addition to import duties on specific classes of goods, a general sales tax of 10% is levied on most imported goods. However, the sales tax is not applied to machinery used in export-oriented production.

Trade Barriers

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The Government of Malaysia operates a system of import licensing for a number of items, including arms and explosives; motor vehicles; heavy construction equipment; certain drugs and chemicals; plants; timber; soil; tin ore, slag or concentrates; and various essential foodstuffs.

Imports of meat and poultry are regulated through licensing and sanitary controls. All imported beef, lamb, and poultry products must originate from facilities that have been approved by Malaysian authorities as “halal,” or acceptable for consumption by Muslims.

Malaysia has an export licensing system. For some products, such as textiles, export licenses are used to ensure compliance with bilateral export restraint agreements. For other products, such as rubber, timber, palm oil, and tin exports, special permission from government agencies is required. Export duties ranging from 5% to 15% are imposed on the principal commodities of timber and palm oil. A flat rate of 10% export duty is imposed on petroleum.

Malaysia is not party to the WTO Government Procurement Agreement, and as a result foreign companies do not have the same opportunity as some local companies to compete for contracts, and in most cases are required to take on a local partner before their bids will be considered.

Malaysia’s services sector, which constitutes about 56% of the national economy, remains highly protected. In sectors such as telecommunications, legal services and direct selling, foreign firms are limited to a 30% share in local operators, although one foreign telecom operator negotiated a higher limit. Other services, including architecture and engineering, can only operate as a joint-venture participant, and accounting and taxation firms can only operate through affiliates.

Protection of intellectual property rights is also a trade barrier for certain industries, and this issue is discussed in [Chapter 6](#). For a full report on trade barriers in Malaysia, please visit the [U.S. Trade Representative’s](#) report.

Import Requirements and Documentation

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The following documents are required by Malaysian customs for exporting products to Malaysia: invoice; packing list; delivery letter; leaflet, catalogue or other related documents; insurance certificate, if insured; loading bill/airway bill; letter of credit (if used); permit, licenses/certificates; proof of fare payment; and a declaration form (customs form No 1) that indicates the number, description of packages/crates, value, weight, quantity and type of goods and country of origin. Completed Custom forms should be submitted to Customs offices at the place where the goods are imported or exported.

All duties/custom taxes imposed on imported goods will need to be paid in advance before the goods can be released. Taxes to be paid include import tax and sales tax.

Imports of electric goods are required to have an approval certificate issued by the Malaysia Electricity Supply Board (JBEM). If shipping raw materials/components or machineries to a Free Industrial Zone (FIZ) in Malaysia, the manufacturer in the FIZ is required to forward a list of goods along with a manufacturing flow chart to the State Customs Director for approval.

U.S. Export Controls

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Exports and re-exports of munitions, dual-use commodities and technology to Malaysia are subject to U.S. export controls. U.S. companies exporting to Malaysia need to apply for an export license from the Bureau of Industry and Security (BIS) if their products or services are controlled for any of the following reasons: CB1, CB2, NP1, NS1, NS2, MT1, RS1, RS2, CC1, and CC3. If a firm does not know its export commodity control number, it should contact its local [U.S. Export Assistance Center](#) for more information on BIS commodity classification, or review the [Export Administration Regulations](#) database. Additional information about the types of products covered may be obtained from the State Department's [Directorate of Defense Trade](#) or the Commerce Department's [Bureau of Industry and Security](#).

Temporary Entry

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Malaysia acceded to the Convention on Temporary Admission of Goods (ATA Convention) in 1988, and information on temporary entry of goods under the ATA is found in [Chapter 8](#). Raw materials used directly for the manufacture of goods for export are exempted from import duties if such materials are not produced locally or if the local materials are not of acceptable quality and price. This provision, for example, applies to Malaysian imports of semiconductor components used in the fabrication of completed semiconductors for export. Exemptions from duties are also available for machinery and equipment used directly in the manufacturing process or not available locally.

Labeling and Marking Requirements

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All imported consumer goods must identify the importing agent, typically accomplished by affixing a label after goods have cleared customs. Pre-packaged drugs must be labeled in English or Bahasa Malaysia, indicating the substance and its components. Malaysia requires nutrition labeling for all food products. Foods that have been enriched

or fortified with specific vitamins and minerals must have a declaration of the amounts of these nutrients on the label. The mandated nutritional guidelines closely follow Codex guidelines. American standard RDA guidelines will not be accepted; instead nutrients must be expressed as a percentage of the Codex recommended Nutrient Reference Value (NRV). Companies may apply stickers that contain the nutritional information in lieu of producing packaging specifically for the Malaysian market. All meat, processed meat products, poultry, and eggs must receive halal certification from [Pusat Islam](#) in order to bear the halal mark.

On July 8 2010, Malaysian Ministry of Health posted food amendment regulations that require strict mandatory labeling of food and food ingredients obtained through modern biotechnology. The amendments also include that no person shall import, prepare or advertise for sale or sell any food and food ingredients obtained through modern biotechnology without the prior written approval of the Director. It is expected that a grace period (perhaps one to two years) will be provided prior to enforcement. In January 2011, Malaysia will began enforcing new grading, packaging and labeling regulations relating to agricultural produce. Certain information will be required in the Bahasa Malaysia (the local Malay language). Stickers will be allowed but must be put on before entering Malaysia. For more information on these regulations, please follow this link: <http://www.fama.gov.my/web/guest/247>

Prohibited and Restricted Imports

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Quantitative import restrictions are seldom imposed, except on a limited range of products for protection of local industries or for reasons of security. Seventeen percent of Malaysia's tariff lines (principally in the construction equipment, agricultural, mineral, and motor vehicle sectors) are also subject to non-automatic import licensing designed to protect import-sensitive or strategic industries.

Customs Regulations and Contact Information

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Malaysia follows the Harmonized Tariff System (HTS) for the classification of goods. All imported and exported goods into the country must be categorized based on the Malaysian Customs tariff numbers. Any queries regarding classification of import and export goods should be made to the particular customs station of which the goods are to be imported. For more information, please see the [Royal Malaysian Customs'](#) website.

Standards

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Overview

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Standards are widely used in all sectors of Malaysian society, and the national standardization system uses a consensus process to develop new standards, allowing manufacturers, traders, consumers, government, and others to provide input and consideration into the development process. Malaysia adheres to the WTO's "Standard Code" on Technical Barriers to Trade. SIRIM Berhad, formerly known as the Standards and Industrial Research Institute of Malaysia, is the government-owned company providing institutional and technical infrastructure for the Government.

Standards Organizations

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[SIRIM Berhad](#) is the national organization of standardization and quality and also serves as the government's catalyst for industrial research and development. Its functions include developing Malaysian standards, undertaking scientific industrial research, and providing technology transfer and consultancy services.

As the appointed standards development agency, SIRIM publishes Malaysian standards and provides quality certification services. Today, more than 3,600 standards are available. The current standards are also reviewed every five years or whenever required to keep current with the latest technological developments. Many of these standards are implemented in product certification, quality management systems, and environmental management systems certification.

NIST Notify U.S. Service

Member countries of the World Trade Organization (WTO) are required under the Agreement on Technical Barriers to Trade (TBT Agreement) to report to the WTO all proposed technical regulations that could affect trade with other Member countries.

Notify U.S. is a free, web-based e-mail subscription service that offers an opportunity to review and comment on proposed foreign technical regulations that can affect your access to international markets. Register online at Internet URL:

<http://www.nist.gov/notifyus/>

Conformity Assessment

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There are a few important national testing organizations that operate under SIRIM and define the structure and objectives of national standardization as well as ensure the functionality and quality assurance of products. For a list of conformity assessment bodies visit the [Department of Standards and Malaysia](#) website and click on "Accreditation" and then on "Directory of Accredited CBs" as well as on "Directory of Accredited Labs".

Product Certification

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Malaysia is part of the Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement. This is a multilateral arrangement between the U.S. and the economies of twenty nations, most of which are located in Southeast Asia. The purpose of the APEC MRA is to facilitate trade, promote market access, reduce or minimize non-tariff trade barriers, and arrive at a Mutual Recognition Arrangement of conformity assessment processes. All economies in the APEC Arrangement, including Malaysia, are already in

Phase I, which encompasses mutual recognition of test reports. Many economies are ready for Phase II, which is an acceptance of product approvals from one another.

Accreditation

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The [Department of Standards Malaysia](#) (DSM) was established following the establishment of SIRIM to undertake the statutory roles in national standardization formerly carried out by the Institute. It operates as the sole national accreditation body in the country. DSM provides accreditation services to certification bodies, inspection bodies, and testing and calibration laboratories. DSM is responsible for processing applications for accreditation and their submission to the Director General who, in successful cases, issues certificates of accreditation. DSM fee structure for accreditation is: (a) application fee - RM 5,000; (b) annual fee - RM 5,000. An accreditation certificate is valid for three years.

Publication of Technical Regulations

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Malaysia's legislative body produces an official gazette entitled *Government Gazette*. Proposed and final technical regulations are published, but accessing the government information over the Internet requires a subscription. The website [LawNet](#) provides basic information and accepts feedback on any number of subjects. U.S. firms can review and comment on proposed standards and technical regulations through the [SIRIM Berhad](#) website, by clicking on "Corporate Ads" and then "Public Comment." A list of existing standards can be found on the same site, by clicking on "Online Services" and then "MS Catalog Online."

Labeling and Marking

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[Sirim QAS](#), a subsidiary of SIRIM Bhd, is the leading certification, inspection and testing body in Malaysia, and provides marks for a variety of certifications. For a full list, visit its website at: <http://www.sirim-qas.com.my/certlist2.asp>. Permission to use the SIRIM Quality Mark on products or services is given to manufacturers and companies whose products and services consistently conform to the relevant MS guidelines. To ensure compliance to the requirement of the Mark, SIRIM periodically tests the product, makes both regular and unannounced visits to manufacturers, and regularly checks their quality control and procedures.

For other information on labeling, please see the section earlier in [Chapter 5](#).

Contacts

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Standards contacts at the U.S. Embassy in Malaysia: [Terry J. Sorgi](#) and [Tracy Yeoh](#)
Department of Standards Malaysia: <http://www.dsm.gov.my/>
LawNet: <http://www.lawnet.com.my/>
Malaysian Certified: <http://www.malaysiancertified.com.my/>
Notify US: <http://www.nist.gov/notifyus/>
SIRIM Berhad: <http://www.sirim.my/>
SIRIM QAS: <http://www.sirim-qas.com.my/>

Malaysia has pursued bilateral and regional free trade arrangements in complement to its active participation in the World Trade Organization. Malaysia's specific objective in concluding FTAs is to maintain the country's competitive position vis-à-vis its neighbors. Malaysia also requires that the FTAs it negotiates include elements of trade and investment cooperation that allows its industry to build capacity through technical cooperation and collaboration.

Malaysia is a member of the [ASEAN Free Trade Area \(AFTA\)](#), which aims to reduce trade barriers among the member countries over a 15-year period. A key AFTA objective is for the six original ASEAN members (Malaysia, Indonesia, Singapore, Thailand, the Philippines, Brunei) to reduce import duties to 5% or less by 2010, with newer members (Vietnam, Laos, Burma, and Cambodia) to do the same by 2015. By 2003, 99.26% of Malaysian goods included in the AFTA Common Effective Preferential Tariff (CEPT) scheme were subject to duties of less than 5%; of these products, 60.4% were subject to zero tariff.

Malaysia has signed and implemented bilateral FTAs with Japan and Pakistan and recently concluded negotiations with New Zealand. Malaysia is also a party to five regional FTAs namely ASEAN-China, ASEAN-Korea, ASEAN-Japan, ASEAN-Australia-New Zealand and ASEAN-India. Currently, Malaysia is negotiating bilateral FTAs with India, Chile and Australia, and the regional ASEAN-EU FTA.

In 2010, Malaysia agreed to enter into multilateral trade discussions with the U.S. and other members of the Trans-Pacific Trade Partnership (TPP). Negotiations on the TPP will commence in 2011.

The U.S. and Malaysia signed a Trade and Investment Framework Agreement in May 2004. The TIFA established a Trade and Investment Council (TIC) that meets several times a year to discuss ways to improve the bilateral trading relationship. Malaysia is also a member of the [Asia-Pacific Economic Cooperation \(APEC\)](#) group.

ASEAN Free Trade Area (AFTA): www.aseansec.org/economic/afta/afta.htm
Asia-Pacific Economic Cooperation (APEC): www.apec.org
ASEAN Tariff Database: www.us-asean.org/aftatariffs.asp
ATA Carnet: www.atacarnet.com/
Bureau of Industry and Security: www.bis.doc.gov/
Department of Standards Malaysia (DSM): www.dsm.gov.my/
Government Gazette (subscription needed): www.lawnet.com.my
Malaysia's APEC Action Plan: www.apec-iap.org/document/MAS_2005_IAP.htm
Malaysian Customs Department: www.customs.gov.my
Malaysia's Economic Planning Unit: www.epu.jpm.my/
Malaysia's External Trade Development Corporation (MATRADE): www.matrade.gov.my
Malaysia's National Economic Action Council: <http://neac.gov.my/>
Ministry of International Trade and Industry: www.miti.gov.my/
SIRIM: www.sirim.my/
SIRIM QAS: www.sirim-qas.com.my/

State Department's Directorate of Defense Trade Controls: www.pmdtc.org
U.S. Trade Representative: www.ustr.gov/
U.S. Export Assistant Centers: www.export.gov/comm_svc/eac.html
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Openness to Foreign Investment

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Malaysia has one of the world's most trade-dependent economies with trade reaching 200% of annual GDP. The GOM values foreign investment as a powerful force for the continued economic development of the country, but is hampered by an overly burdensome regulatory regime. In 2010, the GOM removed 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. The FIC accepted investment in commercial properties valued greater than at RM20 million (approximately \$6.5 million) from Bumiputras (ethnic Malays and other indigenous ethnicities). The Ministerial Functions Act grants relevant ministries broad discretionary powers over the approval of specific investment projects. Investors in industries targeted by the GOM often can negotiate favorable terms with the ministry or other regulatory bodies. 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. Foreign investors in non-targeted industries tend to receive less GOM assistance in obtaining the necessary approvals from the various regulatory bodies and therefore face greater bureaucratic obstacles.

While electronics remained the main sector for FDI in 2010, the oil and gas sector is expected to be the new focus with off shore development and two new storage and services hubs in Johor. In 2009, the electronics sector received the largest share of FDI and in 2008 basic metal manufacturing attracted the largest investment share. For the past three years, manufacturing FDI has centered on projects in Selangor, Johor and

Penang – with manufacturing investment in Johor increasing the fastest due to the Iskandar Development Region attracting investment from Singapore.

Conversion and Transfer Policies

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Regulatory Burden

In the World Bank's global *Doing Business 2011* report, Malaysia moved up from 23rd to 21st place overall among the 183 economies covered in the survey. Malaysia's best rankings were in the standardized indicators "getting credit" and "protecting investors," where it ranks first and fourth, respectively. Malaysia's worst rankings are in "dealing with construction permits" at 109th and starting a business at 113th, down from 88th in 2010. The survey gave a Malaysian example of obtaining the approvals necessary to build a warehouse, involves 25 procedures and takes 261 days, at a cost of 7.1% of per capita income, all before construction can begin. Starting a business involves 9 procedures, takes an average of 17 days and costs a whopping 17.5% of per capita income.

<u>Measure</u>	<u>Year</u>	<u>Index/Ranking</u>
TI Corruption Index	2010	56/178 (4.4 score)
Heritage Economic Freedom	2011	53
World Bank Doing Business	2011	21/183

To improve the business climate in Malaysia, the GOM in 2007 established the PEMUDAH committee, consisting of 23 high-level government and private sector leaders with a mission to identify and evaluate bureaucratic impediments to conducting business in Malaysia and to make recommendations to the PM 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. It does not have the authority to make deeper reforms needed to address policy-level structural inefficiencies in Malaysia's economy. The *Doing Business 2011* report cited PEMUDAH efforts to streamline starting a business through putting several procedures on-line. More information about the committee is available at www.pemudah.gov.my.

Ethnic Preferences

One significant impediment to Malaysia's economic growth is the country's complex network of preferences to promote the acquisition of economic assets by ethnic Malays and other indigenous groups (Bumiputra). The details of implementation are largely left to the various ministries. Policies and practices vary greatly. Some practices are explicit and contained in law or regulation while others are informal, leaving much ambiguity for potential investors. The NEM proposes reforming ethnic biases in business ownership and social safety net programs. These proposals have met strong opposition from conservative Bumiputra groups.

In the early 1970s, the GOM set a target of 30% of the nation's wealth to be held by ethnic-Malay Bumiputra. Several studies have concluded that the 30% equity target has been reached or exceeded; however, the topic is very sensitive and official government figures place Bumiputra equity at 18.9%. The government's methodology has been criticized as not fully transparent, and there has been considerable debate over how to

account for the value of government-linked companies or how to measure equity (par value versus market value). The NEM reforms are meant to re-focus the policies on poverty reduction as originally intended.

One of the government's racial preference policies has been a requirement that foreign non-manufacturing and all domestic firms take on Bumiputra partners. Prior to 2009, if a company sought public listing on the Bursa Malaysia (formerly Kuala Lumpur Stock Exchange), it was required to reserve at least 30% of its initial public offering (IPO) for purchase by Bumiputra. In 2009, the government removed foreign ownership limits for 27 non-controversial services subsectors, repealing FIC guidelines on mergers and acquisitions, reducing Bumiputra ownership requirements for new listings of foreign owned corporations from 30% to 12.5%, and reducing FIC approval requirements for foreign ownership of real properties to only those above RM 20 million (USD 7 million). However, Bumiputra equity remains a consideration when companies apply for an array of required permits and licenses, many of which must be renewed either annually or biennially.

Manufacturing

The Malaysian Industrial Development Authority (MIDA) screens all proposals for manufacturing and related projects in Malaysia, both foreign and domestic, to determine the extent to which they contribute to the government's goals and objectives. These are outlined in the Third Industrial Master Plan (2006-2020), the various regional initiatives (Iskandar Development Region and the Northern, Eastern, Sabah and Sarawak Economic Regions) as well as the ETP and the 10MP.

Project approval depends on many other factors as well. MIDA may consider the size of an investment, the export-orientation of production, the type of financing required (both local and offshore), capital/labor ratio, the potential for technological diffusion into the local economy, the ability of existing and planned infrastructure to support the effort, and the existence of a local or foreign market for the output. If both local and foreign firms propose similar projects, the local firm will be given preference. All requests are handled on a case-by-case basis. MIDA now has the authority to issue or renew licenses for all manufacturing companies, eliminating a second layer of approval from MITI. MIDA established an on-site immigration unit in 2007 which has helped expedite the processing of expatriate work visas. Applications for investment in sectors other than manufacturing are handled by the relevant ministries and sometimes require multiple approvals.

Investment regulations are specified in the Promotion of Investments Act of 1986 (PIA) and the Industrial Coordination Act of 1975. The government pledged in 2004 to replace the PIA with a more concise law covering investments in both manufacturing and services, but has yet to do so. The PIA does not address services investment. The FIC also formulates policy guidelines for foreign participation in non-manufacturing sectors. Private entities, both foreign and domestic, may acquire, merge with, and take over business enterprises. However, the acquisition or disposal of 5% or more of interests in any local financial institution requires the prior approval of the Minister of Finance and Bank Negara Malaysia (BNM, central bank).

Distribution Services, including Direct Selling and Retail Trade

Malaysia no longer requires the licensing and operation of direct selling companies to have 30% Bumiputra equity. Local companies that seek multi-level direct selling licenses require paid-in capital of RM 1.5 million (\$423,700), while companies with foreign shareholders must have paid-in capital of RM 5 million (\$1.4 million).

The Malaysian government also included local content requirements in "Guidelines on Foreign Participation in the Distributive Trade Services" that came into effect in December 2004. Among other provisions, the Guidelines require that department stores, supermarkets and hypermarkets reserve at least 30 % of shelf space in their premises for goods and products manufactured by Bumiputra-owned small and medium sized industries. The guidelines also require that at least 30 % of a store's sales consist of Bumiputra products, a rule that does not appear to take into consideration discretionary behavior on the part of consumers.

Regional Distribution Centers and International Procurement Centers (CPC 87909) were two of the 27 service sectors from which the government removed 30% Bumiputra ownership requirements in 2009.

Professional Services

Malaysia restricts foreign participation in professional services (other than "back office" operations that support foreign business activities).

Legal Services

Foreign lawyers may not practice Malaysian law, nor may they affiliate with local firms or use their international firm's name. Foreign law firms may not operate in Malaysia except as minority partners with local law firms, and their stake in any partnership is limited to 30 %. Under the Legal Profession Act of 1976, the practice of Malaysian law normally is restricted to Malaysian citizens or permanent residents who have apprenticed with a Malaysian lawyer, are competent in Bahasa Malaysia (the official language), and have a local law degree or are accredited British Barristers at Law. The Attorney General has authority to grant limited exceptions on a case-by-case basis, provided the applicant has seven years of legal experience. Malaysian law does not allow for foreign legal consultancy except on a limited basis in the Labuan International Offshore Financial Center. Malaysia limits such foreign attorneys' scope of services to advice concerning home country and international law. Persons not licensed as lawyers are subject to criminal penalties if they directly or indirectly undertake activities relating to the Malaysian legal system, including drafting documents.

During 2009, the government approved authorization of five international legal firms for the specific purpose of providing legal services for Islamic financial institutions in Malaysia.

Architectural Services

A foreign architect may operate in Malaysia only as a joint-venture participant in a specific project with the approval of the Board of Architects. Foreign architectural firms are not permitted to operate in Malaysia, either independently or as partners of

Malaysian architectural firms. Foreign architects may not be licensed in Malaysia but are allowed to be managers, shareholders, or employees of Malaysian firms. Only licensed architects may submit architectural plans. Architectural services are governed by the Architects Act of 1967 and are regulated by the Ministry of Works.

Engineering Services

Foreign engineers may be licensed by the Board of Engineers only for specific projects, and must be sponsored by the Malaysian company carrying out the project. The license is valid only for the duration of the project. In general, a foreign engineer must be registered as a professional engineer in his or her home country, have a minimum of 10 years experience, and have a physical presence in Malaysia of at least 180 days in one calendar year. To obtain temporary licensing for a foreign engineer, the Malaysian company often must demonstrate to the Board that it cannot find a Malaysian engineer for the job. Foreign engineers are not allowed to operate independently of Malaysian partners, or serve as directors or shareholders of an engineering consulting company. A foreign engineering firm may establish a commercial presence, subject to meeting government requirements on Malaysian citizen participation. Foreign engineering companies may collaborate with a Malaysian firm, but the Malaysian company is expected to design the project and is required to submit the plans for domestic approval. Engineering services are governed by the Registration of Engineers Act and regulated by the Ministry of Works.

Accounting and Taxation Services

Foreign accounting firms may provide accounting and taxation services in Malaysia only through affiliates. All accountants who wish to provide auditing and taxation services in Malaysia must register with the Malaysian Institute of Accountants (MIA) before they may apply for a license from the Ministry of Finance. Citizenship or permanent residency is required for registration with MIA. Malaysian citizens or permanent residents who received degrees from local universities or are members of at least one of the 11 overseas professional bodies recognized by Commonwealth countries may apply for registration. The American Institute of Certified Public Accountants (AICPA) is not recognized by Commonwealth countries.

Energy

Under the terms of the Petroleum Development Act of 1974, the upstream oil and gas industry is controlled by the parastatal, Petroleum Nasional Berhad (Petronas), the sole entity with legal title to Malaysian crude oil and gas deposits. Foreign investment takes the form of production sharing agreements (PSAs). Foreign operators include ExxonMobil, ConocoPhillips, Hess, Baker Hughes, Newfield, and Murphy Oil from the U.S., as well as Royal Dutch Shell. Non-Malaysian firms are permitted to participate in oil services either in partnership with local firms or as contractors. They are restricted to a 30% equity stake if they are incorporated locally.

Telecommunications

Malaysia has offered in the context of the WTO Doha Round negotiations to increase foreign equity limits to 49% in "application service providers" (ASP); however, precisely

what this category encompasses is unclear. Foreign ownership of "network facilities providers" (NFP) and "network service providers" (NSP) would continue to be limited to 30% under the revised offer. One foreign NSP negotiated a five-year exemption which allowed the company a temporary 61% stake with a requirement that the foreign equity holding be reduced to 49% over a 5-year period commencing on the date of incorporation.

The government removed 30% Bumiputra ownership requirements from computer hardware installation consultancy services (CPC 841), software implementation services (CPC 842), data processing services (CPC 843), database services (CPC 844), computer repair services (CPC 845), and other computer related services (CPC 849) during 2009.

Broadcasting and Audio-Visual

Private broadcasting companies are regulated by the Ministry of Information, Communications, Culture and Arts and the Malaysian Communications and Multimedia Commission. Foreign ownership of radio and television stations is not permitted. As a condition for obtaining a license to operate, video rental establishments are required to have 30 % local content in their inventories. Malaysia maintains a Censorship Board under the Ministry of Home Affairs that regularly censors print media, movies, and television shows deemed inappropriate on religious or sexual grounds.

Advertising

Advertising falls under the purview of multiple ministries and agencies, complicating the adoption of a single set of advertising regulations and enforcement procedures for all stakeholders in this process. International firms have concerns about the lack of clear and consistent advertising content guidelines, and how some advertisers misrepresent their products and services through advertising. The Government of Malaysia has an informal and vague guideline that commercials cannot "promote a foreign lifestyle."

In 2007, the government required that at least 70% of television commercials must be made in Malaysia, feature local actors, and be shot in locations within the country. The same percentage would be required for post-production of the commercials and for the usage of equipment and facilities available. These regulations are not routinely enforced.

Product labeling also is weak; for example, products can be found on store shelves with no indication of the manufacturer or country of origin.

Financial Services

Malaysia restricts foreign investment in the financial services and insurance sectors, as described below.

Banking

The Malaysian government limits foreign participation in financial services to encourage the development of domestic financial services providers. Its policies are guided by the Banking and Financial Institutions Act of 1989 (BAFIA) and the ten-year Financial Sector

Master Plan, unveiled in 2001, which sets out a three-phase strategy for developing the Malaysian banking sector, and expired at the end of 2010. Phase I focused on capacity building and developing a core set of domestic banking institutions through mergers of commercial banks with merchant banks, discount houses and stock brokerage firms. Within the first four years of the Plan, the number of domestic financial institutions declined from 63 to nine. According to the Plan, Phase II included the removal of many restrictions on incumbent foreign financial institutions, leveling the playing field and increasing competition. Implementation of such reforms was slow, but is mostly now completed. The government began implementing Phase III during 2009 by introducing new foreign competition. In 2010, the government issued new banking licenses to five new foreign commercial banks, two new foreign Islamic banks and two new Islamic insurers (takaful). No U.S. banks applied for the new commercial licenses. China's ICBC Bank and a consortium of Indian banks also separately received new commercial bank licenses during 2010.

In 2009, the equity stake in investment banks foreign institutions are allowed to hold increased from 49 % to 70 %. Currently, foreign participation in domestic commercial banks is still restricted to an aggregate maximum stake of 30 %. By 1994 BAFIA required all foreign banks operating in Malaysia to incorporate locally. Locally incorporated foreign banks currently operating in Malaysia can be 100% foreign-owned but are required to have a minimum of two Malaysian residents on their Boards of Directors. Bank Negara generally requires all banks, including U.S. banks, to maintain their back office and computer operations in Malaysia, citing data secrecy concerns as well as claiming that any operations outside of Malaysia are "outsourcing." This policy prevented some foreign banks from keeping up with global trends in Internet banking. Bank Negara will consider waiving the requirement on a case-by-case basis for foreign banks willing to reinvest sufficiently in Malaysia.

In 2009, Bank Negara announced that locally incorporated foreign banking institutions currently operating in Malaysia would be allowed to open four additional bank branches in 2010, with one branch in a market center, two in semi-urban centers, and one in a non-urban center. Foreign banks are also allowed to open 10 microfinance branches. Each location must be approved by Bank Negara. Some foreign banks may obtain permission to open more than four, particularly if the new branches will be in underserved areas. Foreign Islamic banks are given much greater latitude in numbers and locations of new branches. In 2011, foreign banks were allowed to join Malaysia's domestic ATM network, clearing a major competitive barrier to foreign banks competing with domestic banks for the retail banking market.

Insurance

The life insurance industry remains dominated by foreign providers, including some U.S. firms, and domestic firms control the general insurance industry. As part of Malaysia's response to the 1997-1998 Asian financial crisis, all branches of foreign insurance companies were required to incorporate locally. The 2001 Financial Sector Master Plan set out a timeline for liberalization of the insurance industry in several phases. These include increasing caps on foreign equity, fully opening the reinsurance industry to foreign competition, and lifting existing restrictions on employment of expatriate specialists. In 2009, foreign ownership limits were raised from 49% to 70% for branches of foreign insurance companies.

Investment Services

The Securities Commission's ten-year Capital Market Master Plan, released in February 2001, established a timetable for liberalizing foreign participation limits. According to this plan, foreigners would be permitted to purchase a limited number of existing stockbrokerage licenses and to take a majority stake in unit trust management companies, beginning in 2003. The government has allowed five foreign stock brokerage firms and a foreign fund management company to set up operations in Malaysia. Maximum foreign ownership in Malaysian stock brokerage firms was increased during 2009 from 49% to 70% and in unit trusts increased from 30% to 70%. There are no restrictions to fund management companies 100 % foreign-ownership. Futures brokerage firms may be 100% foreign-owned. Wholly foreign-owned Islamic fund management companies are permitted to invest all of their assets abroad. Fees received from the management of Islamic funds are tax-exempt for ten years. Malaysia has five international Islamic fund management firms. The government provides tax incentives for existing stock brokerage firms to set up Islamic brokerage subsidiaries and recently issued three new licenses to brokers that the government hopes will attract Middle Eastern funds to Malaysia, including U.S. firms Goldman Sachs and Citibank Securities.

The Federal Territory of Labuan was declared an International Offshore Financial Center 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. Islamic banks and takaful (Islamic insurance) operators regulated by the Labuan Offshore 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. They retain the favored tax treatment extended to offshore businesses in Labuan, 3 % or RM 20,000 (approximately \$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.

Islamic Financial Services

The GOM provides tax incentives and other measures to encourage commercial banks operating in Malaysia to set up full-fledged Islamic banking subsidiaries. BNM uses its Malaysia International Islamic Financial Center (MIFC) Initiative to provide special tax and regulatory treatment, scholarships, and efforts to work toward mutual recognition of Islamic banking and takaful (Islamic insurance) practices. This offers a ten-year tax exemption on Islamic financial products in foreign currencies and tax relief for Islamic Finance studies. Expatriate Islamic finance experts are exempted from paying Malaysian income tax in an effort to better enable Malaysia to attract foreign talent. Foreign institutions can hold 70% equity ownership in domestic Islamic banks.

The Government continues to promote takaful as part of its strategy to make Malaysia a global hub for Islamic financial services, including through tax breaks and incentives. There are four joint venture takaful companies, of which foreign investors were permitted to own up to 49%. International takaful operators, both domestic and foreign, may apply for licenses to conduct business in international currencies, either as incorporated entities or as branches. International takaful operators are not subject to foreign equity capitalization requirements. Currently, AIA Takaful International Bhd is the sole foreign-

owned international takaful operator in Malaysia. Bank Negara is working with qualified local and foreign insurers to provide "re-takaful" (reinsurance under Islamic principles) services in Malaysia and to make Malaysia their center for re-takaful activities. New re-takaful operators will be given flexibility to conduct business in the country as a subsidiary or branch.

Maritime and Logistics

Foreigners are permitted to hold a 70% stake in shipping and logistics companies and 49% in forwarding agencies. According to MIDA officials, requirements would vary for single purpose and multipurpose port facilities.

Land and Agriculture

Ownership of agricultural land is restricted to Malaysian citizens. 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 GOM are;

- acquisition of agricultural land valued at RM500,000 (approximately \$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 RM500,000 (approximately \$163,000) and above.

Mining, land ownership and the licensing to mine are under the jurisdiction of each individual State mining department. The Federal Department of Land and Mines controls the incorporation of mining companies.

There are no restrictions for investing in the fisheries industry, except for owning an aquaculture or deep sea fishing project as they are subjected to the 30% local equity requirement for setting up the company. For an aquaculture project, the size of the pond must be at least two hectares in area.

Corporate Taxes

For tax purposes, local and foreign enterprises are treated essentially the same. Resident petroleum companies pay 38% income tax; all other resident companies currently pay an income tax of 25%. Dividends are taxed at the corporate rate. A company is resident in Malaysia for tax purposes if its management and control is exercised in Malaysia, that is, if directors' meetings are held in Malaysia. Payments made to non-residents for technical or management services and rental of movable properties are subject to withholding tax at the rate of 10%. The income tax rate for non-resident individuals is 26%. The U.S. and Malaysia have not concluded a bilateral tax agreement and no negotiations are anticipated at this time. The government has delayed plans to implement a Goods and Services Tax (similar to a value-added tax), with an initial rate of 4%, to broaden the overall tax base.

Human Resources

Beyond the heavy regulatory burden and the investment restrictions resulting from the Bumiputra policies, Malaysia's shortage of skilled labor is its most oft-cited impediment to economic growth. (See sections on labor and performance requirements).

Conversion and Transfer Policies

In an effort to insulate the Malaysian economy from risks posed by volatile short-term capital flows and to eliminate offshore trading of the ringgit, the government imposed selective capital controls on September 1, 1998. Through 2007, the selective capital controls measures were removed in a series of sequenced and progressive liberalization initiatives, gradually relaxing 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 Ringgits abroad. In 2010, Bank Negara further relaxed its foreign exchange administrative rules allowing greater flexibility for hedging of Ringgit exposure by foreign or domestic entities. There are no restrictions on resident companies with export earnings from paying in foreign currencies to another resident company for the purchase of goods and services. In 2010, BNM also authorized trade to be settled or invoiced in Ringgit. 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.

BNM manages a floating exchange rate against a trade-weighted basket of currencies. The Ringgit appreciated strongly during 2010 as portfolio capital flowed in to the markets. The Ringgit's lowest level against the USD in 2010 was RM3.4447 on February 8, while its highest level was RM3.0835 on December 31. 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 www.bnm.gov.my/microsites/fxadmin/index.html

Expropriation and Compensation

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The Embassy is not aware of any cases of uncompensated expropriation of foreign-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.

Dispute Settlement

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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, www.worldbank.org/icsid).

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.

The U.S. Embassy is aware of an ongoing case where a U.S. investor plaintiff reports that it took 44 months and 26 hearings before the Malaysian court took action to address the merits of his case. The plaintiff claims to have provided the court with documentation both from Malaysia and from a U.S. court case involving the same company that the company's assets continue to be drained through ongoing fraud. However, the court stayed his petition that the company be put in receivership until the matter is resolved. The court also stayed plaintiff's petition for discovery. Progress is slowly being made in the case as the trial is now continuing.

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.

Performance Requirements and Incentives

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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. Performance requirements are usually written into the individual manufacturing licenses of local and foreign investors.

In May 2003, the Malaysian government extended the full tax exemption incentive from ten to 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 from five to 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 government has stated that in the long term, it 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.mdc.com. Some corporations have used the MSC to outsource call center and back office operations, including Dell, HSBC, AIG, and BMW. 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, 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; however, there has been little progress in the other targeted areas.

Malaysia seeks to attract foreign investment in biotechnology. Malaysia is developing implementing regulations for its Bio Safety Act of 2007. Major concerns include: the undefined adherence to the "precautionary principle"; socio-economic, religious, and cultural norms that would be a part of the regulatory process; stringent penalties hindering modern biotechnology development; and mandatory labeling resulting in non-tariff trade barriers, higher costs of production for biotech manufacturers, and encouragement of negative public attitudes toward GM products.

Right to Private Ownership and Establishment

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Malaysia has some of the most liberal regulations in the region when it comes to foreigners buying residential properties. Foreigners may purchase property over RM500,000 (approximately \$163,000) without restriction. Although the Federal government no longer requires foreigners to get FIC's (Foreign Investment Committee) approval for residential property purchase, the State governments at times can be more restrictive than Federal regulation and can delay the purchase.

With regards to commercial property, FIC approval is required for the purchase of property owned directly or indirectly by Bumiputras worth more than RM 20 million (approximately \$6.5 million).

Owning a business in Malaysia requires two local directors, though 100% of the shares can be held by foreign owners.

Protection of Property Rights

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Malaysia is a member of the World Intellectual Property Organization (WIPO) and is a party to the Berne Convention for the Protection of Literary and Artistic Works and the Paris Convention for the Protection of Industrial Property. In 2006 Malaysia acceded to the Patent Cooperation Treaty. Malaysia intends to accede to the WIPO Copyright Treaty or the WIPO Performance and Phonograms Treaty (which extend traditional copyright principles to the digital environment) during 2011, and the amendments to the Copyright Act doing that were introduced in the parliament in December 2010.

In 2000, Malaysia's Parliament amended the Copyright Act, the Patents Act, and the Trademarks Act, as well as legislation on layout designs of integrated circuits and geographical indications, in order to bring Malaysia into compliance with its obligations

under the WTO TRIPS Agreement. In 2004, Malaysia passed the "Protection of New Plant Varieties Act 2004" in line with the requirements of Article 27.3 (b) of the TRIPS Agreement. Enabling regulations for this law are pending. Malaysia has introduced into Parliament updated Copyright legislation in December 2010 and plans to update its Trademarks Act during 2011.

Optical Media Piracy

While there have been significant improvements during last two years, Malaysia still has a problem with piracy of copyrighted materials. Unauthorized photocopying of textbooks remains a particular concern. Malaysia's production capacity for Compact Discs (CDs) and Digital Video Discs (DVDs) exceeds local demand plus legitimate exports.

The International Intellectual Property Association (IIPA) estimates 2009 business software, records, and music industry losses in Malaysia due to copyright piracy at \$250.0 million. IIPA estimates 2009 piracy rates at 58 % for business software and 60 % for music. Malaysia has remained on the Special 301 Watch List since October 2001.

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 both the Ministry of International Trade and Industry and the Ministry of Domestic Trade, Co-operatives, and Consumerism (MDTCC), to place source identification (SID) codes on each disc, and to allow regular inspections of their operations. Malaysia plans to update its Optical Disc Act during 2011.

In 2010, the Malaysian government continued to make significant progress in IPR enforcement. The number of MDTCC enforcement actions has increased significantly during 2010. Although prosecution continues to be an ongoing challenge, the establishment of a specialized IP court in mid-2007 has alleviated the backlog of infringement cases. Both judges and prosecutors have been assigned full time to handle IPR cases. The court was initially established in Kuala Lumpur, but will eventually have branches throughout Malaysia. U.S industry representatives in Malaysia have been pleased with the pace and outcome of the court's initial cases.

Pharmaceuticals

Despite the increased enforcement, 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. The copied drugs are believed to originate in China. Unregistered generic copies of patented products, primarily imported from India, are also available in Malaysia. Both street vendors and health professionals sell the counterfeit products. 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 is in the process of revising regulations that would provide data 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. 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.

Trademarked Consumer Products

A number of U.S. consumer product companies also have suffered losses due to the manufacture and sale of counterfeit trademarked products. The volume is difficult to determine because of the broad scope of products involved. Counterfeiters have improved the quality of packaging and marketing so that consumers are misled into purchasing the products. The products have caused harm to individuals and damage to automobiles and household goods. Some of the pirated goods are produced in Malaysia, but most are brought into the country from China, Thailand, and India.

Enforcement by the local government is hampered by the lack of training and scarcity of information about ongoing counterfeit activities. 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. High specificity requirements necessary to seize a shipment suspected of containing pirated or counterfeit products also represent an enforcement obstacle to U.S. industry.

Patents

Patents registered in Malaysia generally have a 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 Patents and Trademarks Department of the Ministry of Domestic Trade and Consumer Affairs. Copyright protection extends to computer software and lasts for 50 years after the author's death. 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.

Transparency of Regulatory System

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Malaysia's Official Secrets Act makes it a crime to divulge the contents of any proposed law or regulation before it comes into effect. This limits the ability of stakeholders to have formal opportunities for input into the drafting of legislation that affects their interests. U.S. companies have indicated that they would welcome improvements in the transparency of government decision-making and procedures, including government tenders.

In addition to secrecy laws regarding proposed new legislation and regulations, Malaysia maintains a complex network of practices for which no documentation is available.

Government Procurement

Malaysia is not a signatory of the WTO Government Procurement Agreement (GPA). Malaysia's procurement policies are explicitly used to encourage greater participation of Bumiputra in the economy, transfer technology to local industries, reduce the outflow of foreign exchange, create opportunities for local companies in the services sector, and enhance Malaysia's export capabilities.

Traditionally, international tenders have been invited only where domestic goods and services are not available. In domestic tenders, preferences are provided for Bumiputra suppliers and other domestic suppliers. As a result, foreign companies do not have the same opportunities as local companies to compete for contracts. In most government tenders, especially for major infrastructure, foreign companies are required to take on a Bumiputra partner before their bids will be considered.

Another concern with Malaysian government procurement is the lack of transparency and competitive bidding. Prime Minister Najib announced in March 2010 that government procurement reform is an important goal of his administration. U.S. companies have voiced concerns about the non-transparent nature of the procurement process in Malaysia. Prime Minister Najib formed the Performance Management and Delivery Unit, (PEMANDU) to address transparency and competitive bidding in government procurement. PEMANDU has introduced the GOM's new methods of bidding including the Swiss Challenge and Open Tender processes. Through the Swiss Challenge method, PEMANDU will publish bids for the project and invited third parties to match or exceed the received bids.

Corruption

Malaysia's ranking in Transparency International's Corruption Perception Index remained at 56th in 2010 down from 47th place in 2008 and 26th in 2004 among the 178 countries surveyed.

The Malaysian government considers bribery a criminal act and does not permit bribes to be deducted from taxes. Nevertheless, corruption remains a serious concern. In 2008, Parliament passed the Malaysian Anti-Corruption Commission (MACC) bill and, a day later, a bill intended to make judicial appointments more transparent (the Judicial Appointments Commission Bill). The MACC, which replaced the previous Anti-Corruption Agency (ACA), has broader powers of investigation and questioning, including of public bodies and extended family members. The law establishing the MACC also provides for the seizure of properties and permits the prosecution of Malaysians for offense committed overseas as well as the prosecution of "foreign public officials" who abuse their positions to accept or offer bribes. These provisions are consistent with Article 16 of the United Nation's Convention Against Corruption (UNCAC) which Malaysia ratified in September 2008. Critics have questioned the MACC's ability to effectively address high-level corruption, as all key personnel are appointed directly by the Prime Minister's office and the MACC has no independent authority to proceed with prosecutions. The Whistleblower Act took effect in December 2010. The law aims to protect those disclosing information on fraud, corruption and abuse from persecution for assisting in investigations and prosecution of crimes.

Prime Minister Najib declared after assuming office and again in the New Economic Model reform plan that the fight against corruption was one of his top priorities. A primary focus of the Government Transformation Program (GTP) is fighting corruption. Senior officials from the Prime Minister's Office running the GTP recently cited a four point approach to reducing corruption in government procurement: 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.

Banking

Foreign investors and foreign companies have access to credit on the local capital market. Foreign-controlled companies may seek any amount of ringgit credit facilities without Bank Negara's 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 RM250,000 (\$80,645) with separate funds for conventional and Islamic banking institutions.

Capital Markets and Securities Trading

Malaysia houses Asia's second largest corporate bond market, only behind Japan in market capitalization. During 2010, extensive foreign capital flowed back in to Malaysian bonds after a \$35 billion outflow during the 2008-9 global financial crisis. 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 as described above. Listing requirements for foreign companies are similar to that of local companies. There additional criteria for foreign ones including, among others : approval of regulatory authorities of foreign jurisdiction where the company was incorporate, 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.

Foreigners may trade in securities and derivatives. 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 not permitted.

Competition from State Owned Enterprises

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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. After the economic crisis of the late 1990s, the government began to re-acquire a number of entities it had privatized earlier, including the national air carrier, Malaysian Airlines and Kuala Lumpur's light rail transit system. The government has indicated increasing interest in restarting its privatization efforts through the New Economic Model reforms. Khazanah, the government's sovereign wealth fund, owns many of the country's major infrastructure projects, typically through companies in which it owns a majority stake. The Prime Minister chairs Khazanah's Board of Directors.

Malaysia passed a new Competition Policy law in 2010, and established a Competition commission to implement the law. The Competition Commission is drafting implementing regulations, reportedly due early 2011. The law provides for protection against anticompetitive practices by a dominant player who is abusing the dominant position to deter competition.

Corporate Social Responsibility

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The development of corporate social responsibility in Malaysia is moving to higher levels and Malaysia is recognized as being among the most active emerging economies in relation to corporate responsibility. 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.

Malaysia has experienced little political violence since ethnic rioting in 1969 and can be characterized as a politically stable country relative to most countries in the region. Najib Razak, peacefully took office as Malaysia's 6th Prime Minister on April 2, 2009. Although the government has historically denied assembly permits for anti-government street demonstrations and allowed for police to take action against street protestors on the basis of lacking a permit, no such events were reported in 2010.

Political Violence

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Corruption, including bribery, raises the costs and risks of doing business. Corruption has a corrosive impact on both market opportunities overseas for U.S. companies and the broader business climate. It also deters international investment, stifles economic growth and development, distorts prices, and undermines the rule of law.

It is important for U.S. companies, irrespective of their size, to assess the business climate in the relevant market in which they will be operating or investing, and to have an effective compliance program or measures to prevent and detect corruption, including foreign bribery. U.S. individuals and firms operating or investing in foreign markets should take the time to become familiar with the relevant anticorruption laws of both the foreign country and the United States in order to properly comply with them, and where appropriate, they should seek the advice of legal counsel.

The U.S. Government seeks to level the global playing field for U.S. businesses by encouraging other countries to take steps to criminalize their own companies' acts of corruption, including bribery of foreign public officials, by requiring them to uphold their obligations under relevant international conventions. A U. S. firm that believes a competitor is seeking to use bribery of a foreign public official to secure a contract should bring this to the attention of appropriate U.S. agencies, as noted below.

U.S. Foreign Corrupt Practices Act: In 1977, the United States enacted the Foreign Corrupt Practices Act (FCPA), which makes it unlawful for a U.S. person, and certain foreign issuers of securities, to make a corrupt payment to foreign public officials for the purpose of obtaining or retaining business for or with, or directing business to, any person. The FCPA also applies to foreign firms and persons who take any act in furtherance of such a corrupt payment while in the United States. For more detailed information on the FCPA, see the FCPA Lay-Person's Guide at: <http://www.justice.gov/criminal/fraud/>

Other Instruments: It is U.S. Government policy to promote good governance, including host country implementation and enforcement of anti-corruption laws and policies pursuant to their obligations under international agreements. Since enactment of the FCPA, the United States has been instrumental to the expansion of the international framework to fight corruption. Several significant components of this framework are the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (OECD Antibribery Convention), the United Nations Convention against Corruption (UN Convention), the Inter-American Convention against Corruption (OAS Convention), the Council of Europe Criminal and Civil Law Conventions, and a growing list of U.S. free trade agreements. This country is party to [add instrument to which this country is party], but generally all countries prohibit the bribery and solicitation of their public officials.

OECD Antibribery Convention: The OECD Antibribery Convention entered into force in February 1999. As of December 2009, there are 38 parties to the Convention including the United States (see <http://www.oecd.org/dataoecd/59/13/40272933.pdf>). Major exporters China, India, and Russia are not parties, although the U.S. Government strongly endorses their eventual accession to the Convention. The Convention obligates the Parties to criminalize bribery of foreign public officials in the conduct of international business. The United States meets its international obligations under the OECD

Antibribery Convention through the U.S. FCPA. [Insert information as to whether your country is a party to the OECD Convention.]

UN Convention: The UN Anticorruption Convention entered into force on December 14, 2005, and there are 143 parties to it as of December 2009 (see <http://www.unodc.org/unodc/en/treaties/CAC/signatories.html>). The UN Convention is the first global comprehensive international anticorruption agreement. The UN Convention requires countries to establish criminal and other offences to cover a wide range of acts of corruption. The UN Convention goes beyond previous anticorruption instruments, covering a broad range of issues ranging from basic forms of corruption such as bribery and solicitation, embezzlement, trading in influence to the concealment and laundering of the proceeds of corruption. The Convention contains transnational business bribery provisions that are functionally similar to those in the OECD Antibribery Convention and contains provisions on private sector auditing and books and records requirements. Other provisions address matters such as prevention, international cooperation, and asset recovery. [Insert information as to whether your country is a party to the UN Convention.]

OAS Convention: In 1996, the Member States of the Organization of American States (OAS) adopted the first international anticorruption legal instrument, the Inter-American Convention against Corruption (OAS Convention), which entered into force in March 1997. The OAS Convention, among other things, establishes a set of preventive measures against corruption, provides for the criminalization of certain acts of corruption, including transnational bribery and illicit enrichment, and contains a series of provisions to strengthen the cooperation between its States Parties in areas such as mutual legal assistance and technical cooperation. As of December 2009, the OAS Convention has 33 parties (see <http://www.oas.org/juridico/english/Sigs/b-58.html>) [Insert information as to whether your country is a party to the OAS Convention.]

Council of Europe Criminal Law and Civil Law Conventions: Many European countries are parties to either the Council of Europe (CoE) Criminal Law Convention on Corruption, the Civil Law Convention, or both. The Criminal Law Convention requires criminalization of a wide range of national and transnational conduct, including bribery, money-laundering, and account offenses. It also incorporates provisions on liability of legal persons and witness protection. The Civil Law Convention includes provisions on compensation for damage relating to corrupt acts, whistleblower protection, and validity of contracts, inter alia. The Group of States against Corruption (GRECO) was established in 1999 by the CoE to monitor compliance with these and related anti-corruption standards. Currently, GRECO comprises 46 member States (45 European countries and the United States). As of December 2009, the Criminal Law Convention has 42 parties and the Civil Law Convention has 34 (see www.coe.int/greco.) [Insert information as to whether your country is a party to the Council of Europe Conventions.]

Free Trade Agreements: While it is U.S. Government policy to include anticorruption provisions in free trade agreements (FTAs) that it negotiates with its trading partners, the anticorruption provisions have evolved over time. The most recent FTAs negotiated now require trading partners to criminalize “active bribery” of public officials (offering bribes to any public official must be made a criminal offense, both domestically and trans-nationally) as well as domestic “passive bribery” (solicitation of a bribe by a domestic official). All U.S. FTAs may be found at the U.S. Trade Representative Website: <http://www.ustr.gov/trade-agreements/free-trade-agreements>. [Insert information as to

whether your country has an FTA with the United States: Country [X] has a free trade agreement (FTA) in place with the United States, the [name of FTA], which came into force. Consult USTR Website for date: <http://www.ustr.gov/trade-agreements/free-trade-agreements.>]

Local Laws: U.S. firms should familiarize themselves with local anticorruption laws, and, where appropriate, seek legal counsel. While the U.S. Department of Commerce cannot provide legal advice on local laws, the Department's U.S. and Foreign Commercial Service can provide assistance with navigating the host country's legal system and obtaining a list of local legal counsel.

Assistance for U.S. Businesses: The U.S. Department of Commerce offers several services to aid U.S. businesses seeking to address business-related corruption issues. For example, the U.S. and Foreign Commercial Service can provide services that may assist U.S. companies in conducting their due diligence as part of the company's overarching compliance program when choosing business partners or agents overseas. The U.S. Foreign and Commercial Service can be reached directly through its offices in every major U.S. and foreign city, or through its Website at www.trade.gov/cs.

The Departments of Commerce and State provide worldwide support for qualified U.S. companies bidding on foreign government contracts through the Commerce Department's Advocacy Center and State's Office of Commercial and Business Affairs. Problems, including alleged corruption by foreign governments or competitors, encountered by U.S. companies in seeking such foreign business opportunities can be brought to the attention of appropriate U.S. government officials, including local embassy personnel and through the Department of Commerce Trade Compliance Center "Report A Trade Barrier" Website at tcc.export.gov/Report_a_Barrier/index.asp.

Guidance on the U.S. FCPA: The Department of Justice's (DOJ) FCPA Opinion Procedure enables U.S. firms and individuals to request a statement of the Justice Department's present enforcement intentions under the anti-bribery provisions of the FCPA regarding any proposed business conduct. The details of the opinion procedure are available on DOJ's Fraud Section Website at www.justice.gov/criminal/fraud/fcpa. Although the Department of Commerce has no enforcement role with respect to the FCPA, it supplies general guidance to U.S. exporters who have questions about the FCPA and about international developments concerning the FCPA. For further information, see the Office of the Chief Counsel for International Counsel, U.S. Department of Commerce, Website, at http://www.ogc.doc.gov/trans_anti_bribery.html. More general information on the FCPA is available at the Websites listed below.

Exporters and investors should be aware that generally all countries prohibit the bribery of their public officials, and prohibit their officials from soliciting bribes under domestic laws. Most countries are required to criminalize such bribery and other acts of corruption by virtue of being parties to various international conventions discussed above.

Anti-Corruption Resources

Some useful resources for individuals and companies regarding combating corruption in global markets include the following:

- Information about the U.S. Foreign Corrupt Practices Act (FCPA), including a “Lay-Person’s Guide to the FCPA” is available at the U.S. Department of Justice’s Website at: <http://www.justice.gov/criminal/fraud/fcpa>.
- Information about the OECD Antibribery Convention including links to national implementing legislation and country monitoring reports is available at: http://www.oecd.org/department/0,3355,en_2649_34859_1_1_1_1_1,00.html. See also new Antibribery Recommendation and Good Practice Guidance Annex for companies: <http://www.oecd.org/dataoecd/11/40/44176910.pdf>
- General information about anticorruption initiatives, such as the OECD Convention and the FCPA, including translations of the statute into several languages, is available at the Department of Commerce Office of the Chief Counsel for International Commerce Website: http://www.ogc.doc.gov/trans_anti_bribery.html.
- Transparency International (TI) publishes an annual Corruption Perceptions Index (CPI). The CPI measures the perceived level of public-sector corruption in 180 countries and territories around the world. The CPI is available at: http://www.transparency.org/policy_research/surveys_indices/cpi/2009. TI also publishes an annual *Global Corruption Report* which provides a systematic evaluation of the state of corruption around the world. It includes an in-depth analysis of a focal theme, a series of country reports that document major corruption related events and developments from all continents and an overview of the latest research findings on anti-corruption diagnostics and tools. See <http://www.transparency.org/publications/gcr>.
- The World Bank Institute publishes Worldwide Governance Indicators (WGI). These indicators assess six dimensions of governance in 212 countries, including Voice and Accountability, Political Stability and Absence of Violence, Government Effectiveness, Regulatory Quality, Rule of Law and Control of Corruption. See http://info.worldbank.org/governance/wgi/sc_country.asp. The World Bank Business Environment and Enterprise Performance Surveys may also be of interest and are available at: <http://go.worldbank.org/RQQXYJ6210>.
- The World Economic Forum publishes the *Global Enabling Trade Report*, which presents the rankings of the Enabling Trade Index, and includes an assessment of the transparency of border administration (focused on bribe payments and corruption) and a separate segment on corruption and the regulatory environment. See <http://www.weforum.org/en/initiatives/gcp/GlobalEnablingTradeReport/index.htm>.
- Additional country information related to corruption can be found in the U.S. State Department’s annual *Human Rights Report* available at <http://www.state.gov/g/drl/rls/hrrpt/>.
- Global Integrity, a nonprofit organization, publishes its annual *Global Integrity Report*, which provides indicators for 92 countries with respect to governance and anti-corruption. The report highlights the strengths and weaknesses of national level anti-corruption systems. The report is available at: <http://report.globalintegrity.org/>.

Bilateral Investment Agreements

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Malaysia has bilateral investment guarantee agreements with over 70 economies and has double taxation treaties with over 70 countries. Malaysia's double taxation agreement with the U.S. currently is limited to air and sea transportation. Efforts to negotiate a more comprehensive bilateral investment treaty would require resolution of several issues, including differing interpretations of national treatment and extended tax holidays offered to new and existing investors in targeted sectors.

OPIC and Other Investment Insurance Programs

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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. However, few investors have sought OPIC insurance in Malaysia.

Labor

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Other than Malaysia's extensive regulatory burden, its 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.

Labor

The government of Malaysia reported that the domestic labor market improved in the 3rd quarter of 2010 with unemployment decreasing to 3.2% compared to 4.0% in 2009 due to slightly improving economic conditions. The number of unemployed university graduates has increased, accounting for over 15% of total unemployed in the country. 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, there are a number of national confederations of unions. The government has prevented some trade unions, such as port workers' unions, from forming national federations. There are no national labor unions in the electronics sector. However, there are regional and company-wide unions. Employers and employees share the costs of the [Social Security Organization](#) (SOSCO), which covered 12.9 million workers as of November 2008. No 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.

The regulation of employment in Malaysia, specifically as it affects the hiring and redundancy of workers and the rigidity of working hours remain inflexible and 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 government monitors the ethnic balance among employees of both foreign and domestic firms, and race-based preferences in hiring and promotion are widespread in government and in government-owned universities and corporations. While Bumiputra represent about 60% of the population, they make up 77% of the civil service, including 84% of the top management group, 85% of the diplomatic service, and over 90% of the military.

Employing Expatriates

Despite broad recognition of Malaysia's shortage of skilled labor, most foreign firms face restrictions in the number of expatriate workers they are allowed to employ. Foreign workers are categorized as follows: "expatriates" (anyone earning at least RM 5000, or USD 1429, per month); "foreign skilled workers," and "foreign unskilled and semi-skilled workers." The NEM and the ETP seek to address this problem by implementing a simpler and streamlined process for hiring expat labor. New streamlined regulations were proposed as a part of the 10MP and reiterated in the 2011 budget. It is unclear what the new procedures for hiring will be beginning in 2011.

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 the central bank (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.

MSC-status companies are not restricted as to the number of expatriates they can bring into the country. The GOM has three "e-Xpats" centers in the Penang and Kulim industrial parks and a third in Cyberjaya. Only applicants from select countries working for companies with MSC-status are eligible to use the services of the centers, which process a work visa in six days.

Manufacturing companies that are 100% foreign-owned must have a minimum paid-in capital of RM 500,000 (as of January 1, 2010) to be allowed 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. According to a MIDA official, 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 two years, with possible – but not guaranteed – renewals for up to a maximum of ten years. The uncertainty of whether investors will be permitted to remain in the country after their businesses become profitable remains a significant barrier to foreign direct investment. 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. Only 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 installed for residents living in Malaysia over five years. Malaysia also has the “Malaysia, My Second Home” program that provides long-term resident visas for well-off expatriates.

The government has made significant progress in simplifying and expediting 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 successfully 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. All spouses of expatriate employees now automatically qualify for 5-year Long Term Social Visit visas.

Foreign-Trade Zones/Free Ports

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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. 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. 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.

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 is seaborne.

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.

Foreign Direct Investment Statistics

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The U.S. is consistently the largest foreign investor in Malaysia, with significant presence in the oil and gas sector, manufacturing, and financial services. An American Chamber of Commerce 2005 survey put cumulative U.S. interest in Malaysia at more than US \$30.0 billion, significantly more than some official U.S. and Malaysian statistics, which may not capture or may undercount U.S. investment. U.S. firms with significant investment in Malaysia's petroleum and petrochemical sector include: Exxon/Mobil (which participates in upstream and downstream activities), Caltex, ConocoPhillips, Murphy Oil, Hess Oil, Dow Chemical and Eastman Chemicals (all of which have investments in downstream activities). Major semiconductor manufacturers, including Freescale, Texas Instruments, Intel, StatsChipPac, National Semiconductor, and others have substantial operations in Malaysia, as do electronics manufacturers Western Digital, Komag and Dell Computers. Virtually all major Japanese consumer electronics firms (Sony, Fuji, Panasonic, Matsushita, Hitachi, etc.) have facilities in Malaysia. Tables 1-3 report approved manufacturing investment in Malaysia, as opposed to actual investments, and do not include significant U.S. investment in the petroleum and financial sectors.

Table One: Sources of Approved Manufacturing Investment in Malaysia

(Value in Millions of U.S. Dollars)

	2005	2006	2007	2008	2009	2010
Total Investment	8,173	12,532	17,422	18,146	9,543	15,317
Foreign	4,706	5,512	9,717	13,323	6,475	9,434
Domestic	3,467	7,021	7,705	4,823	3,068	5,883

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

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

	2005	2006	2007	2008	2009	2010
Germany	102	63	1,092	1,287	124	629
United States	1,357	675	878	2,544	672	3,811
Singapore	768	514	858	565	585	700
Netherlands	441	895	491	526	140	303
Japan	966	1,202	1,896	1,637	2,047	1,308
Australia	41	698	490	3,830	94	N/A
Hong Kong	N/A	N/A	N/A	24	1,550	898
China	N/A	N/A	N/A	10	47	N/A
Korea	N/A	N/A	N/A	58	98	N/A
Total Foreign	4,706	5,512	9,717	13,323	6,475	7,649
U.S. Share of Total Foreign	28.8%	14.3%	9.0%	19.1%	10.4%	49.8%
Foreign Share of Total	57.6%	44.0%	55.8%	73.4%	67.9%	81.0%

-Source: Malaysian Industrial Development Authority; values represent approved, not actual investment.

-Exchange Rates: U.S. \$1.0=RM 3.42 (2009 rate)

-Note: Manufacturing investment only, does not include the upstream oil and gas industry or services.

Table Three: Foreign Manufacturing Investment by Sector

(U.S. Dollars Millions)

Sector	2005	2006	2007	2008	2009	2010
Chemicals	35	826	454	357	2,058	564
Petroleum Products	193	165	1,551	364	135	354
Electronics	2,979	2,344	3,993	5,068	1,162	3,844
Basic Metal	113	623	1,450	5,978	127	1,167
Food Manufacturing	140	244	107	313	273	N/A
Transport	133	59	89	249	158	N/A
Other	762	685	2,073	994	2,562	N/A
Total	4,706	5,512	9,717	13,323	6,475	5,929

Source: Malaysian Industrial Development Authority

Source: Bank Negara Annual Report 2004-2007

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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 : <http://www.law.net/>

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/>

U.S. exporters seeking general export information/assistance or country-specific commercial information should consult with their nearest **Export Assistance Center** or the **U.S. Department of Commerce's Trade Information Center** at **(800) USA-TRADE**, or go to the following website: <http://www.export.gov>.

To the best of our knowledge, the information contained in this report is accurate as of the date published. However, **The Department of State** does not take responsibility for actions readers may take based on the information contained herein. Readers should always conduct their own due diligence before entering into business ventures or other commercial arrangements. **The Department of Commerce** can assist companies in these endeavors.

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Chapter 7: Trade and Project Financing

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How Do I Get Paid (Methods of Payment)

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Exports to Malaysia may be financed through cash in advance, open account, or letters of credit issued to importers by banks in Malaysia. Financing is readily available in the domestic market to Malaysian importers. Exporters requiring credit ratings can obtain them from two domestic credit rating institutions, the [Rating Agency Malaysia Berhad](#) (RAM) and the [Malaysian Rating Corp. Berhad](#) (MARC), both launched in the 1990s.

A list of major Malaysian commercial banks and their contact information, as well as contact information for the other institutions listed below, can be provided by the U.S. Commercial Service in Kuala Lumpur upon request.

How Does the Banking System Operate

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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.

The banking system remains the largest financial intermediary in the country with total assets standing at US\$400 billion (RM 1.33 trillion), as of December 2009. The Central Bank licenses and regulates businesses such as commercial banking, investment banking, Islamic banking and money brokering. Foreign firms currently are restricted in the acquisition of local financial institutions (equity participation is limited to 30% for commercial banks, 70% for investment banks and 49% for Islamic banks). Foreign equity participation in a domestic Islamic bank can be increased to 70% on the condition

that its paid-up capital is at least US\$ 1 billion. Additionally, banks and financial institutions need to adhere to strict guidelines with respect to product pricing of their products. BNM has been liberalizing the financial services sector under the Malaysia's Financial Sector Master Plan (FSMP) for 2000-2010. There should be further liberalization under FSMP II for 2011-2020.

Foreign-Exchange Controls

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Although limited capital controls were imposed in September 1998, Malaysia's current account remains fully convertible and importers and exporters have sufficient access to foreign exchange to carry out their business. The ringgit cannot be sent or received from abroad, thus payments for imports and exports must be sent and received in foreign currency. Over the past few years, Malaysia removed capital controls on the activities of portfolio investors and foreign direct investment capital remains freely convertible.

U.S. Banks and Local Correspondent Banks

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Three U.S. banks have operations in Malaysia: Bank of America, Citibank, and J.P. Morgan Chase Bank. In addition, Bank of New York has a representative office in Kuala Lumpur. Malaysia also has an offshore banking center on the island of Labuan where 57 offshore banks operate. Most Malaysian banks have correspondent relationships with banks in the United States.

Project Financing

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Government initiated projects are usually funded by the Ministry of Finance. Though another ministry may implement the tender or be in charge of technical committees, the Ministry of Finance is the final decision maker in all major projects. As the Prime Minister also serves as the Minister of Finance, this ensures that government projects are decided on the highest level, often with cabinet input.

The Asia Development Bank (ADB) is not active in Malaysia, as its projects, whether public or private, must satisfy the criterion of poverty alleviation in order to qualify for ADB financing. Thus for most purposes, Malaysia is too affluent to borrow from the ADB for Malaysia-specific projects. The only area where Malaysia could benefit from ADB assistance would be in the area of a Regional (not Malaysia-specific) Cooperation Technical Assistance program (such as an ASEAN-wide telecom network or similar regional project).

The Islamic Development Bank finances a few projects in Malaysia, mainly in the areas of healthcare and university expansion. Malaysia is considered to be a high or mid-income country by the IDB and a partner in providing technical expertise to other IDB member countries.

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Export-Import Bank of the United States: <http://www.exim.gov>

Country Limitation Schedule: http://www.exim.gov/tools/country/country_limits.html

OPIC: <http://www.opic.gov>

Trade and Development Agency: <http://www.tda.gov/>
SBA's Office of International Trade: <http://www.sba.gov/oit/>
USDA Commodity Credit Corporation: <http://www.fsa.usda.gov/cc/default.htm>
U.S. Agency for International Development: <http://www.usaid.gov>
Asian Development Bank (ADB): www.adb.org
Islamic Development Bank Group (IDB): www.isdb.org
Overseas Private Investment Corporation: www.opic.gov
Malaysian Rating Corporation Berhad (MARC): www.marc.com.my
Rating Agency Malaysia Berhad (RAM): www.ram.com.my
Bank Negara Malaysia: www.bnm.gov.my
Labuan Offshore Financial Services Authority: www.lofsa.gov.my
Malaysia International Islamic Financial Centre: www.mifc.com

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Chapter 8: Business Travel

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Business Customs

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Malaysia has a multicultural and multiracial population consisting of Malays, Chinese, Indians, and indigenous peoples. Although Malaysia's ethnic mix is generally harmonious, the various communities remain largely separate. With such a varied ethnic composition, there is a diversity of religions, and although the official religion is Islam, it is common to see temples, mosques, and churches within the same area.

Business customs in Malaysia do not differ fundamentally from those of the U.S. Frankness, openness, and punctuality, are valued traits in business negotiations and dealings. Personal contact is important. However, visitors should be aware of religious and cultural traditions, which differ for each ethnic group. For example, Malay Muslims may feel uncomfortable in business or social functions where alcohol or pork is served, and visitors should take note that items (such as business cards) should always be presented or received using the right hand.

Travel Advisory

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Business travelers should be mindful of the State Department's [Travel Alerts](#) when planning a trip, as well as the [Country Specific Information](#) for Malaysia. Travel updates can also be obtained by calling the Overseas Citizens Services toll free at 1-888-407-4747.

Visa Requirements

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U.S. visitors arriving without visas are allowed to stay in Malaysia for three months and are allowed one two-month extension. U.S. business visitors to Malaysia do not require visas unless they enter the country for employment purposes. Business visitors may be issued passes at the point of entry for attending business meetings and conducting business negotiations. However, if one is to engage in work in Malaysia (such as overseeing the installation of equipment on a project), it is necessary to apply for a business or professional pass visa prior to arrival.

U.S. Companies that require travel of foreign businesspersons to the United States should be advised that security options are handled via an interagency process. For information Visa applicants should go to the State Department Visa Website: <http://travel.state.gov/visa/index.html>

In Malaysia, the Consular Section at the U.S. Embassy in Kuala Lumpur has a quick and user-friendly application process. Applicants can go online through an Embassy-designated visa-processing agency to complete a visa application form and schedule an interview at a day of their choice. The agency's website includes a thorough explanation of the process and can be found at: <http://www.ustraveldocs.com/my/>

State Department records indicate that the processing time for U.S. visas in Kuala Lumpur is one of the fastest in the world. Most applicants can receive visas in one or two days, although some applications may take longer to process – two to three weeks on average. As a result, it is strongly recommended that applications are submitted as early as possible to prevent delays or changes to the travel plans.

For additional information on visas and other updates, U.S. companies can advise their clients to visit the U.S. Embassy in Kuala Lumpur's visa website at: <http://malaysia.usembassy.gov/>

U.S. Companies that require travel of foreign businesspersons to the United States should be advised that security evaluations are handled via an interagency process. Visa applicants should go to the following links.

State Department Visa Website: <http://travel.state.gov/visa/>

Telecommunications

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International telephone service from Malaysia is adequate and more investment is being undertaken to keep up with the very rapid increase in demand. GSM is the Malaysian standard for digital cellular communications. Several large mobile telecommunication companies offer 3G service with extensive nationwide coverage.

Broadband Internet access is widely available in most major hotels. Offices and residential customers gain dial-up or broadband Internet access via ISDN, ADSL, SDSL, WiFi and/or WiMax. WiFi/WiMax Internet access are mushrooming in coffee outlets in metropolitan Kuala Lumpur and other major cities. As of the most recent statistics provided by the Malaysian Communications and Multimedia Commission, over 16 percent of Malaysian households have broadband subscriptions. Residential broadband access pricing has been slashed recently, so rising penetration rates will likely continue.

Transportation

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Malaysia's central location in the Asia Pacific region makes it an ideal gateway to Asia and the ASEAN markets. Air cargo facilities are well developed in the five international airports - the Kuala Lumpur International Airport (KLIA), Penang International Airport and Langkawi International Airport in Peninsular Malaysia, Kota Kinabalu International Airport in Sabah, and Kuching International Airport in Sarawak. Malaysia's ultra-modern Kuala Lumpur International Airport (KLIA) is the nation's largest, located 50 kilometers south of Kuala Lumpur. Cargo import and export procedures are fully automated at

KLIA.

Kuala Lumpur is served by a number of international airlines, though no U.S. airlines fly to Malaysia directly. Additional international connections are available via Singapore, from which there is a joint Malaysian Airlines/Singapore Airlines air shuttle service. Direct flights to Singapore are available from the U.S., Europe, the Middle East, and Asia. Within Malaysia, the national airline - Malaysian Airlines (MAS) - provides frequent service to all major cities, as does low-cost competitor Air Asia.

Peninsular Malaysia's network of well-maintained highways link major growth centers to seaports and airports throughout the peninsula and provide an efficient means of transportation for goods. To complement these highways, a Kuala Lumpur-Bangkok rail service known as the ASEAN Rail Express (ARX) has been initiated with the aim of expanding it to become the Trans-Asia Rail Link that will include Singapore, Vietnam, Cambodia, Laos and Myanmar before ending up in Kunming, China.

Local transportation rates can be found on the [MIDA](#) website (click on "Costs of Doing Business" and then "Living in Malaysia" and then "Public Transport").

Language

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As a result of the country's ethnic diversity, most Malaysians speak at least two and even three languages - Bahasa Malaysia (the national language), English, and their own mother tongue (often Chinese Mandarin or Hokkien, or Tamil). English is widely spoken and is commonly used in business.

Health

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State-of-the-art medical facilities are available in Kuala Lumpur and other big cities. Quality health care is accessible in Malaysia with many reputable private hospitals, as well as numerous clinics and doctors who are aware of the expectations and needs of expatriates. Rates for medical services as well as hospital stays are generally lower than in the U.S.

The climate can be debilitating because of the uniformly high temperatures, the rainfall, and high humidity. Travelers should also be aware of dengue fever, including the hemorrhagic variety, which exists throughout Malaysia. Though it is not as common in Kuala Lumpur, open drainage ditches and stagnant water at construction sites facilitate breeding of mosquitoes in the city, and expatriates are occasionally affected by dengue or malaria.

Local Time, Business Hours, and Holidays

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The first thing to consider when planning business travel to Malaysia is whether or not any local holidays may occur during the trip, and whether they will disrupt the normal flow of business. If offices are not open, appointments may not be scheduled as easily.

Listed below are official Malaysian holidays. All states and territories in Malaysia observe federal holidays, and in addition each state also observes its own respective local holidays, such as birthday celebrations of its Sultan and the current King. A list of federal

and state [holidays](#) can be found and downloaded through the official Malaysian Prime Minister's Department website (Bahasa Malaysia only).

2011 [Malaysia holidays](#) observed by the U.S. Embassy can be found on the Embassy website.

Additionally, travelers should be aware that Friday is the holy day for Muslims, and government offices close from 12:00-2:00 on Fridays. It is usually difficult to schedule meetings on Friday afternoons, especially with government agencies.

Malaysia does not practice daylight savings, and is EST + 12 hours in spring/summer and EST + 13 hours in the fall/winter.

Temporary Entry of Materials and Personal Belongings

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Malaysia has no restrictions on temporary entry of business-related materials, such as software, laptop computers, etc. Movement of exhibit materials for Malaysia-based trade shows is typically handled by official freight-forwarding companies that are able to handle customs and other required procedures easily and quickly. Malaysia also accepts the ATA Carnet, which is essentially a passport for your goods. If the good can be described as a "tool of the trade," then upon presentation of the ATA Carnet the good may be exempt from duties and taxes. "Tools of the trade" are items such as commercial samples, professional equipment, items used for trade shows or exhibitions and some ordinary goods such as computers (including laptops) or industrial equipment. Carnets do not cover consumable goods, disposable items or postal traffic. The ATA Carnet can be ordered by contacting the [U.S. Council for International Business](#) (1-866-786-5625 or 1-212-703-5078).

Some equipment, including some high-speed or encrypted laptop computers, requires an export license from the Department of Commerce's Bureau of Industry and Security (BIS). Also, some technical materials, sophisticated equipment, and goods taken to certain countries will need a license. If you are unsure whether or not an export license is required for your laptop or other materials, please contact [BIS](#) at 202-482-4811 or visit their website.

Finally, before returning to the U.S., the U.S. Customs Service should be notified that your items will be coming back into the U.S. and that U.S. import duties and taxes should not be assessed on the goods once they return. U.S. Customs will need the serial number of the item(s) taken. To find your local customs office, information may be found online at the [U.S. Customs](#) website.

Web Resources

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Bureau of Industry and Security: <http://www.bis.doc.gov/>
Malaysia Ministry of Foreign Affairs: <http://www.kln.gov.my/>
State Department's Travel Advisories: <http://travel.state.gov/malaysia.html>
State Department Visas: <http://travel.state.gov/visa/>
U.S. Customs: <http://www.customs.gov/>
U.S. Embassy in Kuala Lumpur: <http://malaysia.usembassy.gov/>
U.S. Visas <http://www.ustraveldocs.com/>

United States Council for International Business: <http://www.uscib.org/>
Immigration Department of Malaysia: <http://www.imi.gov.my/>
Tourism Malaysia (Official Site): <http://www.tourism.gov.my/>
Prime Minister's Department (Malaysia): <http://www.kabinet.gov.my/eng/>
Malaysia Communications and Multimedia Commission: <http://www.skmm.gov.my/>

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Chapter 9: Contacts, Market Research and Trade Events

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- [Market Research](#)
- [Trade Events](#)

Contacts

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U.S. Government Contacts for Malaysia

U.S. Embassy Kuala Lumpur

U.S. Ambassador to Malaysia: Paul W. Jones

Robert G. Rapson, Deputy Chief of Mission

Tel: 011(603) 2168 - 5000 (switchboard)

Fax: 011(603) 2142-2207

Office hours: Mon – Fri, 7:45 a.m. - 4:30 p.m.

www.usembassymalaysia.org.my

Street address: U.S. Embassy Kuala Lumpur
376 Jalan Tun Razak
50400 Kuala Lumpur
Malaysia

*Mailing address U.S. Embassy Kuala Lumpur
from U.S.: APO AP 96535-8152

*Note: do not add country name `Malaysia' to this address. Letters and priority mail sent via APO (Army Post Office) take approx. one week transit time; packages shipped parcel post can take up to 6 weeks.

U.S. Commercial Service (USCS)

Website: www.buyusa.gov/malaysia/en/

E-mail: kuala.lumpur.office.box@mail.doc.gov

General inquiries: (603) 2168-5050

Fax: (603) 2142-1866

Nasir Abbasi, Commercial Counselor

Tel: (603) 2168-4869

E-mail: nasir.abbasi@mail.doc.gov

Foreign Agricultural Service (FAS)

David W. Cottrell, Agricultural Attaché

Tel: (603) 2168-5082; Fax: (603) 2168-5023

E-mail: agkualalumpur@fas.usda.gov

Economic Section (ECON)

Paul A. Brown, Economic Counselor

Tel: (603) 2168-5000; Fax: (603) 2168-4952

E-mail: brownpa@state.gov

Political Section

Brian D. McFeeters, Political Counselor
Tel: (603) 2168-4946; Fax: (603) 2168-5165
Email: mcfetersbd@state.gov

Consular Section

Charles J. Wintheiser, Consular Chief
Tel: (603) 2168-5175; Fax: (603) 2148-5801
Email: KLconsular@state.gov

Public Affairs (Formerly U.S. Information Service (USIS))

Scott M. Rauland, Counselor for Public Affairs
Tel: (603) 2168-5071; Fax: (603) 2148-9192
E-mail: LRCKL@po.jaring.my

RSO / Regional Security Office (Security briefings & updates)

Sarah Cloeter, Regional Security Officer
Tel: (603) 2168-5111; Fax: (603) 2168-4961
E-mail: cloeters@state.gov

Office of Defense Cooperation (Defense Sales)

(Formerly Security Assistance Office) (SAO)
LtCol. Stephen C. Ma, Chief, Office of Defense Cooperation
Tel: (603) 2168-5047; Fax: (603) 2141-1080
E-mail: ODCmy@tm.net.my

U.S. Government Agencies in the Washington D.C. Area

Department of State

Bureau of East Asian & Pacific Affairs
Kurt Tong, Economic Coordinator
2201 C Street, N.W.
Washington, D.C. 20520-6310
Tel: (202) 647-2001; Fax: (202) 647-0136

Department of Commerce

Trade Information Center
Ronald Reagan Building
Washington, DC 20230
Tel. in U.S.: 1-800-USATRADE (1-800-872-8723)

DOC/The Advocacy Center

Malcolm Burke
ASEAN & Pacific Basin
1401 Constitution Av. N.W., Room 3812
Washington DC 20230
Tel: (202) 482-4166; Fax: (202) 482-3508
Website: www.ita.doc.gov/advocacy

DOC/Defense Trade Advocacy
John Yu, Program Manager for Asia & Middle East
Tel: 202-482-5879
Email: JYu@bis.doc.gov

DOC/Market Access and Compliance (MAC)
Dr. Ira Kasoff, Deputy Assistant Secretary, Asia
14th & Constitution Avenue, NW Room 2319
Tel: (202) 482-4008; Fax: (202) 482-3316
E-mail: ira.kasoff@trade.gov

Department of Agriculture
Foreign Agricultural Service (FAS)
Trade Assistance and Promotion Office
Tel: (202) 720-7420; Fax: (202) 205-9728

For further information regarding GSM Credit Guarantees:
Program Planning, Development, and Evaluation Division
Export Credits, FAS-USDA
Stop 1034, 1400 Independence Ave. SW
Washington, DC 20250-1034
Tel. (202) 720-4221; Fax (202) 690-0251

General information about FAS programs, resources, and services is available on the Internet at the FAS home page: www.fas.usda.gov

Trade Development Agency (TDA)
Henry Steingass, Regional Director Asia
Diana Rossiter, Country Manager, Malaysia
1621 North Kent Street, Suite 300
Arlington, VA 22209-2131
Tel: (703) 875-4357; Fax: (703) 875-4009

Asia Regional Office, Bangkok, Thailand
Mark Dunn, Regional Manager for Asia
E-mail: mark.dunn@trade.gov
Rachaneekorn Sriswasdi, Deputy Regional Manager for Asia
E-mail: Rachaneekorn.Sriswasdi@trade.gov
Tel: (66)(2) 205-5090; Fax: (66)(2) 255-4366

Overseas Private Investment Corporation (OPIC)
James Brache, Regional Manager, Asia
1100 New York Avenue, NW
Washington, D.C. 20527
Tel: (202) 336-8585; Fax: (202) 408-9859
E-mail: info@opic.gov
Website: www.opic.gov

U.S. and Multilateral Development Banks

Export-Import Bank of the United States (EX-IM Bank)

Judith Rivera, Director Business Development
811 Vermont Avenue, NW
Washington, D.C. 20571
Tel: (202) 565-3417; Fax: (202) 565-3931
Website: www.exim.gov

World Bank (International Bank for Reconstruction & Development)

James W. Adams, Vice President, East Asia and Pacific
East Asia & Pacific External Affairs Team
1818 H Street, NW
Washington, D.C. 20433
Website: www.worldbank.org
E-mail: eapinfo@worldbank.org
Tel: (202) 473-1000 Fax: (202) 522-6341

Singapore Office

Tina Taheri Moayed
Tel: (65) 6501-5519 Fax: (65) 6501-5510
E-mail: ttaheri@worldbank.org

Asian Development Bank (ADB)

Joel Fischl, Director, Senior Commercial Officer
The U.S. Commercial Liaison Office for ADB (CS/ADB)
American Business Center
25th Floor, Ayala Life-FGU Building
6811 Ayala Avenue
Makati City, Philippines 1226
Tel: 011(632) 887-1345; Fax: 011(632) 887-1164
E-mail: joel.fischl@mail.doc.gov
Website: www.adb.org

U.S. mailing address:

PSC 500 Box 33
FPO AP 96515-1000

Key Malaysian Ministries

Ministry of International Trade & Industry

Website: www.miti.gov.my

Ministry of Finance

Website: www.treasury.gov.my

Ministry of Health

Website: www.moh.gov.my

Ministry of Defense

Website: www.mod.gov.my

Ministry of Agriculture & Agro-Based Industry

Website: www.agrolink.moa.my

Ministry of Energy, Water & Communications

Website: www.ktak.gov.my

Ministry of Natural Resources & Environment

Website: www.nre.gov.my

Ministry of Education

Website: www.moe.gov.my

Trade and Business Organizations for Malaysia

American-Malaysian Chamber of Commerce (AMCHAM)

Fui K. Soong, Executive Director

AMODA 11.03 Level 11

22 Jalan Imbi

55100 Kuala Lumpur, Malaysia

Tel: (603) 2148-2407; Fax: (603) 2142-8540

E-mail: fui@amcham.com.my

Website: www.amcham.com.my

U.S. - ASEAN Business Council

1101 17th Street NW, Suite 411

Washington, DC 20036

Tel: (202) 289-1911; Fax: 289-0519

E-mail: mmealy@usasean.org

Website: www.us-asean.org

Pacific Basin Economic Council

Steve Allen, Vice-Chairman

PBEC US Member Committee

1819 L Street, NW, 2nd Floor

Washington, DC 20036

Tel: (202) 293-1093; Fax: (202) 289-1940
Website: <http://www.pbec.org/>

Federation of Malaysian Manufacturers (FMM)
Lee Cheng Suan, Chief Executive Officer
Wisma FMM, No. 3
Jalan Persiaran Agang, PJU 9
Bandar Sri Damansara
52200 Kuala Lumpur
Tel: (603) 6286-7200; Fax: (603) 2674-1266
E-mail: webmaster@fmm.org.my
Website: www.fmm.org.my

Malaysian International Chamber of Commerce and Industry
Stuart Forbes, Executive Director
Tel: (603) 6201-7708; Fax: (603) 6201-7705/7706
E-mail: micci@micci.po.my
Website: www.micci.com.my
Mailing Address:
P.O. Box 12921
50792 Kuala Lumpur
Street Address:
C-8-8, Block C, Plaza Mont'Kiara
2 Jalan 1/70C, Mont'Kiara
50480 Kuala Lumpur

The National Chamber of Commerce and Industry of Malaysia
Wong Kum Sin, Executive Director
6A, 6th Floor, Menara BGI
Plaza Berjaya, 12 Jalan Imbi
55100 Kuala Lumpur
Tel: (603) 2141-9600 Fax: (603) 2141-3775
E-mail: enquiry@nccim.org.my
Website: www.nccim.org.my

Government Agencies and Businesses Service Providers
For contact information for specific Malaysian Government agencies, or for a list of market research firms, domestic and international banks, collection agencies or law firms, please contact the [U.S. Commercial Service in Kuala Lumpur](#)

Market Research

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To view market research reports produced by the U.S. Commercial Service please go to the following website: <http://www.export.gov/mrktresearch/index.asp> and click on Country and Industry Market Reports.

Please note that these reports are only available to U.S. citizens and U.S. companies. Registration to the site is required, and is free.

Please click on the link below for information on upcoming trade events.

<http://www.export.gov/tradeevents/index.asp>

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Chapter 10: Guide to Our Services

The President's National Export Initiative aims to double exports over five years by marshaling Federal agencies to **prepare U.S. companies to export successfully, connect them with trade opportunities** and **support them once they do have exporting opportunities**.

The U.S. Commercial Service offers customized solutions to help U.S. exporters, particularly small and medium sized businesses, successfully expand exports to new markets. Our global network of trade specialists will work one-on-one with you through every step of the exporting process, helping you to:

- Target the best markets with our world-class research
- Promote your products and services to qualified buyers
- Meet the best distributors and agents for your products and services
- Overcome potential challenges or trade barriers
- Gain access to the full range of U.S. government trade promotion agencies and their services, including export training and potential trade financing sources

To learn more about the Federal Government's trade promotion resources for new and experienced exporters, please click on the following link: www.export.gov

For more information on the services the U.S. Commercial Service offers to U.S. exporters, please click on the following link: (Insert link to Products and Services section of local buyusa.gov website here.)

U.S. exporters seeking general export information/assistance or country-specific commercial information can also contact the **U.S. Department of Commerce's Trade Information Center** at **(800) USA-TRAD(E)**.

We value your feedback on the format and contents of this report. Please send your comments and recommendations to: Market_Research_Feedback@trade.gov

To the best of our knowledge, the information contained in this report is accurate as of the date published. However, **The Department of Commerce** does not take responsibility for actions readers may take based on the information contained herein. Readers should always conduct their own due diligence before entering into business ventures or other commercial arrangements. **The Department of Commerce** can assist companies in these endeavors.

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