

신흥교역국의 통관환경 연구
말레이시아

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※ 본 보고서는 말레이시아 관세제도의 대부분을 담기 위해서 노력하였으나 지면의 부족 및 시간상의 제약으로 인해 부족한 부분이 있다.

또한 가급적 최신의 내용을 수록하기 위하여 노력하였지만, 사회·경제 상황에 따라 세제의 변화가 빈번하여, 가장 최신의 내용을 본 보고서에 반영하는 데에는 한계가 있었다.

따라서 본 보고서는 말레이시아의 관세에 대한 최소한의 길라잡이임을 밝히며, 보다 정확하고 구체적인 사항은 말레이시아 관세청과 재무부의 출판물 및 홈페이지와 관련 법령을 참조할 것을 권장한다. 특히 민감한 사안에 대하여는 반드시 관련 법령을 통해 확인할 필요가 있으며, 불명확한 부분에 대해서는 관련 관세전문가의 도움을 받을 것을 강조하고자 한다.

본 보고서의 내용은 저자들의 개인적인 의견이며, 한국조세연구원의 공식적인 견해와 무관함을 밝혀둔다.

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I. 개 관

1. 일반 개황

- 말레이시아(Malaysia)는 동남아시아 말레이반도 남단과 보르네오섬 일부에 걸쳐 있음
 - 영연방의 하나로, 반도의 11개 주는 서말레이시아, 보르네오섬 북부의 2개 주는 동말레이시아라 불림

- 기후는 말레이반도와 보르네오섬 모두 고온다습한 열대성기후임

- 면적은 33만 803km², 인구는 2,870만명(2012년 기준), 수도는 쿠알라룸푸르(Kuala Lumpur)임

- 쿠알라룸푸르 인구는 165만명이며 유동인구 포함 시 약 450만명이며, 수방자야에는 118만명, 클랑 100만명, 조호바루에는 87만명이 거주함

- 종족 구성은 말레이인 67.4%, 중국인 24.6%, 인도계 7.3% 등으로 이루어져 있으며, 각 민족은 제각기 전통적 문화·종교·언어·사회관습 등을 고집함
 - 공용어는 말레이어이며 영어·중국어·타밀어도 씀. 국교는 이슬람교로 60%를 점유하나 종교의 자유가 보장되어 불교 19%, 기독교 9%, 힌두교 6.3%의 비율임

- 입헌군주제의 의원내각제이며, 의회는 양원제로, 임기 3년의 상원(69석)과 임기 5년의 하원(219석)으로 구성되어 있음
 - 주요 정당은 국민전선, 민주행동당, 이슬람당 등이 있음

- 경제적, 사회적으로 말레이계를 우대하는 부미푸트라(Bumiputra) 정책 시행
 - ‘부미부트라’는 ‘땅의 자손’이라는 뜻으로서 일반적으로 경제, 교육 등 전 분야에서 말레이계를 우대하여 말레이계와 다른 민족 간의 빈부격차를 줄여나가는 것을 목적으로 함

2. 경제 개황

가. 말레이시아의 주요 경제 지표

- 말레이시아는 유럽 채무위기 지속에도 불구하고 2011년 5.1%(2010년 7.2%)의 성장률을 기록함
 - 2011년에는 현지화(링깃, RM)의 강세, 정부지출의 감소, 세계경제의 침체 등으로 2010년에 비해서 성장률이 감소
- 순수출이 둔화되었음에도 민간 및 공공지출이 상쇄되어 높은 경제성장률의 원동력이 됨
- 소비자물가상승률은 2011년 평균 3.2%(2010년 1.7%)를 기록했음
 - 2011년 상반기의 인플레이션 증가는 식품료 가격 상승 등에 기인한 것으로 분석됨. 인플레이션은 2011년 6월 3.5%로 최고치에 달했으며, 2010년 석유제품 및 당류의 가격 상승 영향이 서서히 약화되어 2011년 후반기에 안정을 되찾음
- 2011년 1월 초에서 7월 사이 상당한 유가증권의 유입으로 인해 링깃 가치가 강화됨
 - 그러나 유럽 채무위기에 대한 우려와 국제 경제성장에 대한 불확실이 강조되면서 8월과 9월 링깃화 동향이 약세로 전환됨
 - 2011년 말 유럽 재정위기 등에 의해 시장의 불안정성이 심화되자 달러에 대한 링깃의 가치는 2.9% 가치하락한 3.177링깃으로 마감됨

- 2012년 수출 제조업 및 수출관련 서비스업은 글로벌 성장 둔화에 따른 외부수요 약화로 부정적인 영향을 받을 것으로 전망됨
- 반면 내수관련 산업은 견고한 내수에 힘입어 연중 안정적인 성과를 보일 것으로 예상됨
 - 특히 건설업의 경우 주요 인프라 프로젝트 및 특별지원패키지 등의 실행으로 강한 성장세를 보일 것으로 전망됨
- 2011년 전체 수출액은 2010년 대비 8.7%가 증가한 6,945억링깃(약 2,315억달러)을 기록하였고 총수입액은 8.6% 증가하여 5,742억링깃(약 1,914억달러)을 기록함
 - 2011년 전체 무역량은 1조 3천억으로 전년 대비 8.7%가 상승하였음
 - 말레이시아 대외무역수지는 1,203억링깃(약 401억달러)의 흑자를 기록하여 전년 대비 9.4%의 증가율을 기록하였음

〈표 I -1〉 말레이시아의 주요 경제 지표

구분	2007년	2008년	2009년	2010년	2011년
경제성장률(%)	6.2	4.6	-1.7	7.2	5.1
GDP(억달러)	1,469	1,525	1,475	2,378	1,923
1인당 GDP(달러)	6,849	7,991	6,972	8,417	9,508
물가상승률(%)	2.0	5.4	0.6	1.7	3.2
실업률(%)	3.2	3.3	3.5	3.4	3.1
환율(RM/달러)	3.25	3.34	3.52	3.22	3.06
수출(억달러)	1,830	1,915	1,572	2,311	2,270
수입(억달러)	1,527	1,506	1,236	1,884	1,877
외환보유액(억달러)	1,010	913	960	1,065	1,202

자료: KOTRA, 말레이시아 관세청

나. 말레이시아의 수출입 동향

- 2007년부터 2011년까지 말레이시아의 수출은 2009년 경제위기의 여파로 인한 전세계적 경기침체를 제외하고는 꾸준히 늘어나고 있음
- 2007년 1,830억달러의 수출이 2011년 2억 2,700억달러까지 증가함
 - 같은 기간 중 말레이시아의 수입도 꾸준히 늘어나서 2007년 1,527억달러의 수입이 2011년 1,877억달러까지 증가함

〈표 I-2〉 말레이시아 수출입 동향

(단위 : 억달러)

	2007년	2008년	2009년	2010년	2011년
수출	1,830	1,915	1,572	2,311	2,270
수입	1,527	1,506	1,236	1,884	1,877
무역 수지	303	409	336	427	394

자료: KOTRA, World Trade Atlas

- 말레이시아는 기존 미국, 유럽 및 일본에 의존하던 수출시장이 아시아(중국, 태국, 인도) 등으로 다변화되는 모습을 보임
 - 2011년에 이러한 경향이 더욱 확대되었으며, 중국에 대한 수출이 지속적으로 증가함. 한국은 수출 8위 규모를 유지하고 있음
 - 2011년 수입시장은 중국이 싱가포르를 근소하게 제치고 1위를 차지하였고, 전반적으로 수출과 마찬가지로 수입이 동시에 증가한 가운데 한국은 수입국에서 8위를 유지

〈표 I-3〉 2011년 말레이시아의 국별 수출입 현황

(단위: 억달러)

순위	수 출		수 입	
	국가명	금액	국가명	금액
1	중국	298	중국	247
2	싱가포르	288	싱가포르	240
3	일본	261	일본	213
4	미국	188	미국	181
5	태국	117	인도네시아	114
6	홍콩	102	태국	112
7	인도	92	대만	88
8	한국	84	한국	75
9	호주	82	독일	71
10	대만	74	홍콩	44

자료: KOTRA

다. 말레이시아의 외국인 투자 동향

- 말레이시아는 외국인 직접 투자를 성공적으로 유치하여 고도의 경제 성장을 이룩한 전형적인 국가임
 - 정부는 외환거래 및 과실 송금의 자유, 각종 행정 규제 철폐는 물론 투자 관련 정치적 요소들을 분명히 함으로써 투자자의 미래에 대한 불확실성을 제거해 주는 등 정책의 일관성 및 투명성을 유지하고 있음
 - 제조업 분야에 있어 외국인 투자지분 제한 규정 폐지, 조세감면 혜택 강화 등 외국인 투자유치를 위해 노력하고 있으며 금융 등 서비스 분야도 점차 개방하는 모습을 보임

- 말레이시아는 영어 상용 지역으로 여타 동남아 국가에 비해 사회 인프라 시설, 사업 및 생활 여건 등에서 여전히 우위를 점하고 있어 투자 대상지로서의 매력은 지속될 것으로 보임

- 수출입 선적 비용이 지역에 비해 저렴한 것으로 나타났으며, 거래의 투명성을 포함한 투자자 보호, 자기 거래에 대한 책임, 직권 남용 경영진을 고소하는 주주 권리 등은 지역 대비 장점으로 부각
- 최근의 외국인 투자 증가에도 불구하고 투자 진출 시 관료주의의 만연에 따른 시간 지연, 불필요한 비용 소모 등에 대한 외국인 투자자들의 불만 증가로 해외 투자 유치 및 경제 성장에 악영향을 줄 것이라는 우려의 목소리가 높아짐
- 말레이시아 정부는 관료주의 개선을 위해 말레이어로 비즈니스 지원 데스크포스팀을 의미하는 'Pemudah'를 2007년 2월부터 가동
- 말레이시아산업개발청(MIDA)은 양질의 투자유치를 위하여 맞춤형 인센티브를 제공할 예정임
- 정부는 투자액에 따라 인센티브를 다르게 지급함
- 경기 침체 여파로 대(對)말레이시아 외국인 투자는 2009년에는 14억달러에 그쳤으나 2010년 91억달러, 2011년 119억달러의 외국인 직접투자를 이끌어 냄

〈표 I-4〉 말레이시아 외국인 직접투자(FDI)

(단위: 백만달러)

년도	2009년	2010년	2011년
투자유입액	1,453	9,103	11,966

자료: World Investment Report 2012

- 우리나라의 최근 對말레이시아 투자는 증가하는 추세로, 주요 투자 산업분야로는 전지전자, 기계 및 장비, 합성 금속 제품 분야 등이나, 말레이시아 경제발전에 따라 금융, 정보통신, 에너지자원 분야로 다변화·고도화되고 있음

〈표 I-5〉 對말레이시아 투자

(단위: 백만달러, 건)

구분	2005	2006	2007	2008	2009	2010	2011
금액	24.5	619.6	934	350.9	255.4	1,706	178
건수	50	80	145	123	105	111	113

자료: 2011 외국의 통상환경

3. 우리나라와 말레이시아의 교역관계

- 2011년 기준 한국은 말레이시아의 8대 교역국이자 제15위의 투자국(제조업 프로젝트 승인 기준)으로 활발한 무역·투자 활동을 전개하고 있음
- 2011년 對말레이시아 수출은 62억 7,513만달러를 기록하여 2010년 대비 2.6% 증가 하였으며 2011년의 대말레이시아 수입은 104억 6,782만달러를 기록
 - 2010년 대비 9.8% 증가함. 2007년 이후 최근 5년간 교역량은 경제위기의 여파가 컸던 2009년을 제외하면 꾸준히 성장해옴
- 기존 주요품목 중심의 수출 촉진뿐만 아니라 최근 말레이시아가 중점 육성 의지를 표명한 녹색기술 개발, 인프라 구축사업 등과 관련한 수출 증대가 예상됨

〈표 I-6〉 말레이시아 교역현황

(단위: 백만달러, %)

구분		2006년	2007년	2008년	2009년	2010년	2011년
수출	금액	5,227	5,704	5,794	4,324	6,115	6,275
	증가율	13.4	9.1	1.6	-25.4	41.4	2.6
수입	금액	7,242	8,442	9,909	7,574	9,531	10,468
	증가율	20.5	16.6	17.4	-23.6	25.8	9.8
합계	금액	12,469	14,146	15,703	11,898	15,646	16,743
	증가율		13.4	11.0	-24.2	31.5	7.0
수지		-2,015	-2,738	-4,115	-3,250	-3,416	-4,193

자료: KOTRA

- 한국의 對말레이시아 교역현황을 품목별로 분석해보면, 수출은 평판디스플레이, 반도체, 합성수지, 석유제품, 승용차, 철강제품 등이 주도하고 있으며, 수입은 천연가스, 집적회로반도체, 원유, 중유, 나프타, LPG 등이 주도하고 있음

〈표 I-7〉 최근 對말레이시아 10대 수입 품목

(단위: 천달러, %)

순위	2010년			2011년		
	품목명	금액	전년대비 증가율	품목명	금액	전년대비 증가율
	총 계	9,530,964	25.8	총 계	10,467,817	9.8
1	천연가스	2,079,657	-13.6	천연가스	2,084,733	0.2
2	반도체	1,506,297	10.6	반도체	1,505,916	0
3	석유제품	1,065,223	104.1	원유	1,210,449	58.5
4	원유	763,899	108.5	석유제품	908,895	-14.7
5	컴퓨터	492,088	53.9	컴퓨터	548,590	11.5
6	LPG	373,232	72.3	식물성물질	431,197	43.7
7	목재류	361,525	7.7	LPG	381,776	2.3
8	식물성물질	300,070	26.8	목재류	258,089	-28.6
9	주석제품	189,923	71	주석제품	213,268	12.3
10	유선통신기기	173,537	26.3	임산부산물	203,662	35.5

주: MTI 3단위 기준
자료: KOTRA

- 2011년도 주요 수출 품목별 동향을 살펴보면, 對말레이시아 수출 1위 품목인 반도체가 2010년 대비 4.6%나 증가함
- 평판디스플레이가 2010년 대비 38.9%의 감소세를 보이며 수출품목 2위임
- 2010년도에는 평판디스플레이, 선박해양구조물 및 부품, 자동차 등이 수출 주력 품목으로 전체 수출을 주도했음. 특히 자동차의 경우 처음으로 10대 수출품목으로 들어오면서 226%의 수출 증가세를 나타냄

〈표 I-8〉 최근 對말레이시아 10대 수출 품목

(단위: 천달러, %)

순위	2010년			2011년		
	품목명	금액	전년 대비 증가율	품목명	금액	전년 대비 증가율
	총계	6,114,823	41.4	총계	6,275,131	2.6
1	평판디스플레이 및 센서	1,002,359	49.5	반도체	688,708	4.6
2	반도체	658,690	13.7	평판디스플레이 및 센서	612,391	-38.9
3	철강판	454,307	29	철강판	551,901	21.5
4	선박해양구조물 및 부품	396,842	173.2	합성수지	299,349	17.1
5	합성수지	255,648	66	자동차	260,721	4.5
6	자동차	249,464	226.8	합성고무	251,317	80.4
7	기구부품	221,791	13.3	석유제품	250,924	62.1
8	동제품	204,460	62	동제품	216,078	5.7
9	석유제품	154,770	167.3	기구부품	194,939	-12.1
10	합성고무	139,303	162.5	무선통신기기	123,095	18.4

주: MTI 3단위 기준
자료: KOTRA

4. 말레이시아 무역협정(FTA, Free Trade Agreement) 현황

- 말레이시아는 산업화를 적극적으로 추진하여 자원 중심 수출구조에서 벗어나 제조업 중심의 수출구조로 개선하기 위해 노력해옴
- 세계 시장의 지역 블록화가 심화됨에 따라 그동안 소극적이던 모습을 벗고 FTA 체결에 적극적인 자세를 취하고 있음
- 말레이시아는 ASEAN 10개국에 소속되어 있어 이미 역내 자유무역협정(AFTA: Asean Free Trade Agreement)을 실현하기 위한 공동효과특혜관세(CEPT) 협정에 따라 1993년부터 단계적으로 관세 인하를 실시

- ASEAN 회원 가맹 6개국(싱가포르, 말레이시아, 브루나이, 태국, 인도네시아, 필리핀)은 2008년부터 대상 품목 중 99%에 대하여 관세율을 5% 이하로 인하
 - 목제품, 자동차, 고무 제품, 섬유, 농산물 가공, 수산업, 일렉트로닉스, E-ASEAN, 헬스 케어, 항공, 관광 등 11개 분야에 대해서는 일부를 제외하고 2007년 1월에 모두 관세를 철폐함
- AFTA는 2012년 모든 품목에 대해 역내 무관세를 목표로 회원국 간의 협의를 진행중에 있음
- 신규 가맹국(베트남, 미얀마, 라오스, 캄보디아)의 관세 인하도 진전되어 캄보디아를 제외하고는 이미 적용 품목의 80% 이상의 역내 관세가 5% 이하로 인하됐으며, 동 국가들은 2015년 역내 무관세 실현을 목표로 함

〈표 I-9〉 말레이시아 FTA 추진현황

	기 체결	협상 중
양자간 FTA 추진현황	일본(06년 7월), 파키스탄(08년 1월), 뉴질랜드(09년 10월)	호주, 미국, 인도, 칠레, 터키
아세안 일원으로서 다자간 FTA 추진현황	중국, 한국, 일본, 인도, 호주, 뉴질랜드	EU

자료: MITI(국제통상산업부)

- 일본, 파키스탄, 뉴질랜드, 호주, 미국, 인도, 칠레 등과 양자간 FTA를 적극적으로 추진함
- 한·아세안 간 FTA 기본협정 및 상품무역협정이 국회 본회의를 통과함에 따라 2007년 6월 1일부로 한국과 아세안 9개국과의 무역 자유화 조치가 본격적으로 시행
- 한·말레이시아 간 수입 상품에 부과되는 관세 또한 인하 및 철폐가 이루어짐
- 모든 품목은 일반 품목군(Normal Track)과 민감 품목군(Sensitive Track)으로 분류되며 일반 품목군에 속하는 제품은 2010년까지 관세가 철폐되는데 기존 관세가

20%를 넘는 일반품목군에 속한 제품은 2007년 13%, 2008년 10%, 2009년 5%, 2010년에 0%로 단계적으로 관세가 철폐됨

- 민감 품목에 속하는 제품은 오랜 기간에 걸쳐 인하가 진행될 예정이며 2016년 1월 1일까지 관세 인하를 목표로 하고 있음. 말레이시아는 철강, 자동차, 고무, 섬유, 의류, 플라스틱, 화학, 기계에 속하는 412개 제품을 민감 품목으로 선정함

□ 한·아세안 상품 협정은 2007년 6월 1일 발효되었으며, 서비스 협정은 2007년 11월 21일 서명되었고 2009년 5월 1일부터 발효되었음

□ 현재 한·아세안 FTA 협상 중 투자 협정도 2009년 6월 2일에 서명됨. 협정관세는 한국관세청¹⁾과 말레이시아 관세청²⁾ 사이트에서 확인이 가능함

□ 말레이시아 관세청 사이트에서 한·ASEAN FTA적용 관세는 KOREA, MAL 란을 참조하면 되며, 이 란에 아무것도 안 적혀 있으면 해당사항이 없다는 의미임

□ Nil은 0%와 같은 의미이며, ASEAN 간 관세율은 두 번째 폴더 AHTN을 클릭하여 CEPT란을 보면 됨

□ MITI(Ministry of International Trade and Industry, 국제통상산업부)에 따르면, 한국과 말레이시아 양자간 FTA는 실효성 조사를 위하여 각자 조사에 착수하기로 동의함

- 양국은 양자간 FTA의 협상의 잠재적인 착수를 위한 구체적인 정책 제안을 개발할 것임
 - 2012년 2월 말레이시아 푸트라자야에서 열린 한국의 홍석우 지식경제부 장관과 말레이시아 MITI(국제통상산업부)의 Datuk Seri Mustapa Mohamed 장관 간 회의에서, 양국은 산업 협력의 도모를 위하여 자유시장을 유지하고 보호주의를 철폐하기 위한 노력을 기울여야 함에 동의함

1) 한국관세청 FTA 포털: <http://fta.customs.go.kr/>

2) 말레이시아 관세청 관세조회 사이트: <http://tariff.customs.gov.my>

5. 말레이시아 기타 제도

가. 말레이시아·태국 공동개발지역(Joint Development Area)

- 1990년 말레이시아·태국 공동당국법(Malaysia·Thailand Joint Authority Act 1990)에 의해 형성된 ‘말레이시아·태국 공동개발지역’은 상기 법에 따라 설정됨
- 공동세관위원회(Joint Customs Committee)가 설치되어 동 공동개발지역의 통관제도를 맡고 있음
- 물품의 소유주가 공동개발지역으로 수입하고자 할 때, 직접 또는 대리인을 통해 제1세관양식을 제출하여야 함
- 공동개발지역에서 생산된 물품의 소유주가 공동개발지역 밖으로 수출하고자 할 때, 직접 또는 대리인을 통해 제2세관양식을 제출하여야 함
- 말레이시아나 태국에서 공동개발지역으로 또는 공동개발지역에서 말레이시아나 태국으로 물품을 이동하고자 할 때, 물품의 소유주는 직접 또는 대리인을 통해 제3세관양식을 제출하여야 함
- 공동개발지역의 수출입 관세는 지정된 수출입 장소에서 지불하며, 공동개발지역에서 물품을 싣거나 부리는 것은 공동세관위원회가 승인함

나. 국제조달센터(International Procurement Centres, IPCs)

- 국제조달센터는 말레이시아 및 해외에 있는 기업에 원자재, 부품 및 완제품을 조달·판매하는 지역 주식회사의 모임을 지칭함

- 국제조달센터에 참여할 수 있는 조건으로 회사법 1965(Companies Act 1965)하의 지역 주식회사이며, 최소 자본 50만링깃이어야 함
 - 이 외에도 최소 연간 사업지출 150만링깃, 3번째 경영연도 최소 연간 매출 5,000만링깃, 국제조달센터 생산물의 최소 80% 수출(30%의 생산자 직송 포함), 국내 시장으로의 판매는 총매출의 20%로 제한 등이 있음

- 국제조달센터에 가입될 경우 다양한 세금 혜택 등이 주어짐
 - 해외 허가 은행과의 외화 선물계약 및 외화계좌를 통한 수출, 해외 허가 은행의 외화계좌를 통한 수출, 관세가 면제된 상태로 자유산업지대, 허가 보세공장, 자유산업지대 및 보세창고로의 원자재, 부품 또는 완제품 수입 등의 혜택이 있음

- 국제조달센터에 가입하기 위한 서류들을 말레이시아 산업개발국 제조서비스부³⁾에 제출하여야 함
 - 필요한 서류로는 신청서, 주식회사 증명서, 양식24(주식배당금), 양식49(이사회 세부 정보), 최신 회사 연차 보고서, 회사 소개 등 신청서를 뒷받침하는 기타 관련 자료들이 필요함

다. CGC제도(Customs Golden Client)

- 말레이시아의 CGC(Customs Golden Client)는 AEO와 비슷한 제도임

- CGC는 말레이시아 세관에서 수출기업이 일정 수준 이상의 기준을 충족하면 통관 절차 등을 간소화시켜주는 제도를 지칭함

- 동 제도는 2001년 9.11 테러 이후 미국을 비롯한 주요 국가들의 세관에서 안전을 강

3) Malaysian Industrial Development Authority, Manufacturing Services Division, 1st Floor, Plaza Sentral, Jalan Stesen Sentral 5, Kuala Lumpur Sentral, 50470 Kuala Lumpur, P.O. Box 10618, 50720 Kuala Lumpur, MALAYSIA

조하면서 통관이 지연되자, 세계관세기구(World Customs Organization, WCO)에서 관련 규정을 강화하기 위해 도입되었음

○ 말레이시아 세관의 승인을 받아, 제조, 수입, 수출, 브로커, 운송, 항구, 공항, 터미널, 창고, 유통 등 물품의 국제 이동에 참여하는 당사자를 선정함

□ CGC에 신청하여 동 자격을 획득하기 위한 조건으로 그동안 세관의 법적 조건을 잘 이행한 기록 및 전력이 있어야 하며 세금 연체가 없어야 함

○ 그 밖에도 지난 3년간 세관의 법적 위반이나 특허 조건 위반 기록이 없어야 함

○ GAAP(Generally Accepted Accounting Principles) 회계 제도를 사용하여 회계상의 투명성이 보장되어야 함

○ 최근 감사받은 연차 보고서를 제출해야 함

○ 적절한 수출입 및 상품 이동 감사 기록이 있어야 함

○ 전자자금이체(Electronic Funds Transfer, EFT)로 관세를 납부할 수 있어야 함

II. 외국의 통상환경 보고서

1. World Bank의 「Doing Business 2013」

- 세계은행(The World Bank)은 2004년부터 매년 ‘사업하기 좋은 나라(Ease of doing business)’ 순위를 다양한 부문에 걸쳐 조사하여 「Doing Business」라는 보고서명으로 발표하고 있음
- 2013년에 발간된 「Doing Business 2013」는 2012년 한 해 동안 185개국에 대하여 부문별로 조사·평가한 내용이 수록됨
 - Doing Business 2013보고서상 순위를 결정짓기 위하여 조사된 분야는 사업 개시(Starting a business), 건설 허가(Dealing with construction permits), 전력 수신(Getting electricity), 부동산 취득(Registering property), 신용 취득(Getting credit), 투자자 보호(Protecting investors), 세금 납부(Paying taxes), 무역(Trading across borders), 계약 이행(Enforcing contract) 및 청산(Resolving insolvency) 등 10개의 지표임
 - 2013년 보고서에 따르면, 종합적인 ‘사업의 용이성(Ease of Doing Business)’ 순위에서 있어 싱가포르가 1위를 차지하였으며, 우리나라는 8위에 올랐음
- 당해 보고서의 무역 분야 순위는 수출입에 필요한 서류의 개수와 수출입 소요 일수 및 소요 비용 등을 산출하여 순위를 정하고 있으며, 필요서류가 적고 수출입 소요 기일이 짧을수록 더욱 높은 순위로 오르는 형식임
 - 무역 분야에서 2012년 보고서상 4위에 올랐던 우리나라는 2013년 보고서에서는 1계단 상승하여 3위에 오름

〈표 II-1〉 Doing Business 2013 말레이시아의 무역 분야 순위 비교

구분	말레이시아	East Asia & Pacific (평균)	OECD (평균)	인도네시아	태국	한국
수출필요서류(개수)	5	6	4	4	5	3
수출소요시간(일)	11	21	10	17	14	7
수출소요비용 (달러/컨테이너)	435	923	1,028	644	585	665
수입필요서류(개수)	6	7	5	7	5	3
수입소요시간(일)	8	22	10	23	13	7
수입소요비용 (달러/컨테이너)	420	958	1,080	660	750	695
무역분야 순위	11	-	-	40	20	3

자료: The World Bank, 「Doing Business 2013」

- 「Doing Business 2013」에서 말레이시아는 종합적인 사업의 용이성에 있어 전체 조사국인 185국 중 12위에 올랐으며, 부문별 주요 지표 중 무역 분야(Trading Across Borders)에서는 11위를 기록함
- 「Doing Business 2012」에서 종합적 사업의 용이성 순위 18위, 무역 분야 순위 29위에 올랐으며 2013년에는 대부분이 상승하였음

〈표 II-2〉 말레이시아 수출입 소요 기간 및 비용

(단위: 일, 달러)

구분	수출		수입	
	소요기간	비용	소요기간	비용
서류준비	5	85	3	75
세관통관	1	60	1	60
항만(터미널)	2	120	2	120
내륙운송	3	170	2	165
합계	11	435	8	420

자료: The World Bank, 「Doing Business 2013, Economy Profile: Malaysia」

- 말레이시아에서의 해상 수출에 있어 컨테이너당⁴⁾ 약 435달러의 금액이 소요되며 수출에 필요한 서류는 5가지임
- 서류 준비를 비롯하여 수출 통관 및 국내 운송, 항만에서의 업무를 포함, 수출에 총 11일이 소요됨
- 말레이시아로 해상 수입 시 컨테이너당 약 420달러의 금액이 소요되며 수입에 필요한 서류는 6가지임
- 서류 준비를 포함한 수입통관 및 국내 운송, 항만 업무를 포함하여 총 8일이 소요됨

〈표 II-3〉말레이시아의 수출입 시 필요 서류

수출 시 필요서류	수입 시 필요서류
<ul style="list-style-type: none"> ○ Bill of Lading(선하증권) ○ Certificate of Origin(원산지증명서) ○ Commercial invoice(상업송장) ○ Customs export declaration(수출신고서) ○ Packing list(포장명세서) 	<ul style="list-style-type: none"> ○ Bill of Lading(선하증권) ○ Certificate of origin(원산지증명서) ○ Commercial invoice(포장명세서) ○ Customs Import declaration(수입신고서) ○ Terminal handling receipts (터미널 화물처리 영수증) ○ Packing list(패킹리스트)

자료: The World Bank, 「Doing Business 2013, Economy Profile : Malaysia」

2. 미국 국별 무역장벽 보고서(National Trade Estimate Report on Foreign Trade Barriers: NTE 보고서)

- 국별 무역장벽보고서는 1974년 통상법(Trade Act of 1974) 제181조에 근거하여 미국 무역 대표부(USTR, United States Trade Representative)가 작성, 매년 3월 말 의회에 제출하는 연례 보고서임

4) 20피트 컨테이너(TEU) 만재화물 기준이며, 위험물·군수품 등이 아니라는 가정 하에 산정한 금액임

- 이 보고서는 미국 업계의 의견과 해외 주재 미국 대사관의 보고서, 관련 정부 부처의 의견 등을 기초로 작성됨
 - 2012년 보고서는 미국의 62개 주요 교역국 및 경제권의 무역과 투자 장벽에 대해 포괄적으로 기술하고 있음⁵⁾
- 2012년 국별 무역장벽보고서에는 미국의 수출업자 입장에서 작성된 62개 각 국가의 수입정책(Import Policies)과, 비관세 장벽(NTBs, Nontariff barriers), 지식재산권 보호(Intellectual Property Rights Protection) 등 무역 및 투자 장벽 등에 관하여 언급하고 있음
- 미국의 23번째의 수출 상대국인 말레이시아는, 2011년 미국과의 교역에 있어 116억 달러 적자를 기록하였으며, 이 적자액은 전년 대비 2억 6,700만달러 감소한 수치임
- 2011년 미국의 말레이시아 수출액은 전년 대비 1% 증가한 142억달러였으며, 말레이시아 수입액은 258억달러로 이는 전년 대비 0.5% 감소한 수치임
 - 미국의 말레이시아 외국인 직접투자(FDI)액은 2010년 160억달러로 2009년 132억 달러보다 증가하였음. 주요 투자로는 제조업과 은행업계에 집중됨
 - 미국의 말레이시아 개인 상업 서비스(Private Commercial Service) 수출은 2010년 21억달러였으며, 수입은 12억달러였음
 - 말레이시아 내 미국 주요 계열회사의 서비스 판매액은 2009년 43억달러였던 반면, 미국 내 말레이시아 주요 계열사의 서비스 판매액은 2억 9,400만달러였음
- 2009년 12월 미국은 아시아·태평양 무역 협정(TTP, Trans·Pacific Partnership)을 위한 협상 시작 의지를 표명하였음
- 이 협정으로 미국은 아시아·태평양 지역에 걸친 경제 통합(economic integration)의 잠재적 발판을 마련하고, 급속도로 성장하는 경제권과의 이익을 얻을 수 있을 것이며, 수출 확대를 이룰 것임

5) 2010년부터 동식물 위생 및 검역(SPS, Sanitary and Phytosanitary Measures) 및 무역에 대한 기술 장벽(TBT, Technical Barriers to Trade) 관련 사안은 NTE 보고서와 별도로 발표하고 있음

- TPP 협상에는 현재 일본, 캐나다, 호주, 브루나이, 칠레, 말레이시아, 뉴질랜드, 페루, 싱가포르, 베트남이 포함됨

- 대부분의 말레이시아 관세는 증가율로 부과되며 단순 평균 실행관세율(simple average applied tariff) 7.4%가 적용됨.
 - 부가가치 상품보다 원재료에 대한 관세가 대부분 낮음. 미국은 말레이시아의 관세 인하로써 미국 수출의 성장을 가져올 수 있는 품목군을 선정하였는데, 이러한 품목에는 냉동 감자, 음식용품 장비, 음식, 과자 등이 포함

- 가금류, 생닭, 우유와 크림, 돼지, 양배추를 포함하여 관세할당제를 적용받는 17개의 관세선이 있음. 이러한 것들은 쿼터 내 물량에 대해서 10~25% 관세를 부과하고 쿼터 외 물량에 대해서 40~168%관세를 부과함

- 말레이시아는 자동차 분야에 높은 관세를 적용하고 National Automotive Policy (NAP)를 통해 투명하지 못한 수입 허용과, 소비세 등을 이용하여 수입된 자동차에 가격을 높임

- 국립수의부서 Department of Veterinary Services는 모든 돼지고기 수입에 대한 허가를 필요로 함
 - 말레이시아 정부는 미국 돼지고기의 제한된 수입에 대한 심도 있는 조사를 위해 기준을 마련함
 - 2011년 6월 국립수의부서는 말레이시아에 돼지고기를 수출하기를 원하는 기관은 광범위하고 다양한 신청서를 국립수의부서에서 검사한 개별 공장에 제출하여야 함

- 말레이시아는 팜 오일과 팜 오일로 만든 제품을 세계에서 두 번째로 많이 생산하고 수출함
 - 말레이시아 팜 오일 제품은 세계에서 15%를 차지하고, 식물성 오일의 세계 무역에서 30%를 차지함. 말레이시아는 수출세로 10~30% 증가세율을 사용함

- 말레이시아는 전통적으로 국가의 공공정책 목표를 위해 정부 조달을 이용함
 - 이 목표들은 말레이시아 경제에서 Bumiputra(말레이 사람)의 참여를 더욱 늘리고, 기술을 지역 산업에 전달하고, 외국환의 유출을 줄이고, 서비스 분야의 지역 회사들의 기회를 만들고, 말레이시아의 수출 역량을 늘리기 위해 만들어짐
 - 외국 회사가 입찰에 참여를 원할 경우 현지 파트너가 필요함. 미국 정부는 말레이시아의 불투명한 조달 과정의 개정을 계속적으로 요구함
 - 말레이시아는 WTO 정부조달협정 가입국이 아님

- 말레이시아는 수출에 대한 보조를 제공하는 프로그램을 유지하고 있음
 - 개정된 국가의 자동차 정책(National Automotive Policy)은 고부가가치 자동차와 부품 수출에 대한 소득세 면제를 증가시켜줌
 - 미국은 말레이시아에 금지로 보이는 보조 프로그램에 대하여 추가적인 정보를 요청했으나 완벽하게 풀리지 않은 이슈들이 남아 있음

- 최근 몇 년간 지적 재산권 보호와 강화 관련하여 필요한 법 제정과 규정에 큰 발전을 보임
 - 그러나 아직까지도 2011년의 The Special 301 Watch List에 말레이시아가 남아 있고 미국은 말레이시아에 WIPO Internet Treaties와 Budapest Treaty⁶⁾에 가입을 권유하고 있음

- 의사 결정 과정에서 투명성의 부족은 말레이시아에 있는 미국 회사들에 어려움을 줌
 - 국회에 법률이 공식적으로 소개되기 전에 초안 규정을 대중에게 알리는 시스템적인 과정이 없음
 - 부패를 없애는 것이 말레이시아 정부 개혁의 우선 사항에 해당됨

6) 특허과정상 각국에서 필요로 하는 미생물의 기탁효과를 자국의 특허과정에서도 상호 인정할 것을 정해 1980년 8월에 발효한 국제조약. 구체적으로는 일정한 요건을 갖춘 미생물 기탁기관을 국제기탁 당국도 국제적으로 승인하고 어느 1개소의 국제기탁 당국에서 시행한 미생물 기탁은 모든 조약체결국의 특허과정상 유효한 것으로 취급함

Ⅲ. 말레이시아의 통관환경

1. 통관 행정 개요

가. 통관 행정 조직

- 말레이시아에서 관세청(Royal Malaysian Customs Department)은 법률 집행 업무를 주로 하며, 상부 기관인 재무부는 정책과 행정도 병행함
- 1948년, 말레이시아 연방정부 산하 관세청(Customs and Excise Department)이 설립되어 1957년 8월 31일 말레이시아 연방정부 독립에 따라 관세청 조직 개편, 관세청은 재무부 장관 산하 기관이 되었음
- 중앙 조직의 차장은 부서별로 상이한 JUSA⁷⁾ 직급을 가지며, 이에 따라 당해 부서의 권한과 책임이 달라짐
 - 국장 아래 집행부(Implementation Division)차장은 'JUSA A', 내국세부(Internal Taxes Division) 차장과 관리부(Management Division) 차장은 'JUSA B', 법률부(Legal Division) 차장은 'JUSA C' 직급을 가지므로, 집행부 차장이 타 부서에 비하여 높은 지위에 있음
- 집행부서(Enforcement division)는 업무에 따라 중앙조직(headquarter level), 지방조직(state level) 및 사무소 조직(station level)으로 나뉨

7) JUSA는 Jawatan Utama Sektor Awam(Public Sector Superscale)의 줄임말로 말레이시아 공공기관(공무원 포함)에서 정책을 집행하고 조직을 관리하는 상대적으로 높은 직급을 의미함. 이러한 JUSA는 A, B, C로 나누어지고 JUSA A > JUSA B > JUSA C 순으로 상위 레벨임

- 본부에서는 부국장(Assistant Director General of Customs)이 집행(Enforcement)을 관장하며, 집행과 법령준수(Enforcement & Compliance)를 담당하는 차장(Deputy Director General of Customs)에게 직접 보고하며 밀수 방지 및 조사, 기소, 마약 단속과 기밀 유지 업무 등을 담당하고 있음
- 밀수 및 불법 행위 방지를 위한 밀수 방지 캠페인, 압수품과 몰수품의 관리 업무, 지능 범죄와 밀수 등에 대한 조사와 단속 등을 담당

- 법령준수 관리부서(Compliance management division)는 판매허가 소지자/수입업자의 체계적인 회계감사 계획과 실행, 세금과 관세가 정확하게 징수되도록 함
 - 관세문제 관련 어드바이스를 제공하고 회사/수입업자들이 관세법을 따르고 준수하도록 함

- 관세부서는 산업, 수출입관련 정책 수립과 국경지대 통제 강화를 위해 정부의 관련 부서와 긴밀한 협력을 통해 업무를 수행함

- 기술서비스부(Technical Services Division)는 평가(valuation)와 품목분류에 대한 조언을 제공하고, 관련법과 규정을 업데이트하며, 세입과 체납액 관리와 더불어 수입 시점에 고위험화물에 대한 선별과 적발 업무 등을 수행함

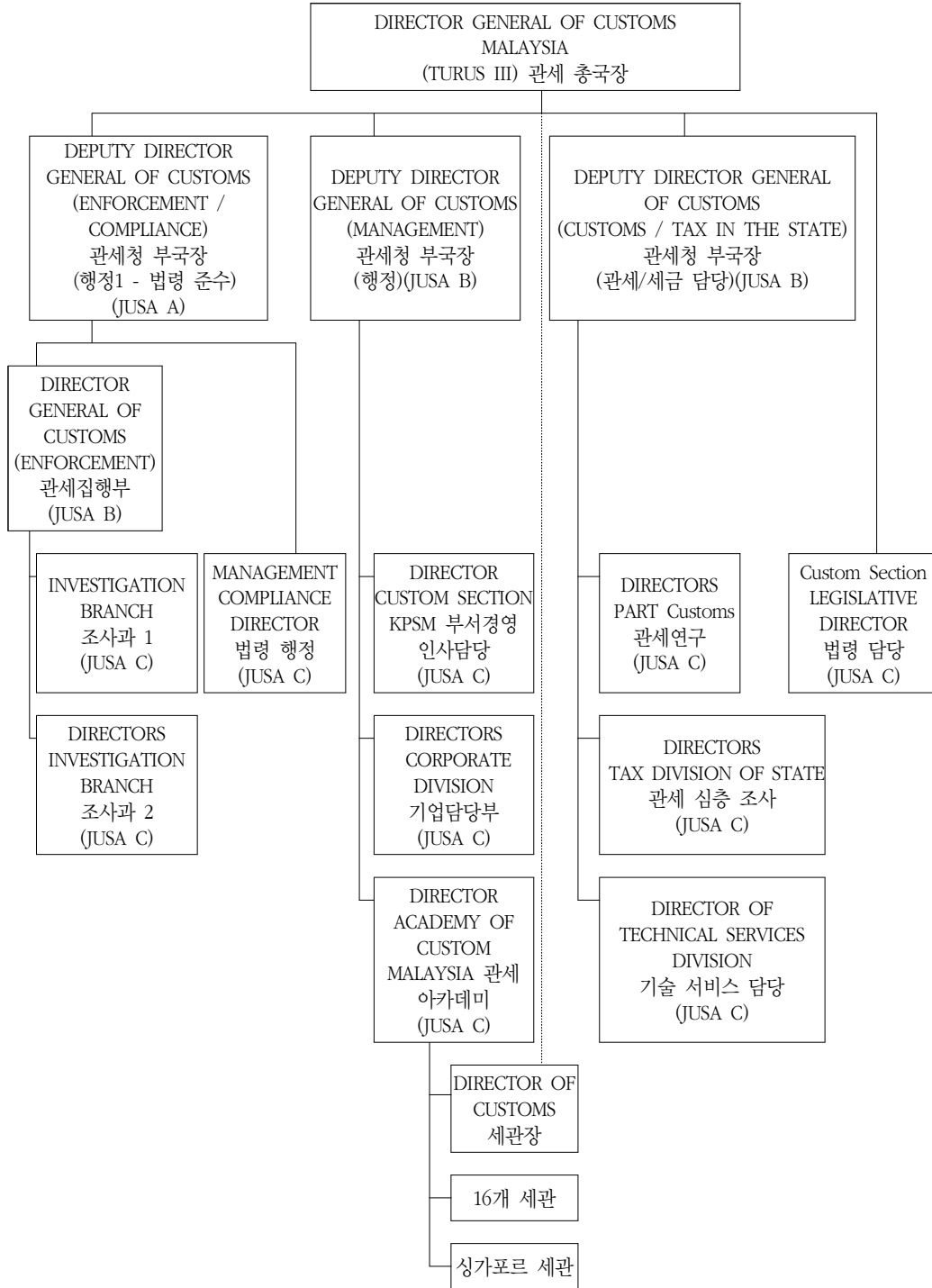
- 말레이시아는 16개 지역 세관을 운영하며, 각 세관을 통하여 수출입 물품의 통관 및 관리 업무 등이 진행됨

- 말레이시아에는 관세소비국과는 별도로, 재무부 내에 관세청원부서(Customs Appeal Tribunal)를 두어 이해당사자 간 협상을 지원 등을 수행함
 - 그 밖에도 통관 관련 청원에 대한 등록, 의견수렴 및 결정사항을 통보하고 독립된 사법처의 역할을 함
 - 동 부서의 결정은 법적 구속력을 가짐
 - 그러한 결정 및 판정은 모든 이해 당사자에 대해 최종적인 구속력을 가지도록 하고

있음

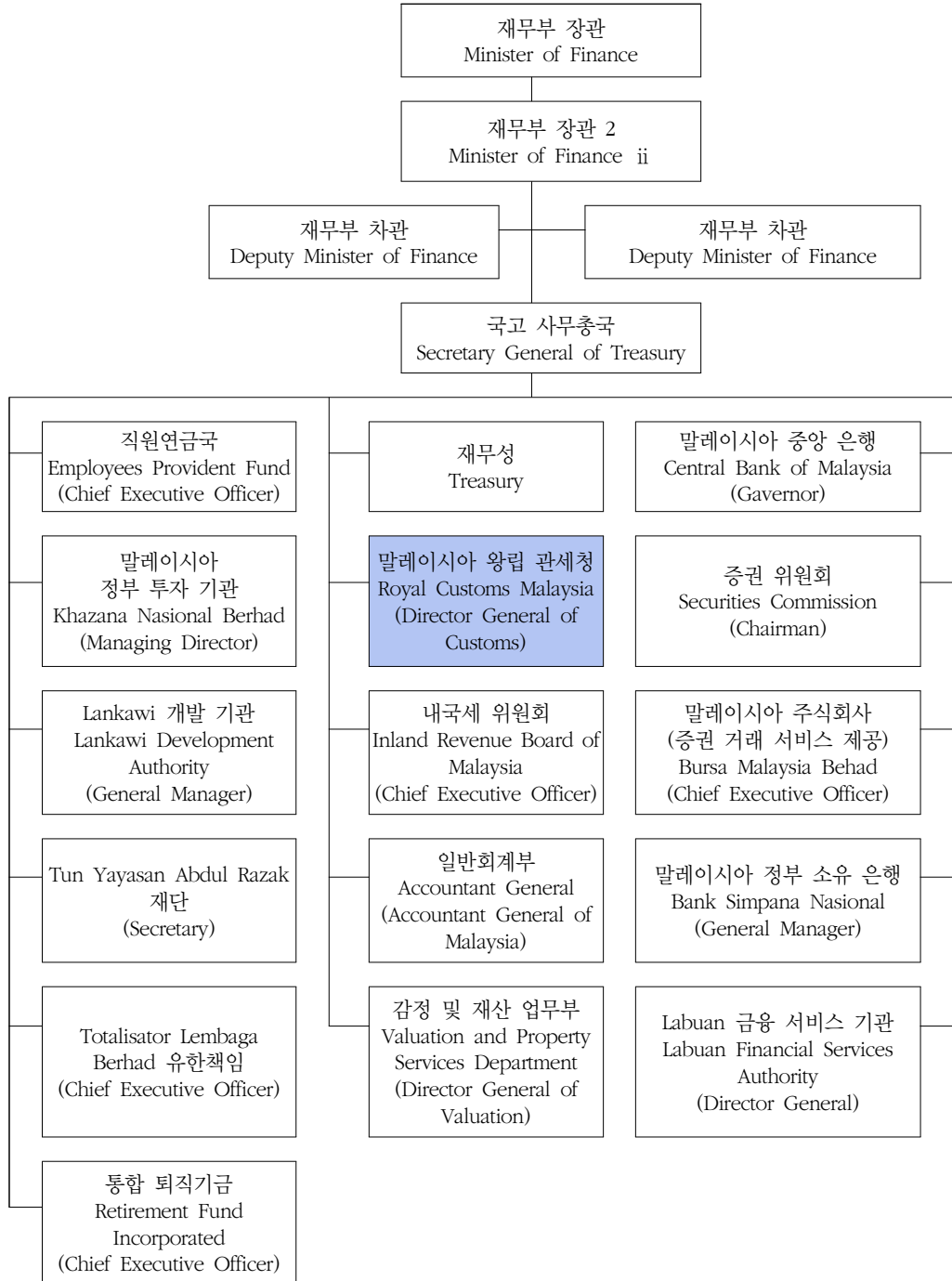
- 그 외에 MITI(국제통상산업부)는 FTA관련 협상 등 우리나라 외교통상부의 업무를 수행하고 있음
- 관세행정의 상부조직인 재무부는 세제, 경제, 예산과 주택 대출 관련 정책에 대한 가이드라인을 제공함
- 재무부의 기능은 재정 및 화폐 정책 수립 및 적용, 정부 조달 관리 정책 수립 및 감독, 연방정부 내국채 및 외부 자원의 획득과 분배 관리 등이 있음
- 재무부의 하부기관으로 일반회계국, 감정 및 재산 업무국, 말레이시아 왕립 관세청, 내국세 위원회, 직원연금국이 있음

[그림 Ⅲ-1] 말레이시아 관세청 조직도



자료: 관세청(2011)

[그림 Ⅲ-2] 말레이시아 재무부 조직도



자료: 관세청

나. 각종 수입허가 제도

- 보건, 위생, 지적 재산권 및 자국 내 산업 보호를 위한 수입허가 품목과 제조업체를 일시적으로 보호하기 위한 품목은 수입허가가 필요함
- 특정 기준을 충족시킨 이후에만 수입되는 품목으로는 쌀, 설탕, 자동차, 철강 등이 있음
- 해당 기관으로부터 수입허가 또는 승인을 받아야 함. 일반적으로 각 승인(Approved Permit)은 하나의 위탁 화물에 주어짐. 위탁 화물이 수입된 후에 승인은 만료됨
- 수입 시 수량 제한으로는 자국 내 생산업체 보호 및 적정 가격 수준 유지를 위하여 일부 설탕 및 밀가루에 대하여 시행하고 있음
 - 특히 쌀 수입 시에는 국립쌀위원회(National Paddy and Rice Board: NPRB)가 관여하여 자국 내 쌀 가격을 고수하는 정책을 실시하고 있음. 제품별 허가부처는 아래와 같음

〈표 Ⅲ-1〉 제품별 허가부처

제품	허가부처
쌀	농업부
자동차, 철강, 소비자 통제제품	국제통상산업부
전기통신 및 무선통신	SIRIM
사카린 및 소금	건강복지부
미가공 담배	국가담배위원회

자료: OIS 해외진출정보시스템

- 종종 수입 허가가 비관세 장벽으로 작용함
 - 예를 들어 일부 철강 품목의 경우, 말레이시아 내 업체와 계약을 체결한 후에도

별도 MITI(국제통상산업부)의 수입 허가를 내주지 않아 수입이 불가능함

- 현지에서 구할 수 있거나 생산이 가능한 경우 수입 허가의 발급이 이루어지지 않음
- 거부된 수입 허가에 대해 MITI(국제통상산업부) 산하의 Trade Service Division의 Director에게 수입 허가 발급을 호소할 수 있지만 현실적으로 불가능함
- 통상 수입 허가 발급에는 7~10업무일 정도가 소요되는데 모든 수입 허가는 양도될 수 없으며 3개월간 유효함
- 안전하지 못한 전자기기 제품으로부터 소비자를 보호하기 위한 목적으로 통상적으로 일반 대중에게 판매되는 모든 전기용품은 승인서를 발급받도록 하고 있음
- 승인서 발급 과정이 복잡하여 승인서가 수입 허가 역할을 하고 있음
- 부품을 포함한 건설 중장비 기계의 수입은 MITI(국제통상산업부)의 수입 허가를 획득해야 하며 오직 법적인 회사나 사업체만이 수입 허가를 허용받을 수 있음
- 수입허가는 통계상의 정보수집을 목적으로 자동 발급되지만 법적으로 설립된 회사나 사업체가 아닌 개인 수출업자는 수입허가를 신청할 수 없음
- 수입금지품목(관세법령 2008년) 목록 물품의 수입에 대해서는 수입면허가 필요함
- 중앙정부나 주정부가 수입한 물품과 적법한 세관이 승인한 항공기 또는 선박 내 저장품은 수입금지품목(관세법령 2008년)이 적용되지 않은 경우임
 - 이 외에도 영 연방 군대로부터 직접 수입한 물품 중 제1목록에 명시되지 않은 물품
 - 도로교통조례 1958(Road Traffic Ordinance 1958)하에 9개 말레이 주에 허용된 자동차

- 자동차조례 1960(Cars Ordinance 1960)하에 사바(Sabah)와 사라왁(Sarawak)에 허용된 자동차
 - 브루나이에 양호한 상태의 면허 자동차 및 도로교통법 또는 중고차법에 의해 사라왁에 허용된 자동차
 - 도로교통법 또는 중고차법에 따라 International Circular Permit하에 연방 주(Federal states)에 수입된 자동차
 - 연방 주에서 선의의 관광객들이 가져와 운전하는 자동차
- 수입면허를 신청하기 위해서는 말레이시아 기업위원회에 등록된 회사이어야 함
- 수입면허를 신청할 때는 신청서와 제69세관양식이 필요함
- Syarikat Percetakan Nasional (M) Bhd⁸⁾에서 구할 수 있음
 - 제일 처음 신청할 때는 Memorandum and Article of Association(M & A), 제24세관양식(주주 정보), 제49세관양식(이사, 경영자 및 회사 전략 정보) 필요
 - 신청하는 물품에 따른 관련 증빙 자료
- 철강, 컬러 복사기 및 CD 기계 수입을 위한 지원서를 받을 수 있는 곳은 MITI(국제통상산업부) 홈페이지임
- MITI 본부나 신청하는 물품에 따라 그 지점에 제출
- 오프라인 신청은 신청서 수령 7일 이내, 온라인 신청은 5일 이내 처리됨
- 면허의 최종 발급은 MITI(국제통상산업부) 사무국장이 함
- 구체적인 사항은 MITI 본부나 가까운 지점에 문의 및 확인할 것

8) Syarikat Percetakan Nasional (M) Bhd, Jalan Chan Sow Lin 50554 Kuala Lumpur Tel.: 03-92212022 Fax.: 03-92220690

□ 수입면허가 필요한 물품들과 물품별 증빙자료는 아래 표와 같음

〈표 Ⅲ-2〉 말레이시아 수입면허가 필요한 물품

수입면허가 필요한 물품
<ul style="list-style-type: none"> ○ 유고슬라비아(세르비아 & 몬테네그로)에서 수입하는 모든 물품 ○ 설탕 ○ 동물의 고기, 뼈, 가죽, 피부, 뿔 등 부위 ○ 가공류 ○ 살아 있는 영장류(유인원, 원숭이 등) ○ 쌀 ○ 폭발물 ○ 장난감 총을 포함한 무기 복제품, 수류탄 복제품 ○ 오토바이용을 제외한 안전헬멧 ○ 자동 카세트 또는 카트리지 장착기나 그 부품 ○ 사람, 물품, 자재 수송을 위한 자동차 ○ 오토바이, 원동기 자전거, 보조모터가 장착된 자전거 ○ 비디오 기계(TV 수신용 비디오 게임 제외) ○ 위성 수신기 등을 위한 포물선 모양 안테나, 장비, 부속물 ○ 몬트리올 의정서(Montreal Protocol)가 다루는 물질 ○ 액체 우유, 재조합·재구성된 맛 첨가 우유 포함 ○ 맛 첨가 살균 액체 우유, 재조합·재구성된 맛 첨가 우유 포함 ○ 곡물가루 ○ 방사성 점토 및 방사성 표백 토양 ○ 다이아몬드 및 다이아몬드가 박힌 보석류 (개인 집의 일부로 수입되는 적은 양의 개인용 보석 물품 제외) ○ 철 또는 철강 강편 ○ 합금 철강 및 고탄소 철강 ○ 가닥철사, 케이블, 밧줄, 노끈, 땅은 끈, 유사류의 알루미늄 철사 ○ 절연전선, 케이블, 막대, 조각 및 유사류 ○ 에틸렌의 1차형태 중합체 ○ 프로필렌의 1차형태 중합체 ○ 중공업 기계(5년 이상 되지 않은 것) ○ 가전제품(스테레오 세트, 전기다리미, 믹서, 헤어드라이어, 전기밥솥, TV, 전기주전자 등)

자료: MITI(국제통상산업부)

〈표 Ⅲ-3〉 말레이시아의 물품별 증빙자료

물 품	증빙 자료
밀가루 및 공업용 밀가루	SIRIM(재정부 산하 연구기관)이 발행 한 실험 결과 보고서(밀가루에만 해당), 구매 송장
우유	수의과의 승인서, 구매 송장
정제 설탕 외 설탕	구매 송장, 설탕 견본
중공업 기계	수출국에서 발행된 원산지 증명서, 카탈로그 및 사진, 수입 기록, 구매송장
원동기	수출국에서 발행된 원산지 증명서, 상업용 자동차 면허 이사회 (Commercial Vehicles Licensing, Board, LPKP)의 승인서, 구매 송장
흑백 복사기	카탈로그 원본, 구매 송장
컬러 복사기	신청서, 이사회에 관한 정보, 지원자의 신분증 사본, 지역당국의 재산사업 면허, 사무실 배치도, 특실 위치도, 제품 카탈로그, 구매 송장
광학 CD 제조기 및 DVD 기계	광학 CD 제조기 및 DVD 기계 - 신청서, 말레이시아 산업개발국 (Malaysian Industrial Development Authority, MIDA)이 발행한 제조 면허, 국내통상·소비자부 (Ministry of Domestic Trade and Consumers' Affairs) 의 제조 면허 및 승인, 말레이시아 영화발전협회(National Film Development Corporation Malaysia, FINAS)의 제작 및 배포 면허, 지역당 국의 재산·사업 면허, 지역 및 외국 레코딩 회사와의 독점권 계약, 사무실 배치도, 특실 위치도, 구매 송장, 제품 카탈로그
토너	구매자 목록, 구매 송장
철강	제조 면허 또는 보세공장 면허, 신청서, 구매 송장/판매 계약/구매 주문서, 서비스 센터 및 무역업자/구입업자를 위한 고객의 구매 주문서
화학무기협약 하의 화학 생산물	구매 송장
안전헬멧	SIRIM이 발행한 실험 결과 보고서, 구매 송장
케이블	말레이시아 케이블·철사제조협회(Malaysia Manufacturer of Cable and Wire Association, MECWA)의 서신, 구매 송장, 지원서

자료: MITI(국제통상산업부)

다. 수입 인증 제도

- 재무부 산하의 SIRIM(Standard and Industrial Research Institute of Malaysia)이라는 정부 소유 회사가 있어 산업연구 및 개발뿐만 아니라 제품 표준 및 품질 관리의 역할을 수행함
 - SIRIM CERTIFICATION은 말레이시아에서 판매되는 제품에 대한 필수적인 인증임
 - 이 인증은 1965년 회사법(Companies Act 1965)하에 설립된 SIRIM QAS International Sdn Bhd에서 발행받을 수 있는데 인증 발급은 자발적이지만 다음 품목에 대해서는 강제적으로 SIRIM마크를 획득하여야 함

〈표 Ⅲ-4〉 의무 인증 제품과 규제기관

의무 인증 제품	규제기관
Motorcyclist Safety Helmet	Road Transport Dept.
Motorist's Seatbelt	Road Transport Dept.
Electrical Appliances	Energy Commission, EC
Gas Appliances	Energy Commission, EC
Fire Safety Products	Fire & Rescue Services Dept.
Cement, Ceramic tiles & Ceramic Sanitary ware	Construction Industry Development Board, CIDB
Communication equipment	Malaysia Communication and Multimedia Commission, MCMC
New generation of diesel engines	Department of Environment, DOE

자료: KOTRA

- SIRIM QAS International Sdn Bhd는 말레이시아의 대표적인 인증, 검사, 시험 기관으로 국제 표준을 준수하고 있는데 수행하는 시험 종류는 다음과 같음

〈표 Ⅲ-5〉 인증 시험 종류와 정부 규제기관

시험 종류	정부규제기관
Fire Engineering Testing	Fire and Rescue Department
Chemical Testing	Chemical Industrial Council of Malaysia
EMC Testing	Energy Commission
Electrotechnical Testing	Energy Commission
Construction Building Materials Testing	Construction Industry Development Board
Communication Equipment Testing	Malaysian Communication and Multimedia Commission
Mechanical Product Testing	Energy Commission

자료: KOTRA

- The Malaysian Standard 1500 : 2004 ‘Halal Food - Production, Preparation, Handling And Storage’는 하랄제품(이슬람율법에 따라 도살, 제조된 제품)을 판매하기 위해 말레이시아에서 받아야 하는 규격임
- 인증을 받기 위해서는 Jabatan Kemajuan Islam Malaysia⁹⁾ 기관을 접촉해야 함
- 국제표준 기준으로 식품과 의약품 제조 관리 및 품질 관리를 함
- Good Manufacturing PracticeGMP를 취득하려면 The Food Safety and Quality Division, Ministry of Health¹⁰⁾ 기관을 접촉해야 함
- Hazard Analysis and Critical Control Points (HACCP)는 식품안전을 위한 예방적 접근 시스템임

9) Jabatan Kemajuan Islam Malaysia, 주소 G and 3rd Floor, Block 2200, Entreprise Building 3, Persiaran Apec, 63000 Cyberjaya, 전화 +603 8315 0200, 팩스 +603 8318 7044, www.halal.gov.my, www.islam.gov.my

10) The Food Safety and Quality Division, Ministry of Health, 주소 Level 3, Block E7, Parcel E, 62590 Putrajaya, 전화 +603 8883 3888, 팩스 +603 8889 3341/3815, Email fsq-division@moh.gov.my, http://fsq.moh.gov.my

○ HACCP를 취득하려면 The Food Safety and Quality Division, Ministry of Health¹¹⁾ 기관을 접촉해야 함

- Occupational Health and Safety Management System은 직업상의 건강 및 안전에 초점을 맞춘 시스템
 - 직업상의 건강 및 안전을 위협하는 요소를 정의하고 방지하기 위한 프로그램을 개발하는 것으로 직업 사고를 줄여 운영 비용을 줄일 수 있음
 - SIRIM QAS International Sdn Bhd 기관에서 인증함

라. 수입 규제 제도

- 말레이시아에서는 수입금지 제도 및 수입허가 제도에 대한 명확한 구분이 없음
- 위생, 안전, 환경보호 및 저작권 기준을 충족하기 위해 수입허가(수출통제) 제도를 시행함
 - 대부분의 경우 수입허가 제도는 필수 원자재의 적절한 공급 물량 확보 및 자국 내 유치/전략산업 보호 차원에서 시행됨
- 말레이시아는 무역 제재가 미미한 편임
 - 기자재와 부품 등을 수입하여 중간재 가공 후 완제품 수출 형태의 산업구조를 가지고 있기 때문임
- 보호무역주의라 할 수 있는 자국산업 보호정책으로 제2차 경기부양책(2009년 3월 발표)에서 200만링깃(약 56만달러)이 자동차 개발펀드(Automotive Development Fund)에 배정됨

11) The Food Safety and Quality Division, Ministry of Health, 주소 Level 3, Block E7, Parcel E, 62590 Putrajaya, 전화 +603 8883 3888, 팩스 +603 8889 3341/3815, Email fsq-division@moh.gov.my, <http://fsq.moh.gov.my>

- 이 펀드는 말레이시아 자동차 부품 제조업체들의 경쟁력 향상에 도움이 됨
- 팜 오일에 부과되는 세금(Windfall profit levy)은 현재 팜 오일 가격이 톤당 2,000링깃을 넘는 분에 대해 부과하고 있지만, 생산비용이 최근에 늘어남에 따라 그 기준을 톤당 2,500링깃(사바, 사라왁지역은 3,000링깃)으로 올림
- 말레이시아 정부는 50억링깃(약 14억달러)을 산업구조조정보증기금 계획(Industry Restructuring Guarantee Fund Scheme)의 대출보증금으로 배정함
 - 생산성 향상, 부가가치 활동, 녹색기술을 위한 금융기관 대출신청에 대해 보증을 설 계획임
- 말레이시아의 반덤핑 및 상계관세 제도는 상계 및 반덤핑에 관한 법(1993년 7월 15일 발효)과 관련 규정(1994년 4월 28일 발효)에 근거하고 있으며 수입 규제 관련 최근 큰 변화는 없음
- 반덤핑 조사 및 판정은 MITI(국제통상산업부)내의 Trade Practices Unit이 담당하며, 최종 판정은 MITI장관이 결정함
- 2009년 8월 1일 철강 수입 규제가 조정되어 HRC(Hot-rolled coils), CRC(Cold-rolled coils), EGI(Electro-galvanized iron) 제품에 대한 현지 조달 제품과 수입 제품 간의 고정비율을 폐지하였고, 2010년 1월 1일부터 5%로 관세가 인하됨
- 철판의 수입 관세도 2009년 8월 1일부터 50%에서 25%로 인하하였고, 2018년 1월 1일부터는 0~10%로 인하될 예정임
- 수출용 완제품 생산의 원재료로 사용될 경우, 현지 시장에서 생산되지 않는 등급 및 스펙의 제품일 경우, 수입관세가 없는 완제품의 원재료로 사용되는 제품일 경우에는 철판(HRC, CRC, EGI 포함)의 수입관세를 면제함

- 말레이시아 정부는 2008년 9월 22일자로 한국, 미국, 캐나다, 인도네시아, 필리핀 등 5개국産 신문용지(roll판)에 대한 반덤핑관세 재심을 개시한다고 발표한 바 있음
- 최근 2009년 3월 21일부터 2014년 3월 18일까지 관세를 아래 기업에 대해 연장해서 부과하기로 결정한 바 있으나 최초 반덤핑관세 부과 이후 한국기업의 당해품목 對말레이시아 수출물량은 미미한 수준임

〈표 Ⅲ-6〉 반덤핑 부과일지

(단위: %)

품목	HS코드	사건 유형	조사 개시일자	관세부과일자	국가 및 부가관세
인쇄 용지	4801.00	반덤핑	2003.1.16	PD ¹⁾ : 2003.5.29 FD ²⁾ : 2003.9.26 DD ³⁾ : 2009.3.20 (2014.3.18로 연장)	한국 43.24
말레산 무수물 (maleic anhydride)	2917.14000	반덤핑	2004.1.10	PD : 2004.10.7 FD : 2005.2.4 DD : 2010.2.3 (2010.2 종료)	26.34
폴리에틸렌 테레프탈염산	3907.60000	반덤핑	2005.1.27	PD : 2005.6.25 FD : 2005.10.23 DD : 2010.10.23 (2011.5 종료)	17.09

주: 1) PD: Preliminary Determination
 2) FD: Final Determination
 3) DD: Duty Determination
 자료: KOTRA

〈표 Ⅲ-7〉 반덤핑 해당기업

(단위: %)

해당기업	부과관세
Bowater Korea Ltd.(Bowater-Halla Paper Co. LTD로 알려져 있음)	43.24
Daehan Paper Co. Ltd	43.24
Pan Asia Paper Co.	43.24
Paper Corea Inc. (Sepong Corp.으로 알려져 있음)	43.24
기타	43.24

자료: MITI(국제통상산업부)

- 수입 규제 말레이시아는 종교, 윤리, 안보 및 환경보호를 위해 16개 품목의 수입을 금지함

〈표 Ⅲ-8〉 말레이시아의 수입 금지 품목

수입 금지 품목
<ul style="list-style-type: none"> ○ 모조 화폐 ○ 공서양속, 사회 안녕을 해치는 휘장(emblem), 또는 고안품(device) ○ 외설적인 그림, 사진, 책자, 필름, 비디오테이프, 레이저디스크 등 ○ 코란 문구를 인쇄한 직물 ○ 단검 ○ 기상용을 제외한 전파 수신기(68~87MHz, 108~174MHz) ○ 납이나 납화합물을 함유하거나 구리나 구리화합물을 리터당 3.46mg 이상 함유한 중독성 주류 ○ 아비산 나트륨(Sodium Arsenite) ○ 보석용을 제외한 산호 ○ 피라냐(Piranha fish) 어족류 ○ 거북이 알 ○ 필리핀, 인도네시아로부터 수입되는 cocoa 등 과일류 ○ 주사기를 닮은 펜, 연필 등 ○ 독성 화학물 ○ 방사능 성분을 함유한 투각섬석(tremolite) 피뢰기(lightning arresters) ○ 미가공 통나무 ○ 눈길용 고무타이어(신제품 및 재생제품)

자료: OIS 해외진출정보시스템

- 우리나라의 주력 품목인 전기전자, 철강, 기계, 자동차 등에 수입 관리 및 허가 제도가 존재하여 비관세 장벽으로 작용함
- 2009년 10월 28일 발표된 자동차산업정책(National Automotive Policy, NAP)은 정부는 2011년 6월부터 점차적으로 재활용된 자동차의 부품의 수입에 대해 금지할 것을 주요 내용으로 함
- 재활용된 자동차 부품의 수입 금지는 브레이크 라이닝, 브레이크 패드, 타이어 및 배터리 등의 자동차 중요 부품으로부터 점차적으로 시행될 예정임. 이를 수입한 경우 세관은 이를 압수하고, 최대 5,000링깃의 벌금을 부과할 수 있음

마. 수출입에 부과하는 국세

- 전통적으로 저관세 정책을 견지하여 기계류는 거의 무관세이고 기타 공산품도 저관세율을 적용하였음
- 최근 국내 제조업계를 보호하기 위해 일부 품목에 대해 고관세율을 적용하고 있음. 아세안 내 국가와의 자유무역협정(AFTA)에 따라 역내 특혜관세가 진전되어 역내 협력이 강화됨
- 전통적으로 저관세 정책을 채택하고 있어 35% 이상의 관세가 부과되는 품목은 소수임
- 정부는 사치품 및 국내 산업을 보호하기 위한 품목을 제외하고는 관세율을 지속적으로 인하시키고 있음
- 원자재 및 부품 수입 시 기본적으로 5%의 관세율이 적용됨
- 무관세 제품을 생산하기 위한 원자재 및 부품의 수입, 제조 공정상 직접 투입되고 자국 내에서 생산되지 않는 기계 또는 설비의 수입, 공장 건설 또는 시설 확충을 위한 기계 및 플랜트 도입의 경우에는 수입 관세가 완전 면제됨
- 자국 산업을 보호하기 위한 수입제한 정책의 일환으로 다양한 관세 무역 장벽을 실시하고 있음
- 섬유류 및 플라스틱 제품에 대한 20~30%의 고관세 부과, 준관세 성격의 판매세 및 소비세 부과하고 있음
- 국내 소비세는 1976년 국내 소비세법에 따라 국내에서 제조되는 상품에 부과됨. 대상 상품은 2004년 국내 소비세법에 기재되어 있음

- 특히 자국 자동차 산업의 보호를 위해 높은 관세 및 소비세를 부과하고 있음. 자동차는 75~105%, 사륜차는 60~105%,이륜차는 20~30%의 소비세가 부과됨
- 주류는 리터당 0.10링깃 + 15%가 부과되고 담배는 개당 0.18링깃 + 20%가 부과됨

〈표 Ⅲ-9〉 비아세안국가로부터의 수입

(단위: %)

	완성조립차(CBU)			조립생산차(CKD)		
	관세	소비세	판매세	관세	소비세	판매세
승용차	30	75~105	10	10	75~105	10
MPV/밴		60~105		0~10	60~105	
4WD		65~105		10	65~105	
모터사이클		20~30	0~10	0~10	20~30	0

자료: MITI(국제통상산업부)

〈표 Ⅲ-10〉 아세안국가로부터의 수입

(단위: %)

	완성조립차(CBU)			조립생산차(CKD)		
	관세	소비세	판매세	관세	소비세	판매세
승용차	5	75~105	10	10	75~105	10
MPV/밴		60~105		0~10	60~105	
4WD		65~105		10	65~105	
모터사이클		20~30	0~10	0~10	20~30	0

자료: MITI(국제통상산업부)

- 판매세는 판매세령 1977(Sales Tax Order 1977) 및 판매세령(면제) 1980(Sales Tax (Exemption) Order 1980)에 따름. 수입품의 가격, 수입관세의 가치, 소비세의 가치에 따라 계산·평가함
- 맥주, 포도주, 알코올 주류(2205.10 100~2208.90 990), 담배, 엽권련(2402.10 000 ~2402.90 200) 등에 20%의 판매세 부과함
- 석유와 석유 제품에도 일정 비율의 판매세가 부과되고 그 외 수입품에 5% 또는 10%의 판매세가 부과됨

바. 관세면세 제도

- 불가피한 누출, 파손, 기타 사고에 의해 특히 보세창고에 보관하는 관세 부과 대상 물품의 수량이 부족해진 경우, 관세국장은 부족한 물품에 대해 관세의 전체 또는 일부분을 면제할 수 있음
 - 물품이 재수출을 목적으로 일시적으로 수입된 경우
 - 국내 소비용으로 수입된 때 부과되는 관세 없이 수입·운송을 허가받음
 - 관세국장이 만족하는 수준의 담보를 제공하여 수입·운송을 허가받은 후, 물품 수입 3개월 이내 또는 관세국장이 허가하는 기간 이내에 물품이 재수출되면 보증금을 돌려받을 수 있음
 - 무역 견본으로 신고한 수출품은 관세가 면제되어 재수입할 수 있음

사. 라벨링

- 바하사 말레이어를 제품의 패키지에 꼭 사용해야만 함. 영어는 제2의 언어로 사용할 것
- 모든 제품은 생산자, 수입자 또는 도매업자의 이름, 원산지, 내용물, 제품의 이름 정보가 꼭 들어가야 함

2. 말레이시아의 통관 절차

가. 수입 통관 절차

- 말레이시아의 통관용 물품분류체계는 HS를 토대로 9단위 기준으로 10,579개 물품이 있으며, 수입관세율은 200~300% 범위 내에서 일반적으로 증가세를 기준으로 적용되고 있음
 - 1996년 11월 APEC 정상회담에서 최고 수입 관세율을 2000년까지 15%로 인하하

고, 2020년까지 철폐하는 데 합의함

- 말레이시아의 경우 수입물품의 원산지 규정을 규율하는 국내 법규를 갖고 있지는 않은바, 이는 비특혜 원산지규정과 관련된 것임
 - ASEAN CEPT와 관련하여 특혜 원산지 규정을 운영하고 있는 바 CEPT 제도는 ASEAN 국가들이 당해 물품이 ASEAN 국가 내에서 완전생산된 경우 또는 F.O.B.¹²⁾ 가격의 40% 이상의 부가가치를 창출한 경우 특혜관세를 부여하는 제도로써 40% 부가가치 산출 시 원재료, 노임 및 간접비용 등이 고려됨
- 수입 물품은 세관을 거쳐 통관되며 법에 의해 제외된 품목을 제외하고는 관세 (customs duty), 판매세(sales tax) 및 소비세(excise duty)가 부과될 수 있음
- 수·출입 관련, 여타 통관 양식으로는 수입물품의 경우 제1세관양식이 요구되고, 제3세관양식은 말레이시아 내 물품 운송 시, 제8세관양식은 환적용, 제9세관양식은 보세창고에서의 일시반출용으로 요구되는 양식임
 - 최근 말레이시아는 관세행정의 효율화와 간편성 제고를 위해 paperless 수출거래를 여러 항만과 공항에서 실행하고 있으며, 통관 관련 정보의 인터넷 제공을 강화하고 있는 추세임
- 모든 수입품은 수입세 납부에 상관없이 제1세관양식을 통해 신고해야 함
 - 개수, 포장/상자 설명, 가치, 무게, 수량, 물품 종류 및 원산지 등에 관한 정보를 기입해야 함
 - 수입품이 상업용일 경우, 수입품이 수입관세 부과 대상일 경우 제1A세관양식을 추가적으로 제출해야 함
 - 이 밖에도 수입품의 송장 가치가 적어도 하나의 운송 건에 대해 10,000링깃 이상인 경우, 수입품이 수입관세의 부분 면제를 받는 경우 추가적으로 제출이 필

12) F.O.B.(Free On Board)는 매도인(수출업자)이 약속한 화물을 매수인(수입업자)이 지정한 선박에 적재하고 본선상에서 화물의 인도를 마칠 때까지의 일체 비용과 위험을 부담하는 무역거래 조건을 말함

요함

- 수출자나 그 대리인은 세관의 요구에 따라 다음과 같은 모든 서류를 제시해야 하며, 세관이 서류를 보관할 수 있음
 - 모든 송장
 - 배송 주문
 - 선하증권
 - 원산지 증명서 또는 분석 확인증
 - 포장명세서
 - 수입면허(수입 금지 물품일 경우)
 - 세관이 수출자의 신고의 정확성을 판단할 수 있는 기타 문서

- 수입품의 가치 평가에 관한 문서 및 기록을 소유하고 있는 사람은 물품의 수입 후 6년 동안 물품의 구매, 가격, 가치, 결제에 관한 모든 기록을 보존하여야 함
 - 문서를 보유하고 있지 않아 물품의 가치를 확정할 수 있는 경우 물품 가치의 2배 이상 10배 이하의 벌금이, 확정할 수 없는 경우 10,000링깃 이상 500,000링깃 이하의 벌금이 부과됨

- 선적 물품이 도착하고 난 후나 도착 이전에 선적 관련 서류들에 대해 검토하여 정밀 검사 또는 추가적인 서류 제출이 필요한지를 결정함

- 정밀 검사가 필요한 경우(대부분 농산물) 브로커 또는 중개인은 관련 기관과의 검사 일정을 정하게 됨

- 수입 허가 또는 승인을 요하는 품목의 경우 선적 물품의 도착 이전에 해당 승인을 얻지 못하는 경우 통관 과정이 지연될 수 있음

- 보세창고에 보관되거나 보세창고 보관 면제를 받은 관세 부과 대상 물품의 수입자는

보세창고를 관할하는 세관에 수입품을 신고해야 함

- 물품이 세관의 통제를 벗어나기 전에, 또는 물품이 양륙 1개월 내의 기간에 이동하지 않는 경우, 직접 또는 대리인을 통하여 규정된 양식으로 신고해야 함
- 특별한 경우 세관이 서면 공지를 통해 수입자가 직접 또는 그 대리인이 신고서를 3일 내로 제출하도록 요구할 수 있음
- 세관 보세창고가 설치되지 않은 곳에서 육로나 해상으로 수입된 관세 부과 대상 물품, 그리고 개인 용도의 여행자 가방이 수입 장소에 도착할 때, 수입자가 직접 또는 그 대리인을 통해 규정된 양식 또는 규정된 방식으로 세관에 수입품을 신고해야 함
- 우편으로 수입된 관세 부과 대상 물품의 수신자는 세관의 요구에 의하여 직접 또는 그 대리인을 통해 규정된 양식으로 수입품을 신고해야 함

□ 신고를 할 때는 상자의 개수 및 설명, 관세 부과 대상 물품의 무게, 크기, 수량, 가치, 원산지 국가 등에 대해 완전하고 정확하게 기입해야 함

□ 국내 소비를 위해 긴급하게 필요한 수입품의 경우 수입자가 모든 신고 사항을 구체적으로 알기 어려운 경우는 추정되는 금액의 관세 및 그 이하의 보증금 지불과 함께 물품을 내보냄

- 이 외에도 2개월 또는 세관이 허가하는 그 이상의 기간 내에 정확한 신고를 해야 할 때, 정확한 액수의 관세 및 기타 부과 금액을 평가하여 지불하게 하며, 초과한 보증금은 환불됨
- 만약 기한 내에 신고를 하지 못하면, 보증금을 압수하여 Consolidated Fund에 추가함

□ 수입 품목에 대한 품목 분류가 끝나고 관련 서류들이 제출되어 수입 관세를 비롯한 각종 비용에 대한 금액이 확정되면 해당 금액을 납부하고 통관 절차가 마무리됨

□ 한편 관세 협약에 따른 낮은 수입 관세의 적용을 받기 위해서는 수출국의 관련 정부

기관으로부터 받은 원산지 증명(Certificate of Origin)을 첨부하여야 함

- 말레이시아 국제 공항은 1998년 6월 말 개장한 KLIA(Kuala Lumpur International Airport)를 비롯, 반도 북부에 Penang, 반도 남부에 Senai(Johor Bahru), 동 말레이시아에 Kuching, Kota Kinabalu 등이 있음
- Kuching 공항은 동 말레이시아의 Sarawak 주에 위치해 있으며 Kuala Lumpur를 출입하기 위한 중간 경유지로 활용되고 있음
- 현재 수도권의 新공항인 KLIA가 기존 수방 공항을 대체, 모든 항공 운행은 신공항을 통해 이루어지고 있으며 기존 수방 공항은 일부 특수 노선 공항 및 정비 기지로 이용됨
- 말레이시아에 총 11개의 주요 컨테이너 항구가 있으며 그 중 4개 항구는 말레이반도에 그리고 나머지는 동말레이시아에 위치해 있음
- Bulk 화물의 경우 상기 11개 Port 외에 Terengganu에 Kemaman항구가 있어 Liquid Bulk 화물은 경우 Kemaman항구의 이용률도 높은 편임
- 말레이시아 중부의 길목인 Port Kelang항은 제1항구로 콰라룸푸르로부터 약 1시간 30분 거리에 위치해 있으며 North Port와 West Port로 구성되어 있음
- KELANG항이 전체 항만 물동량의 46%를 차지하며 1999년 10월부터 오픈한 조호주의 Tanjung Pelepas가 2대 항구로 전체 물동량의 37%를 점유하고 있음

나. 수출 통관 절차

- 수출품은 관세규정 1977(Customs Regulations 1977)의 제1목록에 지정된 장소에서만 육로, 항로, 해상으로 수출될 수 있음¹³⁾
- 수출신고할 때, 관세 부과 대상 물품의 수출자는 수출 직전에 직접 또는 대리인을 통해 제2세관양식을 이용하여 전자신고(eDeclare)를 통해 신고함
- 관세가 부과되지 않는 수출품의 경우, 수출자는 물품을 운송하기 전, 그리고 물품 도착 10일 내에 직접 또는 그 대리인을 통해 물품이 양륙한 지역의 세관에 규정된 양식으로 수출품의 세부사항을 신고하여야 함
 - 포장의 개수와 설명, 모든 관세 부과 대상 물품의 내용설명, 무게, 크기, 수량, 가치, 원산지, 목적지 등에 관한 정보를 기입하여야 함
- 수출자나 그 대리인은 세관의 요구에 따라 다음과 같은 모든 서류를 제시해야 하며, 세관이 서류를 보관할 수 있음
 - 모든 송장
 - 선하증권
 - 원산지 증명서 또는 분석 확인증
 - 포장명세서
 - 수출 허가(수출 금지 물품일 경우)
 - 수출품의 가치가 100,000링깃 이상일 경우에는 외화관리 양식(Foreign Exchange Control Form, KPWX)
 - 세관이 수출자의 신고의 정확성을 판단할 수 있는 기타 문서

13) 말레이시아 관세청(Royal Malaysian Customs Department) 웹사이트의 수출입 통관절차 정보 (<http://www.customs.gov.my/index.php/en/trade-facility/customs/import-and-export/92-import-export-procedure>)

- 관세 환부를 위해서는 관세 환부를 요청하는 적절한 공지와 함께 제2세관양식을 제출하여야 함

- 특허보세창고에서 수출하는 물품은 보세공장에서의 이동을 위해 제8세관양식이 필요함. 세관양식은 Percetakan Nasional Malaysia Berhad이나 그 지점에서 구할 수 있음¹⁴⁾

- 물품 분류와 관련하여, 모든 수출품은 관세령 1996(Customs Duties Order 1996)에 명시된 말레이시아 세관의 관세 번호에 따라 분류되어야 함
 - 물품 이름, 상표, 사업 분류, 원산지, 구성물, 용도 등의 내용이 필요함
 - 물품 분류에 관한 문의사항은 물품이 수출되는 특정 세관, 또는 Technical Services Division¹⁵⁾에서 처리함

- 수출품 적하목록의 경우, 현지 선박 이외에 통관항을 출발하는 모든 선박의 소유주나 대리인은 출발 7일 이내에 세관에 선박의 수출품 적하목록을 제출하여야 함
 - 규정된 양식에 말레이어 또는 영어로 작성
 - 소유주나 대리인의 확인
 - 원본과 함께 복사본 1부도 제출
 - 통관항에서 선적하는 각 상자의 표시, 개수, 내용물을 구체적으로 기재
 - 하송인의 성명

- 다른 통관항까지 수출세 부과 대상 물품을 해상으로 운송하는 경우, 수출세를 지불할 때까지, 또는 물품이 도착할 지역의 세관이 만족하는 수준의 수출세액 담보를 제

14) Syarikat Percetakan Nasional (M) Bhd., Jalan Chan Sow Lin 50554 Kuala Lumpur, Tel.: 03-92212022, Fax.: 03-92220690

15) Technical Services Division(Valuation Management Section), Royal Malaysian Customs Headquarters, Level 6, Block 2G1B, Ministry of Finance Complex, Precinct 2, Federal Government Administration Center, 62592 Putrajaya, Tel: (+603) 8882 2255, Fax: (+603) 8889 5905

공할 때까지 관세 부과 대상 물품의 해상 수출 선적을 금지함

- 수출세 부과 대상 물품을 말레이시아 국경을 넘어 말레이시아 한 지역에서 다른 지역으로 철도 운송하는 경우, 수출세를 지불하지 않거나 생산지 또는 목적지의 세관이 만족할 만큼의 수출세액 담보를 제공하지 않으면 운송을 금지함

- 출항허가증의 경우, 모든 선박은(짐을 실었든, 바닥짐¹⁶⁾만 실었든, 비었든 상관없이) 선박의 선장이나 대리인이 세관으로부터 규정된 양식의 출항허가증을 발급받은 경우에만 통관항을 출항할 수 있음
 - 출항허가증을 받은 선박이 48시간 내에 항해하지 않는 경우, 선박의 선장이나 대리인은 항해하지 않는 이유를 세관에 보고하고, 세관의 지시에 따라 새로운 출항허가증을 받아야 함
- 통관공항을 통해서만 항공 수출을 할 수 있고, 이러한 수출품은 내륙 통관지점이나 내륙 세관에서 통관할 수 있음
- 수출 면허의 경우, 관세령 수출금지품목(관세법령 2008) 목록 물품의 수출에 대해서는 수출 면허가 필요함
- 관세국장이 승인한 수송관(pipelines)을 통해서만 수출을 할 수 있음
- 법적인 선적 장소에서, 세관의 허가를 받을 때까지, 규정된 요일 및 시간에만, 또는 세관의 허가를 받은 시간에만 해상 수출을 위한 선적을 할 수 있음
 - 규정된 경로로, 규정된 장소에서, 규정된 요일과 시간에, 또는 세관의 허가를 받은 시간에만 철로 및 육상 교통으로 수출을 할 수 있음
- 재무부장관령에 의해 수출이 금지된 물품의 경우도 수송이 제한될 수 있음

16) '바닥짐(ballast)'은 '선박에 실은 화물의 양이 적어 선박의 균형을 유지하기 어려운 경우 선박의 안전을 위해 선박의 바닥에 싣는 중량물'을 지칭함

- 수출 금지 물품의 선적 및 말레이시아의 한 지역에서 다른 지역으로의 해상 운송은 금지되어 있음
 - 단, 도착하는 지점의 세관이 정하는 바에 따라 선적 물품 가치의 3배 이하의 담보를 제공하는 경우는 예외임

- 수출 신고를 수출 후 7일 이내에만 하면 됨
 - 송장 또는 선적서류는 항구에서 수출을 위해 이동시킬 때 항구에서 사용될 수 있음
 - 송장에는 물건의 설명, 가치, 수량, 수출 목적지를 꼭 써야 함

- 말레이시아는 수출세를 석유, 팜 오일, 목재, 주석, 후추 등에 부과하여 수출을 저지하고 지역 경제 분야를 부흥시키려 함

다. 보세제도

- 수입자 또는 그 대리인은 말레이시아로 수입되는 모든 물품을 도착 또는 착륙 즉시 아래 장소에 보관해야 함
 - 세관, 특허보세창고(Licensed warehouse), 관세국장(The Director General of the Royal Customs & Excise Department)이 승인한 창고 중 한 곳에 보관하여야 함

- 개인 보세창고면허는 자사 상품을 보관하는 기업에 부여되고, 공공 보세창고 면허는 여러 수입업자의 관세 상품을 보관하는 기업에 부여됨

- 수입업자는 기간 제한없이 보세창고에 상품을 보관할 수 있음. 보세창고에서 상품을 통관시킬 때 수입 관세와 판매세를 납부함
 - 제9세관양식을 통해 상품을 신고해야 하며, 이 서류를 보세창고의 세관 공무원에게 제출해야 함
 - 개인 보세창고는 서류 감독을 받기 때문에 보관과 상품 이동에 관한 서류를 기록,

보관해야 함

- 공공 보세창고는 제품 통관을 담당하는 세관 공무원이 상주하면서 관리함. 보세창고의 기능으로는 보관, 적하, 재포장 및 재라벨 등이 있음
- 보세창고에 보관되는 어떤 물품도 세관의 허가 없이 보세창고에서 이동될 수 없음
- 보세창고 이동에서 예외적인 상황으로 세관 보세창고가 없는 통관공항에 처음 양륙한 경우 해당 물품은 관세국장이 지시하는 곳으로 이동할 수 있음
 - 이 밖의 예외적인 상황으로 물품의 무게, 수량, 부피, 기타 이유 등을 고려하여 해당 물품을 세관 보세창고에 보관하는 것이 비현실적이라고 판단되는 경우, 관세국장은 해당 물품을 세관의 통제하에 있는 다른 장소에 보관할 수 있음
 - 철도로 수입되는 물품은 세관 보세창고가 있는 내륙 통관지점이나 내륙 통관역에 처음 도착한 경우 그 곳에서 법적으로 인도될 수 있음
 - 통관항이나 통관공항에 도착한 물품에 관한 선하증권, 항공수송증권, 송장, 기타 서류가 물품이 내륙 통관지점이나 내륙 통관역에 있는 사람에게 인도됨을 진술할 경우, 철도나 도로로 내륙 통관지점이나 내륙 통관역으로 발송될 수 있음
 - 세관이나 허가된 보세창고가 아닌 창고에 보관한 관세 부과 대상 물품은 10일 또는 관세국장의 허가에 따라 연장된 시일 내에 이동하여야 함
 - 그렇지 않은 경우, 해당 물품 소유주의 비용으로 세관이 세관 보세창고로 이동될 수 있음
- 우편으로 수입된 물품, 개인적 용도의 여행자 가방 경우에 예외적 상황이 적용되지 않음
 - 세관 보세창고가 설치되지 않은 곳에서 육로나 해상으로 수입된 물품
- 보세창고에 보관된 가연성 물품은 보관 14일 이내로 처분되어야 하고, 비부패성·비가연성 물품은 1개월 이내로 처분되어야 함

- 세관이 허가하는 경우, 해당 물품을 1개월 이상 6개월 미만 동안 보관할 수 있음
- 특허보세창고(licensed warehouse)의 경우, 개인 또는 법인이 신청을 하면 세관장이 특허를 주는 보세창고를 지칭함
- 제출할 서류에는 보관할 물품의 종류, 신청인의 이름과 주소, 신청인의 무역 방식 사항등이 명시되어야 함
 - 그 밖에 보세창고에서 통관할 물품에 대해 부과될 연간 관세액 추이와 보세창고의 위치를 넣어야 함
- 특허보세창고 면허의 신청은 보세창고가 위치한 지역 담당 세관에 제출하여야 함
- 관세국장은 관세 부과 대상 물품이나 기타 물품을 보세창고에 보관할 면허를 교부할 수 있으며, 이미 교부한 면허를 취소할 수도 있음
- 특허보세창고의 허가증에는 보세창고의 위치, 기간, 조건 등이 명시되어야 함
- 환적을 위해 말레이시아에 도착한 상품이나 환적선박을 기다리기 위해 통관항에 도착한 상품은 규정된 보세창고 사용료를 지불해야 함
 - 수출·수입관세 부과 대상 물품 여부, 수출·수입 금지 물품 여부와 관계없이 세관 또는 특허보세창고에 보관되어야 함
- 가연성 물품이나 다른 물품에 상해를 일으킬 수 있는 물품은 세관의 허락 없이 어느 보세창고에도 보관할 수 없음
 - 그러한 물품이 양륙한 경우, 수입자의 비용과 위험 부담으로 세관이 적합하다고 판단한 장소에 보관할 수 있으며, 이 경우 세관 보세창고에 보관된 물품과 같은 취급을 받음
 - 물품을 판매, 처분, 보세창고로 이동할 때까지 안전 관리, 감시, 경비 비용을 세관

이 적합하다고 생각하는 만큼 부과할 수 있음

- LMW(Licensed Manufacturing Warehouse, 보세제조창고)는 ‘특허보세창고에 추가하여 제조공정에 대한 추가 면허가 주어진 보세창고’를 지칭함
- LMW(보세제조창고)는 1990년 Free Zones Act에 의거해 설립된 Free Zones와 다르게 통관항을 거칠 필요없이 주요 관세지역 내 어느 곳이나 설립 가능
- 관세국장은 관세 부과 대상 물품의 제조 및 다른 작업의 수행에 대한 추가 허가를 보세창고 허가인에게 교부하거나, 허가를 취소할 수도 있음
- 허가신청은 지역 담당 세관에 서면으로 지원하여야 하며, 보세창고 신청에 필요한 정보 외에 제조사의 정확한 위치 및 주소 등을 추가하여 신청 시 기재하여야 함
 - 그 밖에 제조 물품의 종류, 계획 생산량 및 용도(국내 소비용 또는 수출용)와 관세 및 사업 비용의 담보를 기재해야 함
- LMW(보세제조창고)는 수출지향적 산업의 수출을 위한 완제품 제조 공정 및 포장 등의 활동이 허가된 보세창고의 일종임
- LMW는 제조 공정에 직접 사용되는 원자재와 부속품은 관세가 면제됨
- 이곳에서 제조된 물품을 수출할 경우, 보세공장 담당 세관에 제8세관양식을 제출하여야 함
 - 제조과정을 거친 물품은 관세국장의 사전 허가 없이 국내 소비나 수출을 목적으로 방출될 수 없음
 - 국내 소비 목적으로 방출될 경우, 수입품과 같은 방식으로 계산한 관세를 부과하며, 제9세관양식을 제출하여야 함

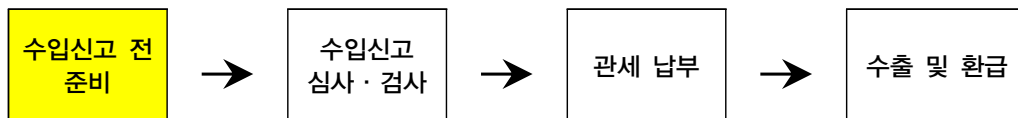
- 제조과정을 거친 물품에 대한 기타 작업 수행 중 폐기물이 발생한 경우, 발생한 폐기물만큼 관세 부과 대상 물품에 대한 관세가 면제될 수 있음
- 폐기물은 관세국장이 정한 조건에 따라 처분하거나, 폐기물 형태의 수입품에 부과되는 관세를 지불하여야 함
- LMW는 관세국장이 청산에 관한 결의를 통과시키거나 명령을 지시할 경우, 청산인은 14일 이내에 관세국장에게 이를 공지해야 함
- 공장 자산을 처분하기 전 공장에서 지불할 관세에 해당되는 자산을 분리하여 그만큼의 관세를 지불하여야 함
- 위 사항을 이행하지 않는 청산인은 해당 관세를 지불할 책임이 있으며, 법률 위반으로 인해 10,000링깃(RM) 이하의 벌금이 부과될 수 있음
 - 두 명 이상의 청산인이 지명되거나 법에 의해 요구될 경우, 청산인의 의무와 책임은 모든 청산인에게 적용됨
 - 허가받은 보세공장의 부동산 수령인으로 지명된 사람은 관세국장에게 14일 내로 공지하여야 함

IV. 통관절차별 고려사항

〈표 IV-1〉 말레이시아 통관 절차별 유의 사항

단계	유의 사항
1. 수입신고 전 준비 단계	<ul style="list-style-type: none"> ○ 다강네트(DagangNet)를 통해 전자신고(Electronic Declarations: eDeclare)를 할 수 있음 ○ FTA세율 적용 시, 정확한 원산지 증명서를 준비해야 함 ○ 우리나라 주력 품목인 전기전자, 철강, 기계, 자동차 등에 수입 관리 및 허가 제도가 존재하여 통관보다 수입허가를 받는 게 더 어렵다고 함
2. 수입 신고 및 세관 심사 단계	<ul style="list-style-type: none"> ○ 관세사제도가 없으며 포워딩 업체가 관세사 역할을 함. 업체는 통관을 위한 포워딩 자격증이 필요함. 1년에 1번 관세교육 이수 후 관세사 자격시험과 비슷한 시험을 보며 자격증을 2년 단위로 갱신함 ○ 선통관이 가능하며 세관 서류와 관세를 물품이 반입되기 14일 전에 처리할 수 있음(선하증권, 허가서, 선적 적하 목록 등을 제출하고 선박의 예상 도착 시작을 확정해야 함) ○ 신고를 할 때, 상자의 개수 및 설명, 관세 부과 대상 물품의 무게, 크기, 수량, 가치, 원산지 국가 등에 대해 완전하고 정확하게 기입해야 함
3. 관세 납부 및 물품 반출 단계	<ul style="list-style-type: none"> ○ 물품 검사 비율은 5%이며 통관이 어렵지 않으나 한번 적발이 되면 수입허가가 취소가 되고, 3년을 소급하여 벌금을 부과하니 유의해야 함 ○ 수입 통관할 때 판매세, 소비세가 발생할 수 있음 <ul style="list-style-type: none"> - 맥주, 포도주, 알코올 주류, 담배, 엽권련 등에 20%의 판매세 부과함 - 석유와 석유 제품에도 일정비율의 판매세가 부과되고 그 외 수입품에 5% 또는 10%의 판매세가 부과됨
4. 수출 및 환급 단계	<ul style="list-style-type: none"> ○ 재수출을 통해 환급되는 관세의 금액은 수입 당시 부과된 관세율, 또는 재수출 시점에서 비슷한 물품에 부과되는 관세율 중 더 낮은 것으로 계산함 ○ 관세 부과 대상 수입품이 말레이시아에 도착하여 세관의 통제를 벗어나기 전 손상·파괴되거나 불가피한 사고로 분실된 경우, 전체 또는 일부의 관세를 환불받을 수 있음 ○ 관세 환급보다는 LMW(보세제조창고)허가를 받아 처음 통관부터 무관세로 들여오는 것이 행정비용을 줄일 수 있음

1. 수입 신고 전 준비 단계



- 말레이시아로의 수입품은 관세규정 1977(Customs Regulations 1977)의 제1목록에 지정된 장소에서만 육로, 항로, 해상으로 수입될 수 있음
- 해상이나 수로로 수입되는 물품은 말레이시아 영토 내 법정 양륙지점에, 세관의 허가를 받을 때까지, 규정된 요일과 시간에 또는 세관의 허가를 받은 때에만 양륙할 수 있음
- 세관의 허가가 없으면, 일단 양륙했거나 하선한 경우 환적할 수 없고, 양륙하기 위해 다른 선박으로 옮겨진 물품은 원래 선박으로 이동되어야 함
 - 관련법에 의해 어업용으로 허가받은 선박의 생선은 얼음 포장 여부와 상관없이 위 사항이 적용되지 않음
- 통관공항을 통해서만 항공 수입을 할 수 있고, 이러한 수입품은 내륙 통관지점이나 내륙 세관에서 통관할 수 있음
- 규정된 경로로, 규정된 장소에서, 규정된 요일과 시간에, 또는 세관의 허가를 받은 시간에만 철로 및 육상 교통으로 수입할 수 있음
- 통관절차를 간소화하고 국제무역거래의 투명성 및 예측성을 제고하기 위해 단일통관창구(NSW: National Single Window)를 운영하고 있음
- 단일통관창구를 통해 통관절차의 간소화, 통관지연 감소, 무역비용 감소 등을 유도함

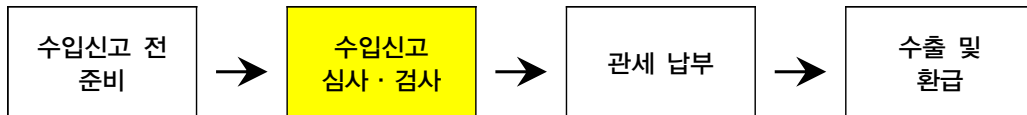
- 2009년 9월, 말레이시아 정부는 무역 원활화를 촉진하는 단일통관창구를 개발하고 유지 및 운영할 서비스제공자로서 ‘다강 네트(Dagang Net)’를 선정하였음
- 다강 네트는 서류 없는(paperless) 전자 통관 서비스를 만들기 위한 말레이시아 통상·산업회의소(NCCIM: Malaysia's National Chambers of Commerce and Industry)의 위임 아래 1989년 설립되었음
 - 수출업자, 수입업자는 물론, 통관 관련 정부·민간기관뿐만 아니라 은행, 보험회사 등 통관 관련 모든 기관을 함께 엮는 제도임
- 전자신고(Electronic Declarations: eDeclare)는 수출입업자가 동 네트워크를 이용해 수출입 신고를 제출하는 것임
- 전자 특혜원산지증명서(Electronic Preferential Certificate of Origin: ePCO)는 2009년부터 시행되고 있는 제도로서 말레이시아의 FTA대상국에 대한 특혜원산지증명서를 인터넷으로 신청 및 승인하는 것임
 - 제도의 대상은 자유무역협정으로는 ASEAN 산업협력(AICO: ASEAN Industrial Cooperation), 공동역외관세(CEPT: Common Effective Preferential Tariff), ASEAN·한국 FTA, ASEAN·중국 FTA, 말레이시아·일본 경제파트너십협정(MJPEPA), 말레이시아·파키스탄 경제파트너십협정(MPCEPA), 일반특혜관세(GSP), 섬유 원산지증명 등임
- 한국무역협회(KOTRA)통상·수입규제 홈페이지¹⁷⁾에서는 세계 각국의 통상 현안을 비롯하여 국가별 반덤핑 및 상계관세 부과 정보 등 다양한 관련 정보를 제공하고 있음
 - 현재 말레이시아 반덤핑관세 등의 규제를 가하는 품목 확인을 위해서는 ‘KITA 통상·수입규제’ 홈페이지 상단 메뉴 중 ‘수입규제 현황’ → ‘주요국 제소 및 규제내역’ → ‘아시아’에서 말레이시아의 내용을 점검할 수 있음
 - 또한 ‘수입규제 현황’ → ‘국가별 현황’에서는 필요 정보 지정 후 검색 기능을 통해

17) 한국무역협회(KOTRA)통상·수입규제 홈페이지(<http://antidumping.kita.net>)

영문 품명과 정확한 HS 코드 등 세밀한 정보를 확인할 수 있음

- 그 외에 WTO에서 반기별로 공개하는 국가별 규제 동향도 살펴볼 수 있는데, 이는 ‘통상·수입규제’ 사이트 상단 메뉴 중 ‘각국 규제동향’에서 확인 가능함

2. 수입 신고 및 세관의 심사 단계



- 모든 수입품은 관세법령 1996(Customs Duties Order 1996)에 명시된 말레이시아 세관 관세 번호에 따라 분류되어야 함
 - 물품 이름, 상표, 사업 분류, 원산지, 구성물, 포장 종류, 용도 등의 내용이 필요함
- 말레이시아에는 관세사 제도가 없으며 포워딩 업체가 관세사 역할을 함
- 포워딩 업체는 통관을 위한 포워딩 자격증이 필요함
 - 포워딩 자격증을 받기 위해서는 1년에 1번 관세교육을 이수해야 함
 - 관세사 자격시험과 비슷하며 2년 단위로 갱신해야 함
- 말레이시아는 선통관이 가능하여 세관 서류와 관세를 물건이 반입되기 14일 전에 처리할 수 있음
 - 선하증권, 허가서, 선적 적하 목록 등을 제출하고 선박의 예상 도착 시작을 확정해야 선통관이 가능함
- 통관항에 도착하는 모든 선박의 선장은 직접 또는 선박의 대리인을 통해 세관에 선박의 도착을 신고해야 함

- 선장과 대리인은 선박, 화물, 선원, 항해에 관련하여 요구하는 정보와 마지막 기항지에서 받은 출항허가증 등의 서류 및 선박, 화물, 선원, 항해에 관한 기타 서류를 세관의 요구에 따라 제출하여야 함

- 세관은 마지막 기항지에서 발급한 출항허가증 등의 서류를 보관할 수 있음
 - 위 사항을 이행하지 않은 경우, 선박의 선장이나 대리인은 법률 위반으로 인해 10,000링깃 이하의 벌금이 부과될 수 있음
 - 통관공항에 도착하는 항공기에도 적용됨

- 선박이 말레이시아 영해에 도착한 후에 세관에 적합한 이유를 제시하지 않고 선적화물을 부수거나 화물을 부리기 쉽도록 화물 적재방식을 변경하거나 포장을 뜯어서는 안됨

- 현지 선박을 제외한 모든 선박의 선장이나 대리인은 도착 후 24시간 이내 화물을 부리기 전 세관에 수입품 적하목록을 제출하여야 함
 - 규정된 양식에 말레이어 또는 영어로 작성
 - 선장이나 대리인의 보증·확인
 - 원본과 함께 복사본 1부도 제출
 - 통관항에 양륙할 각 상자의 표시, 개수, 내용물을 구체적으로 기재
 - 하송인과 화물인수인의 성명
 - 세관의 요구에 따라, 선박의 모든 화물의 총 적하목록 및 선박 내 모든 저장품의 목록

- 통관항에서 환적할 물품에 대하여 별도의 환적 적하목록도 제출하여야 함

- 선박의 도착 후 수입품 적하목록이나 환적 적하목록을 제출하는 것이 불가능하다는 것이 세관으로부터 인정될 경우, 세관은 적하목록 제출 전에 화물의 양륙이나 환적을 허가할 수 있음

- 그러나 적하목록을 세관에 제출하고 검사받을 때까지 세관의 허락 없이 그러한 화물을 수입자나 화물인수인, 또는 그 대리인에게 전달할 수 없음

- 선박의 선장이나 대리인은 화물을 다 내린 후, 또는 그 후 2개월 이내, 또는 세관의 허가를 받은 그 이상의 기간 이내에 확인서류 2부를 세관에 제출해야 함
 - 부족·초과 적하 및 양륙, 또는 다른 이유로 인한 적하목록의 변동사항을 세어 화물의 수량에 대한 확인서류를 제출해야 함
 - 위와 같은 서류 제출 후 2개월 내에, 또는 세관이 허락한 그 이상의 기간 이내에 선박의 적하목록에 기입한 물품에 대한 설명이 충분치 못할 경우, 선장이나 대리인은 세관의 요구에 따라 500링깃 이하의 벌금과 부과 대상 관세, 또는 관세를 정확히 평가할 수 없는 경우 20,000링깃 이하의 금액이 부과됨

- 통관공항에 도착하는 모든 항공기의 기장이나 대리인은 화물을 인도하기 전에 세관에 수입품 적하목록을 제출하여야 함
 - 규정된 양식에 말레이어 또는 영어로 작성함
 - 기장이나 대리인의 보증·확인함
 - 원본과 함께 복사본 1부도 제출해야 함
 - 통관공항에 전달한 모든 상자의 구체 사항을 기재해야 함
 - 세관의 요구에 따라, 항공기의 모든 화물의 총적하목록 및 기내 모든 저장품의 목록을 제출해야 함

- 수입품의 철도 운송 지점 및 관세 부과 대상 물품을 인도하는 통관역의 역장은 그러한 물품에 대한 철로 송장 또는 화물 송장을 세관에 제시하여야 함

- 말레이시아 영해상의 어떤 선박에서 적하목록이나 기타 서류에 보고하지 않은 물품이 발견될 경우, 그 물품은 세관을 통하지 않은 것으로 간주되어 압수됨

- 적하목록이나 기타 서류에 기입한 물품의 수량보다 적은 양의 물품이 선박에 적재된

것이 발견된 경우, 그 물품은 말레이시아에 불법적으로 들어온 것으로 간주됨

- 법에 의해 어업용으로 허가받은 어업 종사용 선박이나 고용인력이나 화물을 싣지 않은 개인 소유 위락용 선박은 적하목록이 필요하지 않음
 - 그 밖에도 전함, 군 수송선, 또는 정부 및 비상업적 서비스 용도로만 사용하는 말레이시아 정부 소유 또는 말레이시아 정부의 일시적 운용 선박
 - 항해 가능한 강 상류 · 입구나 그 근처에 위치한 세관으로 항해가 제한된 선박
 - 재무부장관이 절대적으로 또는 조건적으로 지정한 예외 선박은 적하목록이 필요하지 않음

- 관세국장의 허가를 받아 통관의무를 대신할 대리인을 지정할 수 있고 법적 대리인이 되기 위한 지원서는 물품이 수입되는 장소의 세관에 제출하면 됨
 - 각 지역 세관의 승인을 별도로 받을 필요는 없음

- 관세 비(非)부과 대상 수입품에 대한 신고의 수리는 다음과 같음
 - 관세가 부과되지 않는 물품을 해상이나 항공으로 수입하는 경우, 수입자는 물품을 운송하기 전에, 그리고 선박이나 항공기의 도착 10일 내에 직접 또는 그 대리인을 통해 물품이 양륙한 통관항이나 통관공항의 세관에 규정된 양식으로 수입품의 세부사항을 신고해야 함
 - － 통관항이나 통관공항에 도착한 물품의 소유주, 선박의 선장이나 대리인, 항공기의 기장이나 대리인은 세관으로부터 허가를 받기 전까지 관세가 부과되지 않은 수입품을 운송할 수 없음

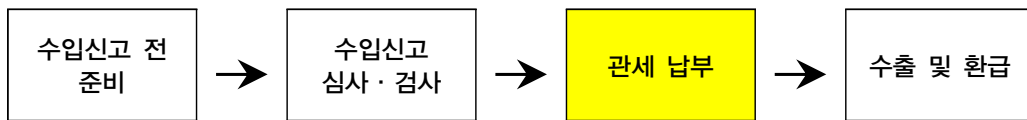
- 철도나 도로를 통해 수입된 관세 비부과 대상 물품의 경우에도 위와 같이 수입품을 신고해야 함

- 수입품 신고 항목의 구체사항을 알지 못하는 경우, 세관에 10일 내에 필요한 정보를 제공하겠다는 서면 약속을 하고 물품을 운송함

- 기한 내에 정보를 제공하지 못한 경우, 신고를 하지 않은 것으로 간주됨
- 세관은 수입자의 사업소나 수입자와 거래하는 이의 사업소에 언제든지 접근할 권한을 가지고 있음
- 세관은 검사·조사 권한 및 기록 정보나 컴퓨터 정보에 접근할 권한을 가지고 있음
- 세관은 통관항이나 통관공항, 영해상의 선박이나 항공기에 승선할 수 있으며 선박의 선장이나 항공기의 기장에게 선박/항공기, 화물, 저장품, 선원, 승객, 항해에 관한 정보를 필요한 만큼 요구할 수 있음
- 세관은 선박과 항공기의 모든 부분에서 금지 물품 및 통관하지 않은 물품을 점검·수색할 수 있으며, 적재된 모든 물품과 싣는 중에 있는, 또는 부리는 중에 있는 모든 물품을 검사할 수 있음
- 세관은 선박과 항공기에 지니고 있어야 하는 모든 서류의 제출 및 검사를 요구할 수 있음
 - 세관은 필요한 경우 잠겨 있는 상자를 파손하여 개봉할 수 있음
- 세관은 세관 및 특허 보세창고에 보관된 물품이나 포장을 개봉하거나 무게를 재거나 기타 방법으로 조사하도록 언제든지 명령할 수 있음
 - 개봉 및 조사 이후에 적당하다고 생각하는 방법으로 포장하거나 표시할 수 있음
 - 선박이나 항공기에 숨겨진 물품은 통관하지 않은 물품으로 간주함
- 물품 도착 후 24시간, 또는 세관이 허용한 그 이상의 기간 내에 서면 신청서를 통해 세관으로부터 측량을 허가 받을 수 있음
 - 세관은 물품의 소유주나 대리인이 물품을 측량하고 원상태로 되돌릴 수 있게 허가해줄 수 있으며, 이러한 조사는 세관의 참석 및 지시하에 이루어짐

- 물품의 소유주나 그 대리인의 요청에 의해, 그리고 20링깃의 수수료를 지불하면, 상자, 통, 용기, 포장에 담긴 관세 부과 대상 물품에 대한 심층조사를 세관으로부터 허가받을 수 있음
 - 특히 보세창고에 관세 부과 대상 물품의 수량이 계약과 달리 부족한 경우, 보세창고의 특허인은 특별한 증거를 제시하지 못할 시 물품을 불법으로 이동한 것으로 간주되어 세관에 부족한 물품에 대한 관세를 납부해야 함

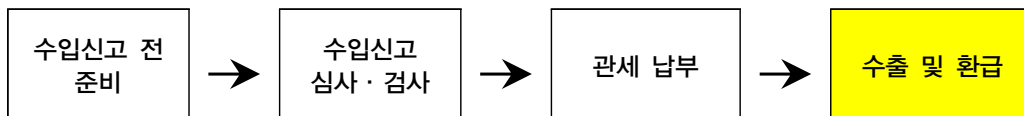
3. 관세 납부



- 수입관세는 증가세로 계산되어 수입품 가치의 백분율로 적용됨
- 보세창고에 보관된 물품의 경우(특히 보세창고의 석유 제외), 또는 싱가포르의 collection station에서 관세를 지불할 경우, 세관의 허가를 받아 물품을 보세창고에서 이동시키는 날의 관세율을 적용함
- 특히 보세창고에 보관한 석유의 경우, 석유를 창고로부터 이동하는 날의 관세율을 적용함
- 우편으로 수입한 물품의 경우, 세관이 판단한 관세율을 적용하며 그 밖의 경우 세관이 물품을 내보내는 날의 관세율을 적용함
- 통관하지 않은 물품의 경우, 통관하지 않은 물품임이 밝혀진 날의 관세율 또는 압수된 날의 관세율 중 더 높은 것을 적용함

- 관세 부과 대상이 아니었다가 관세가 정해진 물품, 관세가 철폐된 물품, 수입 금지가 철폐되어 관세를 정해야 하는 물품 등의 경우에는 세관이 물품을 내보내는 날의 관세율을 적용함
- 동남아시아국가연합(Association of South East Asian Nations, ASEAN)국가 내에서 수입된 물품은 CEPT(Common Effective Preferential Tariff, 공통실효특혜관세) 관세율을 따름
 - 제1세관 양식을 작성하고 ASEAN 수출국이 발행한 원산지 증명서(Form D)를 제시해야 함
- 세금을 지불한 후, 말레이시아 내에서 물품을 운송하고자 할 때, 세관이 요구하는 제3세관양식의 신청서와 물품 관련 기타 서류를 제출하여야 함
 - 관세 또는 관세 · 판매세 · 소비세 관련법하의 세금을 내야 함
- 통관이 어렵지 않으나 한번 적발이 되면 수입허가가 취소되고, 3년을 소급하여 벌금을 부과하니 유의해야 함
 - 물품 검사 비율은 5%임

4. 수출 및 환급 단계



- 제조업체가 LMW(보세제조창고)로 승인될 경우 최소한의 관세 절차만 소요됨
 - 제조 공정에 바로 쓰이는 원자재 및 부품은 관세와 판매세가 면제됨
 - 수출지향산업에 부응하기 위하여 LMW(보세제조창고)는 1967년 관세법 제65조

에 의해 제정됐으며 이는 제조공정이 특허보세창고에서 이루어지도록 하기 위함임

- 관세 환급보다는 일정 자격요건 충족 시 LMW(보세제조창고) 허가를 받아 처음 통관부터 무관세로 들어오는 것이 행정비용을 줄일 수 있음
- 관세를 지불한 물품이 재수출되는 경우, 90%의 관세가 환급되며 해당 경우는 다음과 같음
 - 재수출을 위해 물품이 통관항이나 통관공항에서 선적되는 것을 세관이 확인했거나 재수출되는 물품 운송 1건에 대한 관세 환급 요청이 최소한 50링깃일 때 및 관세 지불 후 12개월 이내에 재수출될 때 환급이 가능함
 - 재수출되는 물품이 속한 제품 분류에 대한 관세 환급이 관세규정에 의해 금지되지 않았거나 재수출 시점 또는 그 이전에 세관에 서면으로 관세 환불 요청을 알리고, 재수출 3개월 이내에 규정된 양식으로 관세 환급을 요청했을 때 환급이 가능함
 - 수입된 이후 물품이 사용된 적이 없어야 하며 재수출을 통해 환급되는 관세의 금액은 수입 당시 부과된 관세율, 또는 재수출 시점에서 비슷한 물품에 부과되는 관세율 중 더 낮은 것을 따라 계산함
 - 재수출되는 물품에 대한 관세 환급을 요구하는 사람은 직접 또는 그 대리인을 통해 물품이 실제로 재수출되었으며 말레이시아 내 통관항이나 통관공항, 기타 항구에 다시 양륙하거나 열차에서 내리지 않았음을 신고하는 규정된 양식 2부를 세관에 제출해야 함
- 관세를 지불한 수입품이 말레이시아에서 생산되는 물품의 부품이나 원료, 포장으로써 제조업자에 의해 재수출되는 경우, 관세국장은 관세를 100% 환급해 줌
 - 수출되는 완제품이 관세국장이 승인한 토지에서 제조되는 경우
 - 관세국장이 제조나 포장에 사용된 물품의 수량을 확인할 수 있도록 기록을 보관한 경우
 - 수입관세를 지불하고 12개월 또는 관세국장이 허가한 그 이상의 기간 내에 물품이 재수출된 경우

- 수출신고서에 관세 환급 요청을 할 것이라는 서면 공지를 하고, 재수출 후 6개월 또는 관세국장이 허가한 그 이상의 기간 내에 규정된 양식으로 관세 환급을 요청했을 때
- 관세국장이 허가한 장소나 경로를 통해 완제품이 수출된 경우

- 관세 부과 대상 수입품이 말레이시아에 도착하여 세관의 통제를 벗어나기 전 손상·파괴되거나 불가피한 사고로 분실된 경우, 관세국장은 전체 또는 일부의 관세를 환불할 수 있음

- 도착한 물품의 조사 결과, 상자, 통, 용기, 포장 내부의 관세 부과 대상 물품의 수량이 부족한 것이 발견되면, 세관은 관세국장의 지시에 따라 부족한 물품에 대한 관세를 환불해 줄 수 있음

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부록 I. 비즈니스 팁

- 말레이시아는 인구 구성이 말레이계(50.9%), 중국계(22.6%), 인도계(6.8%) 등 다인종으로 구성된 국가이기 때문에 민족이나 종교에 따라 생활 습관이 다양함에 유의해야 함

- 이슬람교에서는 돼지고기는 물론, 돼지고기가 함유되어 있는 일체의 식품을 금하고 있으며 음주 및 도박 또한 금지되어 있음
 - 흡연의 경우는 달라서 개인 취향에 따라 흡연을 즐기기도 함

- 일반적으로 이슬람교도들은 왼손을 좌욕 등 청결하지 못한 일을 처리할 때 사용하는 것으로 생각하기 때문에 선물 또는 서류, 명함 등을 건네줄 때 왼손을 사용하면 안 됨
 - 도시를 조금만 벗어나도 현지인들이 식사 시 수저, 젓가락을 쓰지 않고 오른손을 사용해 식사하는 모습을 자주 볼 수 있는데 식사 전후 손을 깨끗이 씻어 불결하다는 생각을 하지 않기에 이상한 눈초리로 쳐다보는 것은 좋지 않음

- 사물 또는 지역 등을 가리킬 때는 엄지손가락을 사용하는 것이 좋음. 외국인들에 대해 배타적인 감정이 거의 없기 때문에 문화 관습에 따른 실수에 대해 관대한 편이긴 하나 현지의 일반적인 관습을 존중해 주는 것이 좋음

- 점심 또는 저녁식사에 초대하는 경우, 사전에 종교가 무엇인지를 확인하고 결례를 범하는 일이 없도록 해야 함
 - 이슬람교도들은 돼지고기를 먹지 않으며 일부 중국인과 힌두교인은 쇠고기를 먹지 않음. 닭고기 요리는 인종 및 종교에 관계없이 제공할 수 있는 제일 무난한 요

리 중의 하나임

- 약속을 정할 때, 특히 관공서의 경우, 문서를 통해 일을 처리하려는 경향이 강하여 요청 사항 관련, 공무원과 약속을 잡기 위해서는 공식적인 레터를 통해 충분한 시간적 여유(최소 2주 이전에 통보)를 가지는 것이 좋음
 - 단순 미팅이 아니라 속한 회사 또는 기관의 입장을 인터뷰하는 경우에는 담당자라 할지라도 절차를 통해 상부의 공식 승인 후 인터뷰에 응하려는 경향이 있어 약속을 확정하는 데 더 오랜 시간이 소요됨
 - ‘시간=돈’이라는 관념이 아직 분명하지 않아 간혹 약속 시간에 대한 개념이 정확하지 않은 경우가 있음. 말레이시아에서 시간을 지키는 것은 그렇게 엄격한 편이 아니지만 말레이시아 중역들도 체면을 중요시하는 경향이 있기 때문에 약속 시간 전에도 착하도록 해야 함

- 약속이 가장 일반적인 인사법이나 일부 보수적인 회교도의 경우 동성이 아닌 사람과의 약속을 피하기도 함
 - 일반적으로 여러 가지 칭호를 이름 앞에 붙이는 것을 좋아함. 이 중 하나가 작위를 나타내는 칭호로 Dato, Datuk, Tan Sri 등이 이름 앞에 들어가 있으면 부를 때 붙여주는 것이 좋음

- 복장은 일반적으로 긴 팔 셔츠에 넥타이를 매는 것이 보편적임. 비즈니스 복장으로 중요한 미팅이 아닌 경우 무더운 날씨로 인해 양복 윗도리를 입지 않는 경우가 많음
 - 중요 행사 시 batik으로 만든 전통 의상을 즐겨 입음

- 바이어 상담 시 명함을 교환하는데 명함상의 지위는 의사 결정력, 비즈니스 경험 등을 나타내는 척도로 인식하여 비즈니스 거래를 위한 신뢰도와 연결지어 생각하기에 고위 지위가 새겨진 명함을 준비하는 것이 좋음
 - 말레이시아에서 사장에 대한 영문 명칭에 있어 President라는 명칭은 거의 사용하지 않으며 보통 Managing Director로 명기함. Director 또는 General Manager 정

- 도의 지위를 갖고 있으면 어느 정도 의사 결정이 가능하다고 여김
- 비즈니스 상담 시 처음부터 거래 관련 얘기를 꺼내는 것보다는 상대방의 관심을 끌 만한 얘기부터 시작하는 것이 좋음. 예를 들어 날씨, 취미 활동 등과 관련된 얘기로 풀어 나가는 것이 좋음
 - 민감한 사안에 대한 이야기는 꺼내지 않는 것이 좋고 특히 정치에 관련된 내용이나 국가를 비방하는 이야기 등을 하지 않도록 주의해야 함
- 다민족 국가인 말레이시아에서는 영어가 상용어로 통역을 위해서는 주로 현지 유학생, 교포 등을 고용하게 되는데 일일 통역 비용은 120~160달러 수준임
- 비즈니스 관련 대화 시, 상권의 대부분을 장악하고 있는 중국계와의 친근감 표시로 중국어 구사가 가능할 경우 중국어 대화가 영어보다 유리함
- 상담 시 Technical Spec이 수록되어 있는 카탈로그를 준비하는 것이 좋으며 샘플은 충분히 준비하는 것이 좋음
- 샘플 제시가 불가능한 아이템의 경우 제품에 대한 특성, 우수성 등에 대해 상세히 설명할 수 있어야 하며 해외에 수출하고 있는 경우 수출 관련 증빙서류를 제시하는 것도 제품에 대한 신뢰성을 높이는 역할을 함
 - 상담 시 적극적인 자세를 유지하는 것이 중요함. 현지 바이어들의 경우 상담에 임할 때, 자신들이 요구하는 조건에 대해 즉석에서 답변을 듣기를 원하고 상담 시 약속한 사항에 대해서는 사소한 내용이라도 기록을 통해 반드시 답신을 해주는 노력이 필요함
- 바이어와 거래할 시 반드시 제반 거래 활동 과정을 서면으로 처리하고, 이의 기록을 보관해두어야 함
- 영국으로부터 오랜 통치를 받아 제반 제도 및 관행이 영국식으로 이루어져 있기 때문에 모든 처리가 서면에 의해 이루어짐
 - 거래를 처음 진행하고자 하는 경우에는 계약서 작성 시, 특히 격식, 문구 하나하나에 더욱 신경을 써야 함. 레터 형식만 보고도 어느 정도의 회사라는 선입견을 갖는 경우

가 많음

- 문서 송수신 시 문서 번호(Reference No)를 반드시 확인해두어야 하며 향후 문제 발생 시 주고받은 문서는 중요한 문제 해결의 단서가 됨

- 클레임을 제기하는 레터를 접수했다면, 이에 대해 서면으로 적절히 대응을 해야 하며 회신이 없을 시 바이어에게 유리한 입장에서 해석하는 경우가 많음
 - 과거 결제 방식을 D/A로 계약한 이후 바이어가 레터를 통해 클레임을 제기했으나 이에 대해 수출업자의 대응이 미진, 대금 미결제 건으로 이어진 적도 있음
 - 일반적인 결제 방식은 은행을 통한 L/C 또는 T/T 등을 통해 많이 이루어지나 거액의 결제 자금이 필요한 품목에 대해서는 D/A, D/P 결제 방식 또한 요구를 많이 함
 - D/A, D/P 결제를 수용할 경우, 오랜 거래를 통해 바이어에 대한 신뢰가 두터운 경우를 제외하고 신중하게 대처할 필요가 있음

부록 II. 주요 유관기관 정보

■ 주 말레이시아 대한민국 대사관	
웹페이지	http://mys.mofat.go.kr
주소	No. 9 & 11, Jalan Nipah, Off Jalan Ampang, 55000 Kuala Lumpur, Malaysia
이메일	korem-my@mofat.go.kr
전화번호	+603-4251-2336
팩스번호	+603-4252-1425
■ 영사부	
전화번호	+603-4251-4904
팩스번호	+603-4251-9066
■ KOTRA 쿠알라룸푸르 무역관	
웹페이지	www.kotra.or.kr - 해외무역관 - 쿠알라룸푸르 무역관
주소	9th Fl., Menara Hap Seng(Formerly known as Mui Plaza), Jalan P. Ramlee, 50250 KL, Malaysia
전화번호	+603-2117-7100
팩스번호	+603-2142-2107
이메일	yesmin@kotra.or.kr
■ 말레이시아 한인회	
웹페이지	http://www.mykorean.org/
주소	1st Floor Premises, Lot B1-2, Boulevard 2 One Ampang Avenue Jalan Ampang Utama 2/2 68000 Selangor Darul Ehsan, Malaysia
전화번호	+603-4257-7585
팩스번호	+603-4257-3397
이메일	ksnkl@hanmail.net

■ 말레이시아 관세청	
웹페이지	http://www.customs.gov.my/
주소	Block 10, Government Offices Complex, Jalan Duta, 50622 Kuala Lumpur, Malaysia
전화번호	+603-6200-0000
팩스번호	+603-6201-2337
이메일	홈페이지 직접 문의란이 있음

■ 말레이시아 한국상공회의소	
웹페이지	http://www.kocham.org.my/
주소	Lot 9D, 9th Floor, UBN Tower 10, Jalan P. Ramlee, 50250 Kuala Lumpur
전화번호	+603-2078-8787
팩스번호	+603-2078-8686
이메일	kocham.malaysia@gmail.com

■ 말레이시아 재무부	
웹페이지	http://www.treasury.gov.my
주소	Ministry Of Finance Complex No. 5 Persiaran Perdana Precinct 2, Federal Government Administrative Centre 62592 Putrajaya Federal Territory
전화번호	+603-8882-3000
팩스번호	+603-8882-3893
이메일	pmel@treasury.gov.my

■ 말레이시아 대외무역공사	
웹페이지	http://www.matrade.gov.my/
주소	Menara MATRADE, Jalan Khidmat Usaha, Off Jalan Duta, 50480 Kuala Lumpur, Malaysia
전화번호	+603-6207-7077
팩스번호	+603-6203-7037
이메일	info@matrade.gov.my

■ 말레이시아 국제통상산업부(Ministry of International Trade & Industry)	
웹페이지	http://www.miti.gov.my/
주소	Import & Export Control Section 2nd Floor, Block 10, Government Offices Complex, Jalan Duta 50622 Kuala Lumpur
전화번호	+603-6203-3022
팩스번호	+603-6201-3012
이메일	webmiti@miti.gov.my

■ 말레이시아 SIRIM(제품표준 및 품질관리)	
웹페이지	http://www.sirim.my/
주소	No.1, Persiaran Dato' Menteri, Section 2, P.O.Box 7035, 40700 Shah Alam, Selangor Darul Ehsan.
전화번호	+603-5544-6000
팩스번호	+603-5544-6694
이메일	web@sirim.my

■ 말레이시아 산업개발국	
웹페이지	http://www.mida.gov.my
주소	MIDA Sentral No.5, Jalan Stesen Sentral 5 Kuala Lumpur Sentral 50470 Kuala Lumpur Malaysia
전화번호	+603-2267-3633
팩스번호	+603-2274-7970
이메일	investmalaysia@mida.gov.my

부록 Ⅲ. 말레이시아 관세율, 판매세(sales tax) 확인방법

1. 관세율 사이트에 접속합니다. <http://tariff.customs.gov.my/>에 접속하시면 아래와 같은 화면이 나옵니다.

The screenshot shows the JKDM HS Explorer website interface. At the top, there are navigation tabs: HOME, CUSTOMS, SALES TAX, EXCISE, SERVICE TAX, FREE ZONE, LEVY, OTHER, and STA. Below these are regional trade agreement icons including PDK, AHTN, ACFTA, AKFTA, AJCEP, AANZ, AIND, and MPFTA. The main content area displays a table of tariff rates for various goods.

Tariff (H)	Tariff (S)	Tariff (I)	HS 2002	Description	Unit	Import Rate	Import TRQ	Export F
0101				Live horses, ass				
0101	10			- Pure - bred bre				
0101	10	100	010110100	Horses	UNT (1)	Nil		Nil
0101	10	200	010110200	Asses, mules ar	UNT (1)	Nil		Nil
0101	90			- Other:				
0101	90	100	010190100	Horses	UNT (1)	Nil		Nil
0101	90	200	010190200	Asses, mules ar	UNT (1)	Nil		Nil
0102				Live bovine anim				
0102	10			- Pure-bred bree				
0102	10	100	010210100	Cattle	UNT (1)	Nil		5%
0102	10	200	010210200	Buffaloes	UNT (1)	Nil		5%
0102	10	900	010210900	Other	UNT (1)	Nil		5%
0102	90			- Other:				
				For slaughter:				
0102	90	110	010290110	oxen (embu)	UNT (1)	Nil		Nil
0102	90	120	010290120	buffaloes	UNT (1)	Nil		5%
0102	90	190	010290190	other	UNT (1)	Nil		5%

자료: KOTRA

2. 화면에서 네모부분을 클릭합니다.(AKFTA를 클릭합니다)

JRDM HS - Explorer

HOME CUSTOMS SALES TAX EXCISE SERVICE TAX FREE ZONE LEVY OTHER STA

PDK AHTN ACFTA **AKFTA** AJCEP AANZ AIND MPFTA MIEPA MNZF MICE

01/03/2012 (Home)
Please Clear Your Browser History, Cache and Refresh to see Updated Pages

Search Tariff

Search By:

HS-Code

Enter Search Text Here

Reset Result Search Here

Search in all tabs takes longer time to get result Search in all Tab

HS PDK Overview

Tariff Code	Description	2006	2007	2008	2009	2010	2011	2012	2013	2014
0101	Live horses, ass									
010110	Pure-bred breed									
010110100	Horses (for farm	0	0	0	0	0	0	0	0	0
010110900	Other	0	0	0	0	0	0	0	0	0
010190	Other									
01019010	Horses									
010190101	Horses for racing	0	0	0	0	0	0	0	0	0
010190109	Other	0	0	0	0	0	0	0	0	0
010190900	Other	0	0	0	0	0	0	0	0	0
0102	Live bovine anim									
010210	Pure-bred breed									
010210100	Milch cows	0	0	0	0	0	0	0	0	0
010210200	Beef cattle	0	0	0	0	0	0	0	0	0
010210900	Other	0	0	0	0	0	0	0	0	0
010290	Other									
010290100	Milch cows	20	13	10	5	0	0	0	0	0

Export Result to Excel

자료: KOTRA

3. 검색하기를 희망하는 HS Code를 네모칸에 입력합니다

The screenshot shows the 'JKDM HS - Explorer' interface. In the 'Search Tariff' section, the 'Search By' dropdown is set to 'HS-Code' and the search input field contains '401290'. A red box highlights these elements, with an arrow pointing from the instruction above. The main table lists tariff codes and descriptions for goods such as horses and cattle, with columns for years 2006, 2007, 2008, and 2009.

Tariff Code	Description	2006	2007	2008	2009
0101	Live horses, ass				
010110	Pure-bred breed				
010110100	Horses (for farm	0	0	0	0
010110900	Other	0	0	0	0
010190	Other				
01019010	Horses				
010190101	Horses for racing	0	0	0	0
010190109	Other	0	0	0	0
010190900	Other	0	0	0	0
0102	Live bovine anim				
010210	Pure-bred breed				
010210100	Milch cows	0	0	0	0
010210200	Beef cattle	0	0	0	0
010210900	Other	0	0	0	0
010290	Other				
010290100	Milch cows	20	13	10	5

자료: KOTRA

4. Search Here를 누릅니다.

JKDM HS - Explorer

HOME CUSTOMS SALES TAX EXCISE SERVICE TAX FREE ZONE LEVY OT

PDK AHTN ACFTA AKFTA AJCEP AANZ...

01/03/2012 (Home)
Updated at 1.3.2012

Search Tariff

Search By :

HS-Code

401290

Reset Result Search Here

Search in all tabs (longer time to get result) Search in all Tab

HS PDK Overview

More Report

Contact Us

Tariff Code	Description	2006	2007	2008	2009
0101	Live horses, ass				
010110	Pure-bred breed				
010110100	Horses (for farm	0	0	0	0
010110900	Other	0	0	0	0
010190	Other				
01019010	Horses				
010190101	Horses for racing	0	0	0	0
010190109	Other	0	0	0	0
010190900	Other	0	0	0	0
0102	Live bovine anim				
010210	Pure-bred breed				
010210100	Milch cows	0	0	0	0
010210200	Beef cattle	0	0	0	0
010210900	Other	0	0	0	0
010290	Other				
010290100	Milch cows	20	13	10	5

Export Result to Excel

Copyright JKDM 2010

자료: KOTRA

5. 관세율을 아래와 같이 확인합니다

Tariff Code	Description	2006	2007	2008	2009	2010	2011	2012
40129010	Of a kind used or							
401290101	Solid tyres	0	0	0	0	0	0	0
401290102	Cushion tyres	0	0	0	0	0	0	0
401290103	Tyre treads	0	0	0	0	0	0	0
401290104	Tyre flaps	0	0	0	0	0	0	0
40129090	Other							
401290901	Solid tyres	0	0	0	0	0	0	0
401290902	Cushion tyres	0	0	0	0	0	0	0
401290903	Tyre treads	5	5	0	0	0	0	0
401290904	Tyre flaps	0	0	0	0	0	0	0
401290909	Other	0	0	0	0	0	0	0

자료: KOTRA

6. 판매세(sales tax) 확인방법

관세율을 확인하신 뒤 맨 앞쪽의 말레이시아 국기를 클릭함. 클릭한 뒤 맨 오른쪽의 sale tax를 확인합니다

The screenshot shows the JKM HS Explorer interface. The 'SALES TAX' tab is selected. In the country selection bar, the Malaysia flag is highlighted with a red box. The main table displays tariff information for Malaysia. The 'Sale Tax' column is also highlighted with a red box, showing a 10% rate for the second tariff entry.

	Tariff (S)	Tariff (I)	HS 2002	Description	Unit	Import Rate	Import TRQ	Export Rate	Sale Tax
	8521	10	000	852110000	- Magnetic tape-t	UNT (1)	Nil	Nil	10%
	8521	90	000	852190000	- Other	UNT (1)	Nil	Nil	10%

자료: KOTRA

부록 IV. 말레이시아 관세법

LAWS OF MALAYSIA

Act 235

CUSTOMS ACT 1967

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

1. (1) This Act may be cited as the Customs Act 1967.

(2) (Omitted).

Interpretation

2. (1) In this Act, unless the context otherwise requires— “agent”, in relation to a vessel includes chinchew and comprador;

“aircraft” includes any kind of craft which may be used for the conveyance of passengers or goods by air;

“collection station” means a customs warehouse established in Singapore under subsection 63(2);

“computer” has the meaning assigned thereto in section 3 of the Evidence Act 1950 [Act 56];

“customs airport” means any place which has been prescribed as a customs airport;

“customs duty” means any import duty, export duty, surtax, surcharge or cess imposed by or under this Act, any countervailing duty or anti-dumping duty imposed by or under the Countervailing and Anti-Dumping Duties Act 1993 [Act 504] and includes any royalty payable in lieu of an export duty under any written law, or a contract, lease or agreement to which the Federal Government or the Government of any State is a party or to which such Government has consented;

“customs port” means any port prescribed to be a customs port;

“customs warehouse” means a warehouse or other place established by the Minister under subsection 63(1) for the deposit of dutiable goods;

“denatured” means effectually rendered unfit for human consumption to the satisfaction of the Director General;

“Director General” means the Director General of Customs and Excise appointed under subsection 3(1);

“document” has the meaning assigned thereto in section 3 of the Evidence Act 1950;

“dutiable goods” means all goods subject to the payment of customs duty and on which such duty has not yet been paid;

“duty free shop” means any place licensed for the warehousing and sale of dutiable goods free of duty under section 65D;

“electronic data interchange” means the transfer, from computer to computer, of commercial and administrative transactions using an agreed message standard to structure the data pertaining to a transaction;

“export” with its grammatical variations and cognate expressions means to take or cause to be taken out of Malaysia, by land, sea or air or to place any goods in a vessel, conveyance or aircraft for the purpose of such goods being taken out of Malaysia by land, sea or air;

“export by air” includes exportation in any manner or by any means by air;

“export by road” includes exportation in any manner or by any means by land, and includes, in particular, exportation through the land by means of a pipeline;

“export by sea” includes exportation in any manner or by any means by sea, and includes, in particular, exportation through the sea by means of a pipeline;

“exporter” includes any person by whom any goods (including goods transferred from an importing aircraft or ship) are exported from Malaysia or supplied for use as aircraft’s or

ship's stores, and also the owner, or any person acting on his behalf, and any person who for customs purposes signs any document relating to goods exported or intended for exportation or supplied or intended for supply as aircraft's or ship's stores as aforesaid;

"Financial Authority" in relation to Sabah and Sarawak means any person appointed by the Minister, by notification in the appropriate Gazette, to exercise under the directions of the Minister any function which the Minister is empowered or required by this Act to exercise in Sabah or Sarawak;

"goods" includes animals, birds, fish, plants and all kinds of movable property;

"hover" in the case of a vessel in territorial waters means to linger without apparent lawful purpose, whether such vessel be moving or not moving;

"import" with its grammatical variations and cognate expressions means to bring or cause to be brought into Malaysia by land, sea or air:

Provided that goods bona fide in transit, including goods for transshipment, shall not, for the purpose of levy of customs duties, be deemed to be imported unless they are or become uncustomed goods;

"import by air" Includes importation in any manner or by any means by air;

"import by road" includes importation in any manner or by any means by land, and includes, in particular, importation through the land by means of a pipeline;

"import by sea" includes importation in any manner or by any means by sea, and includes, in particular, importation through the sea by means of a pipeline;

"importer" includes and applies to any owner or other person for the time being possessed of or beneficially interested in any goods at and from the time of importation thereof until such goods are duly removed from customs control;

"inland clearance depot" means a common-user inland facility equipped with fixed installations and offering services for handling and temporary storage of any kind of goods carried by land and placed under customs control;

"intoxicating liquor" includes any alcohol, or any liquid containing more than two per centum of proof spirit, which is fit or intended to be or which can by any means be converted for use as a beverage;

"in transit" means taken or sent from any country and brought into Malaysia by land, sea or air (whether or not landed or transhipped in Malaysia) for the sole purpose of being

carried to another country either by the same or another conveyance;

“Joint Development Area” has the meaning assigned thereto in section 2 of the Malaysia-Thailand Joint Authority Act 1990;

“legal landing place” means any place which has been prescribed as a legal place for the landing and shipping of goods;

“licensed carrier” means a person approved by the Director General to operate vehicles by road for the carriage of any goods in transit or any dutiable goods under this Act or under the Excise Act 1976 [Act 176];

“licensed warehouse” means a warehouse or other place licensed for the warehousing of dutiable goods under section 65;

“local craft” means any junk, tongkang, perahu, kumpit or other similar type of vessel, and any steam or motor vessel under seventyfive net registered tons;

“manufacture” means:

(a) in the case of intoxicating liquors, distilling, brewing, fermenting, bottling of intoxicating liquor, and includes the addition of any substance (other than water) to any intoxicating liquor and the blending, compounding and varying of intoxicating liquors with intent that the compound so formed shall be sold for human consumption, but excluding any such compound prepared at the order of the purchaser, and for his immediate consumption;

(b) in the case of tobacco, any process converting any raw or leaf tobacco into tobacco fit for smoking, snuffing or chewing, and includes the making of cigarettes from manufactured tobacco;

(c) in the case of petroleum, refining, compounding and includes the addition of any foreign substance; and (d) in other cases, the conversion by manual or mechanical means of organic or inorganic materials into a new product by changing the size, shape, composition, nature or quality of such materials and includes the assembly of parts into a piece of machinery or other products, but does not include the installation of machinery or equipment for the purpose of construction;

“master” means any person (except a pilot or harbour master) having for the time being control or charge of a vessel;

“Officer of customs” means:

- (a) the Director General;
- (b) any Deputy Director General of Customs and Excise appointed under subsection 3(1);
- (c) any Assistant Director General, Director, Senior Assistant Director and Assistant Director of Customs and Excise appointed under subsection 3(1);
- (d) any Senior Superintendent, Superintendent or Assistant Superintendent of Customs and Excise appointed under subsection 3(4);
- (e) any Chief Customs Officer, Senior Customs Officer or Customs Officer appointed under section 4;
- (f) any police officer;

“owner” in respect of goods includes any person (other than an officer of customs acting in his official capacity) being or holding himself out to be the owner, importer, exporter, consignee, agent or person in possession of, or beneficially interested in, or having any control of, or power of disposition over, the goods;

“owner” in respect of a ship includes every person acting as agent for the owner or who receives freight or other charges payable in respect of the ship;

“Peninsular Malaysia” has the meaning assigned thereto in section 3 of the Interpretation Acts 1948 and 1967 [Act 388], and includes the Federal Territory.

“petroleum” means any mineral oil or relative hydrocarbon in its solid, liquid or gaseous form existing in its natural condition and includes casing head petroleum spirit, bituminous shales, other stratified deposits from which oil can be extracted commercially and petroleum products obtained from the process of manufacture;

“pilot of an aircraft” means every person having or taking command or charge of an aircraft;

“preventive vessel” means any vessel employed for the prevention of smuggling or for any other purpose relating to the customs and includes a vessel owned and employed for the prevention of smuggling by the Government of Singapore;

“prohibited goods” means goods the import or export of which is prohibited, either absolutely or conditionally by an order under section 31 or by any other written law;

“proper officer of customs” means any officer of customs acting in the fulfilment of his duties under this Act, whether such duties are assigned to him specially or generally, or expressly or by implication;

“road” includes any prescribed land route;

“sea” includes inland waters;

“senior officer of customs” means:

- (a) the Director General;
- (b) any Deputy Director General of Customs and Excise appointed under subsection 3(1);
- (c) any Assistant Director General, Director, Senior Assistant Director and Assistant Director of Customs and Excise appointed under subsection 3(1);
- (d) any Senior Superintendent, Superintendent or Assistant Superintendent of Customs and Excise appointed under subsection 3(4);
- (e) any officer of customs invested with the powers of a senior officer of customs under subsection 3(5) or section 5;
- (f) any police officer having the powers of a senior officer of customs by virtue of section 8; “sufferance wharf” means any place other than an approved place of loading or unloading at which the senior officer of customs may, in his discretion, and under such conditions and in such manner as he may direct, either generally or in any particular case, allow any goods to be loaded or unloaded;

“territorial waters” means the territorial waters of Malaysia;

“uncustomed goods” means goods in respect of which a breach of the provisions of this Act or of any subsidiary legislation made thereunder has been committed;

“value” in relation to imported goods means customs value as determined under subsection 142(35B);

“value” in relation to goods to be exported means the price which an exporter would receive for the goods calculated to the stage where such goods are released by Customs at the place of export;

(1A) For the purposes of this Act (other than section 31), a free zone shall be deemed to be a place outside Malaysia. In this subsection, the expression “free zone” has the meaning assigned to it under section 2 of the Free Zones Act 1990 [Act 438].

(2) For the purpose of this Act, goods shall be deemed to be under customs control whilst they are deposited or held in any customs or licensed warehouse, post office, or in any vessel, train, conveyance, aircraft, pipeline or place from which they may not be removed except with the permission of the proper officer of customs.

PART II

APPOINTMENT AND POWERS OF OFFICERS

Appointment of Director General, Deputy Director General and other officers

3. (1) There shall be appointed an officer to be styled the Director General of Customs and Excise and such number of Deputy Directors General, Assistant Directors General, Directors, Senior Assistant Directors and Assistant Directors of Customs and Excise as may be considered necessary for the purpose of this Act and any written law relating to excise.

(2) The Director General shall be the Chief Officer of Customs and shall have the superintendence of all matters relating to the customs, subject to the direction and control of the Minister.

(3) The Deputy Directors General, Assistant Directors General, Directors, Senior Assistant Directors and Assistant Directors shall be subject to the general direction and supervision of the Director General, and, subject thereto, shall have and exercise all powers conferred on the Director General by or under this Act, other than those conferred by sections 13B, 22 and 145 thereof.

(4) There shall be appointed so many Senior Superintendents, Superintendents and Assistant Superintendents of Customs and Excise as may be considered necessary for the purposes of this Act and any written law relating to excise.

(5) The Minister may, by notification in the Gazette, invest any officer of customs not being a senior officer of customs with all or any of the powers of a senior officer of customs.

Appointment of Customs Officers

4. There shall be appointed so many Chief Customs Officers, Senior Customs Officers, and Customs Officers as may be considered necessary for the purposes of this Act.

Investment of powers of senior officer of customs by Director General

5. The Director General may by authorization in writing invest any officer of customs not being a senior officer of customs with all or any of the powers of a senior officer of custom for a period not exceeding ninety days in respect of any one authorization.

Officers of customs to be public servants

6. All officers of customs shall be deemed to be public servants within the meaning of the

Penal Code [Act 574].

Officers of customs exempted from serving as jurors or assessors

7. Notwithstanding anything to the contrary in any written law no officer of customs shall be liable to serve as juror or assessor.

Powers of District Officers, Assistant District Officers and Police Officers

8. For the purpose of this Act, any District Officer or Assistant District Officer in any district in which there is for the time being no senior officer of customs, and all police officers not below the rank of Inspector shall have and may exercise all the powers conferred by this Act on senior officers of customs, and all police officers below the rank of Inspector shall have and may exercise all the powers conferred by this Act on officers of customs.

Minister may prescribe uniforms, etc.

8A. The Minister may, by order published in the Gazette, prescribe –

- (a) uniforms and rank markings for any rank of officers of customs; and
- (b) the authority card and badge to be carried by any rank of officers of customs.

Badges and authority cards to be produced

9. (1) Every officer of customs when acting against any person under this Act shall, if not in uniform, on demand declare his office and produce to the person against whom he is acting such badge or authority card as the Director General or, in the case of a police officer, the Inspector General of Police, may direct to be carried by such officers.

(2) It shall not be an offence for any person to refuse to comply with any request, demand or order made by any officer of customs acting or purporting to act under this Act if such officer is not in uniform and refuses to declare his office and produce his badge or authority card, on demand being made by such person.

(3) A badge or an authority card issued to an officer of customs shall be the property of the Government and shall be surrendered by such officer to the person appointed by the Director General for that purpose when such officer ceases to be an officer of customs or when instructed to do so.

Unlawful use, possession, etc., of uniform, etc.

9A. Any person, not being an officer of customs, who unlawfully wears, uses, possesses or

displays otherwise than in the course of a stage play or other theatrical performance, any prescribed uniform or badge or authority card, or any dress having the appearance of or bearing the distinctive marks of such uniform shall be guilty of an offence under this Act.

Persons employed on customs duty to be deemed proper officers of customs for such service

10. Every person employed on any duty or service relating to the customs by the orders or with the concurrence of the Director General (whether previously or subsequently expressed) shall be deemed to be the proper officer of customs for that duty or service; and every act required by law at any time to be done by, or with any particular officer nominated for such purpose, if done by or with any person appointed by the Director General to act for such particular officer, shall be deemed to be done by or with such particular officer.

PART III

LEVYING OF CUSTOMS DUTIES

Power of Minister to fix customs duties by orders to be approved by the Dewan Rakyat

11. (1) The Minister may, from time to time, by order published in the Gazette, fix the customs duties to be levied on any goods imported into or exported from Malaysia and to be paid by the importer or exporter, as the case may be.

(2) Any order made under subsection (1) shall, at the next meeting of the Dewan Rakyat be laid on the table of the Dewan Rakyat and shall, at the expiration of one hundred and twenty days from being so laid or of such extended period as the Dewan Rakyat may, by resolution, direct, cease to have effect if and in so far as it is not confirmed by a resolution passed by the Dewan Rakyat within the said one hundred and twenty days or, if such period has been extended, within such extended period.

(3) Where an order ceases to have effect in whole or in part as provided by subsection (2), then any customs duty levied in pursuance of such order or, as the case may be, of such part thereof as ceases to have effect shall, subject to subsection (4), be repayable to the person from whom such duty was levied.

(4) Unless the Minister shall otherwise direct, no customs duty repayable under subsection (3) shall be repaid, unless the person entitled to such repayment makes a claim therefor to the Director General within one year from the day on which the order ceases to have effect in whole or in part as provided by subsection (2).

(5) Such claim shall be made in writing and shall contain such particulars as the Director General may, by general or special order, require.

(6) (Deleted by Act A921).

Power to fix value

12. The Minister may, from time to time, by notification in the Gazette, fix, for the purpose of the levy and payment of customs duties, the value of any dutiable goods.

Classification and valuation by proper officer of customs

13. (1) The proper officer of customs may, in respect of any dutiable or uncustomed goods—

- (a) determine the class of goods to which such dutiable or uncustomed goods belong; and
- (b) value, weigh, measure or otherwise examine, or cause to be valued, weighed, measured or otherwise examined such dutiable or uncustomed goods, for the purpose of ascertaining the customs duty leviable thereon.

(2) When a valuation of any goods has been made by the proper officer of customs, such valuation shall be presumed to be correct until the contrary is proved.

Payment of customs duty under protest

13A. Any person who is dissatisfied with a decision of a proper officer of customs under subsection 13(1) as to whether any particular goods are or are not included in a class of goods appearing in an order made under subsection 11(1) or with the valuation, weighing, measuring or examining of any goods may pay the customs duty levied under protest.

Director General to determine questions on classification and valuation

13B. Where customs duty has been paid under protest, the proper officer of customs shall, within thirty days of such payment being made, refer any question as to classification or valuation of goods to the Director General for his decision.

Powers of Minister to exempt

14. (1) The Minister may, by order, exempt, subject to such conditions as he may deem fit to impose, any class of goods or persons from the payment of the whole or any part of any customs duty or any other prescribed fee or charge which may be payable.

(2) The Minister may in any particular case—

- (a) exempt any person from the payment of the whole or any part of the customs duties or any other prescribed fees or charges which may be payable by such person on any goods; or
- (b) direct the refund to any person of the whole or any part of the customs duties or any other prescribed fees or charges which have been paid by such person on any goods, and in granting such exemption or directing such refund, impose such conditions as he may deem fit.

(3) Any goods in respect of which an exemption from the payment of customs duties has been granted under subsection (1) or (2) shall be deemed to be dutiable goods until the conditions, if any, subject to which the exemption from duty was granted are fulfilled and shall be liable to all other charges, not being customs duties, to which they would be subject if no such exemption had been granted.

Minister may remit customs duties

14A. The Minister may, if he thinks it just and equitable to do so, and subject to such conditions as he may deem fit to impose, remit the whole or any part of the customs duties or any other prescribed fees or charges payable under this Act.

Reimposition of duty

15. (1) If any goods, on which customs duty has not been paid by reason of an exemption granted under section 14, cease to comply with the conditions subject to which such exemption was granted or cease to be kept or used by the person or for the purposes qualifying them for such exemption, such goods shall, upon such cesser, become liable to the customs duty and the person to whom such exemption was granted and any person found in possession of such goods shall be jointly and severally liable to pay such customs duty.

(2) If any goods, which are liable to customs duty under subsection (1) and on which such

duty has not been paid, are found in the possession or on the premises of any person other than the person authorized to possess them under the terms of such exemption, such goods shall, until the contrary is proved, be deemed to be uncustomed goods.

Return of duty or other charges overpaid or erroneously paid

16. It shall be lawful for the Director General, if it is proved to his satisfaction that any money has been overpaid or erroneously paid as customs duties or as any other fee or charge under this Act, to order the refund of the money so overpaid or erroneously paid:

Provided that—

- (a) no such refund shall be allowed unless a claim in respect of it is made in the prescribed form within one year after the overpayment or erroneous payment was made; or
- (b) in the case where any customs duty has been paid under protest under section 13B, no claim of refund shall be allowed unless such claim is made in the prescribed form within one year after the decision on classification or valuation is made known to the claimant.

Payment of duty, etc., short paid or erroneously refunded

17. (1) Whenever—

- (a) through inadvertence, error, or for any other reason, misconstruction on the part of any officer of customs, or through unintentional misstatement as to value, quantity or description by any person, or for any other reason, the whole or any part of any customs duties or other moneys payable under this Act have not been paid; or
- (b) the whole or any part of such customs duties or other moneys, after having been paid, have been, owing to any cause, erroneously refunded, the person liable to pay such customs duties or other moneys or the person to whom such refund has erroneously been made, as the case may be, shall pay the deficiency or repay the amount paid to him in excess, on demand being made within three years from the date on which customs duty was payable or deficient customs duty was paid or the refund was made, as the case may be, and without prejudice to any other remedy for the recovery of the amount due, any goods belonging to such person which may be in customs control may be detained until such customs duty or deficiency be paid or the refund be repaid, as the case may be.

(2) Where any amount is payable in accordance with subsection (1) the Director General may allow the amount to be paid by instalments in such amounts and on such dates as he may determine.

Recovery of customs duties from persons leaving Malaysia

17A. (1) Where the Director General has reason to believe that any person is about or is likely to leave Malaysia without paying any customs duties, he may issue to any Director of Immigration a certificate containing particulars of the duties so payable with a request that such person be prevented from leaving Malaysia unless and until he pays all the duties so payable or furnishes security to the satisfaction of the Director General for its payment.

(2) Subject to any order issued or made under any written law relating to banishment or immigration, any Director of Immigration who receives a request under subsection (1) in respect of a person shall exercise all measures which may include the removal or retention of any certificate of identity, passport, exit permit or other travel documents in relation to that person as may be necessary to give effect to the request.

(3) The Director General shall cause a notice of the issue of a certificate under subsection (1) to be served personally or by registered post on the person to whom the certificate relates.

Provided that the non-receipt of the notice by that person shall not invalidate anything done under this section.

(4) Where the person in respect of whom a certificate has been issued under subsection (1) produces on or after the date of the certificate a written statement signed by the Director General stating that all the duties specified in the certificate have been paid or that security has been furnished for its payment, that statement shall be sufficient authority for allowing that person to leave Malaysia.

(5) No legal proceedings shall be instituted or maintained against the Government, a State Government, or any other public officer in respect of anything lawfully done under this section.

(6) In this section "Director of Immigration" means any Director of Immigration appointed under subsection 3(1A) of the Immigration Act 1959/63 [Act 55].

Remission of import duty on goods lost, damaged or destroyed before removal from customs control

18. (1) If any dutiable goods which have been imported are, damaged, destroyed or, by unavoidable accident, lost at any time after their arrival within Malaysia, and before removal from customs control, the Director General may remit the whole or any part of the customs duty payable thereon.

No abatement of duty after goods have been removed from customs control

(2) After removal of any goods from customs control no abatement of customs duties shall be allowed on any such goods—

(a) on account of damage; or

(b) on account of any claim—

(i) to pay duty at a preferential rate; or

(ii) that the weight, measure, volume or value as determined by the proper officer of customs for the purpose of ascertaining the duty on such goods, or any other factor affecting the goods, is incorrect, unless notice in writing of such claim has been given at or before the time of such removal.

(3) After removal of any goods from customs control no abatement of export duty shall be allowed on any such goods on account of damage, theft or loss.

Calculation of customs duty

19. (1) The rate of customs duty applicable to any goods shall be:

(a) in the case of goods lawfully imported—

(i) if such goods (other than petroleum in a licensed warehouse) are warehoused, or if customs duty is paid at a collection station established under subsection 63(2), the rate in force on the day on which the removal of the goods is authorized by the proper officer of customs or, in the case of a collection station, by an officer appointed under the provisions of any law for the time being in force in Singapore relating to the collection of customs duties payable to the Government of Malaysia;

(ii) if such goods consist of petroleum which is in a licensed warehouse, the rate in force on the day on which such petroleum is removed from such warehouse;

(iii) if such goods are imported by post, the rate in force on the day on which duty is

assessed by the proper officer of customs; and

(iv) in any other case, the rate in force on the day on which such goods are released by the proper officer of customs;

(b) in the case of uncustomed goods, the rate in force on the day on which such goods became uncustomed goods, if known, or the rate in force on the day of seizure, whichever is the higher.

(2) For the purpose of calculating the customs duty payable, the valuation applicable to any goods shall be made in the prescribed manner.

Calculation of export duty

20. The rate of export duty and the valuation (if any) applicable to any goods shall be—

(a) in the case of goods lawfully exported, the rate and valuation in force on the day on which a receipt is issued for the payment of duty:

Provided that when payment of duty in arrears has been permitted under section 80 the rate and valuation shall be the rate and valuation in force on the day on which the goods are released by the proper officer of customs, or, as the case may be, by an officer appointed under any law for the time being in force in Singapore relating to the collection of export duties on goods exported from Malaysia;

(b) in the case of uncustomed goods, the rate and valuation in force on the day on which such goods became uncustomed goods, if known, or the rate and valuation in force on the day of seizure, whichever is the higher.

Time of importation and exportation when duty is imposed or repealed

21. When by virtue of an order made under subsection 11(1) a customs duty is fixed on any goods which previously were not dutiable goods or any customs duty on goods is abolished or when the importation or exportation of any goods is prohibited or any such prohibition is abolished by an order made under section 31 and it becomes necessary for the purpose of this Act to determine the time at which an importation or exportation of any goods made and completed shall be deemed to have had effect, such importation or exportation shall, notwithstanding anything in this Act contained, be deemed to be the time at which the goods are released by the proper officer of customs.

Questions in respect of goods deemed to be dutiable

22. If any question arises as to whether any particular goods are or are not included in a class of goods appearing in an order made under subsection 11(1), such question shall be decided by the Director General. Certificate of Director General admissible in evidence

22A. Notwithstanding anything contained in any other written law or rule of evidence to the contrary, where in any proceedings a document purporting to be a certificate under the hand of the Director General in respect of a decision made by him under section 13B or 22 is produced, such document shall be admissible in evidence and shall be accepted as sufficient evidence of the facts therein stated and the Director General shall not be required to give evidence in respect of such decision unless the court otherwise orders.

Recovery of customs duty as a civil debt

22B. Without prejudice to any other remedy, any customs duty payable under this Act may be recovered by the Minister as a civil debt due to the Government of Malaysia, or where the customs duty is a duty of a category assigned to the State by Article 112C of the Federal Constitution, to the Government of that State.

Joint and several liability of director, etc.

22C. Where any customs duty is payable by—

- (a) a company;
- (b) a firm; or
- (c) a society, an association or other body of persons,

then notwithstanding anything to the contrary in this Act or in any other written law, the directors of such company or the partners of such firm or the members of such society, association or other body of persons, as the case may be, shall, together with such company, firm, society, association or other body of persons, be jointly and severally liable for the customs duty payable:

Provided that in relation to a company that is being wound up, the directors of such company shall only be so liable where the assets of the company are insufficient to meet the amount due, after paying any sums having priority over the customs duty under the Companies Act 1965 in relation to the application of the assets of the company in such winding up.

PART IV
IMPORTATION AND EXPORTATION

Time and place of landing goods inwardly

23. (1) No goods imported by sea or transported by water from any place in Malaysia shall be landed—

(a) except at a legal landing place:

Provided that in Sabah and Sarawak goods may be landed at a sufferance wharf;

(b) until permission to do so has been received from the proper officer of customs; and

(c) except on such days and during such times as may be prescribed, unless permission to land goods on other days and during other times has been granted by the proper officer of customs.

(2) Except with the permission of the proper officer of customs, no such goods—

(a) after having been landed or unshipped shall be transhipped; or

(b) after having been put into any boat or craft to be landed shall be removed into any other boat or craft previously to their being landed.

(3) The foregoing provisions of this section shall not apply to fresh fish, whether packed with ice or not, which is landed from any vessel licensed for the purpose of fishing under any written law.

Places of landing of goods imported by air

24. No goods imported by air shall be landed except at a customs airport and such goods may be cleared at an inland clearance depot or an inland customs station.

Time and place of import by rail or road

25. No goods imported by rail or road shall be imported—

(a) except at a prescribed place of import and where a route has been prescribed, by such route; and

(b) in the case of goods imported by road, except on the days and during the times prescribed for such importation unless permission to import goods on other days and during other times has been granted by the proper officer of customs.

Time and place of loading goods for export by sea

26. No goods shall be loaded, or water-borne to be loaded for exportation by sea or for transportation by water from any place to another place in Malaysia –

(a) except at a legal landing place:

Provided that in Sabah and Sarawak goods may be loaded or water-borne to be loaded for exportation by sea at a sufferance wharf;

(b) until permission to do so has been received from the proper officer of customs; and

(c) except on such days and during such times as may be prescribed, unless permission to load goods on other days and during other times has been granted by the proper officer of customs.

Transportation by sea of goods liable to export duty to another customs port

27. (1) No goods in respect of which customs duty is payable on export shall be loaded, or water-borne to be loaded, for transportation by sea from any place to any other place in Malaysia unless –

(a) the export duty has been paid on any goods intended to be transhipped at such other place; or

(b) in the case of goods to be landed at a legal landing place in Malaysia security in the amount of such export duty has been furnished to the satisfaction of the senior officer of customs that any goods intended to be landed at such other legal landing place shall be so landed:

Provided that in the case of Sarawak, export duty may be paid at such time and in such manner as the Minister may prescribe by regulation under section 142.

(2) No goods in respect of which customs duty is payable on export shall be forwarded by rail from one place to another place in Malaysia when the journey involves passage through territory outside Malaysia unless –

(a) the customs export duty has been paid thereon; or

(b) security in the amount of such duty has been furnished to the satisfaction of the senior officer of customs at the station of despatch that such goods shall be produced to the senior officer of customs at the station of destination.

Time and place of export by rail or road

28. No goods shall be exported by rail or road—

- (a) except at a prescribed place of export and, where a route has been prescribed, by such route; and
- (b) in the case of goods exported by road except on such days and during such times as may be prescribed unless permission to export goods on other days and during other times has been granted by the proper officer of customs.

Exportation by air

29. No goods shall be exported by air except at a customs airport and such goods may be cleared at an inland clearance depot or an inland customs station.

Importation or exportation by pipeline

29A. No goods shall be imported or exported by pipeline unless such pipeline is approved by the Director General who, in granting such approval, may impose such conditions as he may deem fit.

Exemption from provisions of sections 23, 24, 25, 26, 28 and 29

30. The Director General may exempt any person from all or any of the provisions of sections 23, 24, 25, 26, 28 and 29 on such conditions as he may deem fit to impose.

Power of Minister to prohibit imports or exports

31. (1) The Minister may, by order—

- (a) prohibit the importation into, or the exportation from Malaysia or any part thereof, either absolutely or conditionally, or from or to any specified country, territory or place outside Malaysia, or the removal from one place to another place in Malaysia of any goods or class of goods; and
- (b) prohibit the importation into, or exportation from, Malaysia or any part thereof, or removal from one place to another place in Malaysia of any goods or class of goods, except at specified ports or places.

(2) If any question arises as to whether any particular goods are or are not included in a class of goods appearing in an order made under subsection (1), such question shall be decided by the Director General.

Transportation by sea of goods of a class the export of which is prohibited

32. (1) No goods of a class the exportation of which is prohibited by an order made under section 31 shall be loaded, or water-borne to be loaded, for transportation by sea from any place to any other place in Malaysia unless security has been furnished in such amount, not exceeding three times the value of such goods, as the senior officer of customs of the place from where the goods are to be transported may determine and such officer is satisfied that any goods intended to be landed at such other place shall be so landed.

(2) No goods of a class the exportation of which is prohibited by an order made under section 31 shall be forwarded by rail from one place to another place in Malaysia when the journey involves passage through territory outside Malaysia unless security has been furnished in such amount, not exceeding three times the value of such goods as the senior officer of customs at the station of despatch may determine and such officer is satisfied that such goods shall be produced to the senior officer of customs at the station of destination.

Saving in respect of certain navigable rivers

33. Where in respect of any goods the provisions of this Act and of any subsidiary legislation made thereunder have been complied with, then notwithstanding sections 23 and 26, such goods may, subject to such conditions and the payment of such fee as the Director General may impose, be landed or loaded at any place on the banks of a navigable river upstream of a customs port or legal landing place.

Power of Director General to require security

34. The Director General may, at his discretion, either generally or in a particular case or in respect of a particular area, require security to be given by any person moving dutiable goods within Malaysia and where any such security has been required to be given no person shall move such goods unless such security has been given. Such security shall not exceed the amount of duty leviable on such goods.

Presumption as to export

35. In relation to export, goods shall be deemed to be taken or caused to be taken out of Malaysia –

(a) if they have been cleared by a proper officer of customs at the last customs station on

- their route out of Malaysia; (b) if they have been loaded on to a vessel or aircraft which is about to depart from a port or place in Malaysia; or
- (c) if they have been cleared by a proper officer of customs at an inland clearance depot or at an inland customs station on their route out of Malaysia through a customs port or airport.

PART V PORT CLEARANCES

Arriving vessels, unless exempted, to be reported, and produce papers

36. (1) The master of every vessel arriving at any customs port and not being a vessel to which the exemption under section 39 applies shall either personally or through the agent of such vessel—

- (a) forthwith report to the proper officer of customs the arrival of such vessel;
- (b) give such information relating to the vessel, cargo, crew and voyage, as the proper officer of customs may require; and
- (c) on demand by such officer, produce the port clearance, or other document which it is usual to grant, granted at the last port of call and any other documents relating to the vessel, cargo, crew and voyage.

(2) The proper officer of customs may retain the port clearance or other document granted at the last port of call.

(3) Where there has been a failure to comply with subsection

(1) the master or agent of the vessel concerned shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding one thousand ringgit.

No vessel unless exempted, to sail without port clearance

37. (1) No vessel, whether laden or in ballast or empty, not being a vessel to which the exemption under section 39 applies, shall depart or attempt to depart from any customs port until a port clearance in the prescribed form has been granted by the proper officer of customs to the master or to the agent of the vessel.

(2) If any such vessel, departs or attempts to depart from any customs port without such

port clearance, the master of the vessel and also the owner and agent of the vessel, if a party or privy there to, shall be guilty of an offence, and the vessel, if still within the territorial waters, may be detained.

(3) Any person guilty of an offence under this section shall on conviction be liable to a fine not exceeding one thousand ringgit.

Master to attend and answer questions when applying for port clearance, and deliver documents

38. (1) Before any vessel, other than a vessel to which the exemption under section 39 applies, departs from any customs port, the master or the agent of such vessel shall attend before the proper officer of customs, and shall give such information concerning the vessel, the cargo, the crew, the passengers and the voyage, as the proper officer of customs may require and shall deliver to such officer a list of all goods, in respect of which customs duty is payable on export, and a list of all goods of a class the export of which is prohibited, which are to be delivered at another port in Malaysia.

List of goods carried to be endorsed upon or attached to port clearance

(2) If the proper officer of customs is satisfied that the information given under subsection (1) is accurate, he shall complete, sign and issue to the master or the agent of the vessel, a port clearance in the prescribed form, and shall endorse thereon or, at his discretion, attach thereto, a copy of the list of the goods delivered to the proper officer of customs in accordance with subsection (1).

Port clearance to be carried aboard vessel to next port of call

(3) Such port clearance shall be carried on board the vessel at all the times when such vessel is in the territorial waters.

Vessels exempted from requiring port clearance

39. (1) Sections 36, 37 and 38 shall not apply to vessels of the following classes, namely—

- (a) any vessel of war, troop-ship, or other vessel belonging to, or for the time being operated by the Government of Malaysia or of any foreign State and used exclusively on governmental and non-commercial services;
- (b) vessels engaged solely in fishing and licensed for the purpose of fishing under any

written law;

(c) vessel whose movements are confined to navigable rivers upstream of a customs station situated at or near the mouth of such river;

(d) privately owned pleasure vessels not plying for hire and not carrying cargo;

(e) vessels of a class in respect of which an order under subsection (2) is in force.

(2) The Minister may, by order, exempt either absolutely or conditionally, any class of vessels from the operation of sections 36, 37 and 38.

Master of vessel not sailing within 48 hours of port clearance to report to proper officer of customs

40. If a port clearance is issued in respect of any vessel in accordance with subsection 38(2), and the vessel does not sail within forty-eight hours thereafter, the master or agent of such vessel shall report to the proper officer of customs his reason for not sailing, and if the proper officer of customs so directs shall obtain a fresh port clearance.

When clearance may be refused

41. (1) The proper officer of customs shall not grant a port clearance in respect of any vessel—

(a) until the provisions of this Act and any regulation made thereunder regarding the vessel and cargo carried aboard such vessel have been complied with; or

(b) until all charges and penalties due by such vessel or by the owner or master thereof and all duties payable in respect of any goods shipped therein have been paid or their payment secured by such deposit or written guarantee as the proper officer of customs may require.

(2) If under the provisions of any written law a Port Officer or other proper authority has notified the proper officer of customs that any vessel is liable to be detained, the proper officer of customs shall not issue a port clearance in respect of such vessel without the written concurrence of such Port Officer or other proper authority.

Application to aircraft

42. The provisions of this Part shall apply, with such modifications and adaptations as may be necessary, in respect of aircraft arriving at, or departing from, any customs airport.

PART VI
GENERAL PROVISIONS AFFECTING VESSELS IN
TERRITORIAL WATERS

Master of vessel to obey signals from preventive vessels and instructions by an officer of customs

43. The master of any vessel in territorial waters shall obey any signal made to him from a preventive vessel or any instructions given by an officer of customs in uniform from any other vessel or any place requiring him to stop or to heave to or to perform any other act.

Hovering

44. (1) If any vessel hovers within territorial waters and on examination is found to be conveying goods dutiable on import or goods of a class the importation of which is prohibited, the master and every member of the crew of such vessel shall be presumed, until the contrary is proved, to have imported uncustomed or prohibited goods, as the case may be.

(2) If any vessel hovers within territorial waters and on examination is found not to be carrying any of the goods referred to in subsection (1), such vessel shall be presumed, until the contrary is proved, to be hovering for the purpose of receiving dutiable goods upon which export duty has not been paid or prohibited goods exported contrary to a prohibition and the master and every member of the crew of such vessel shall be guilty of an offence against this Act.

(3) The master of any vessel found without lawful excuse in territorial waters without a clearance for a customs port in Malaysia, or carrying cargo or passengers or both without a proper manifest of such, or found to have passed the customs port named in the papers of such vessel without having made entry and declared at such port, shall be liable on conviction before a Magistrate of the First Class to a fine of two thousand ringgit and to imprisonment for a term of twelve months.

Goods unaccounted for to be deemed uncustomed

45. If goods, other than bona fide ship's stores, are found by a proper officer of customs in any vessel in territorial waters and such goods are not correctly accounted for in the manifest or other documents which ought to be aboard such vessel, then such goods shall

be deemed to be uncustomed goods and shall be liable to seizure.

Missing goods deemed to have been illegally landed

46. If in any vessel in territorial waters the quantity of any goods entered in the manifest or other documents which ought to be aboard such vessel, is found by a proper officer of customs to be short, and the deficiency is not accounted for to the satisfaction of such officer, then such goods shall be deemed to have been illegally landed in Malaysia.

Proper officer of customs may board vessel in a customs port

47. When in exercise of the powers conferred by this Act, a proper officer of customs boards any vessel, the master of such vessel shall provide such officer with suitable shelter and accommodation on the vessel while such vessel remains in territorial waters.

Power to seal up and secure hatchways goods, etc., and use of ship's stores

48. (1) When in exercise of the powers conferred by this Act, a proper officer of customs boards any vessel, he shall have the power to fasten down hatchways or entrances to holds, to mark any goods before landing, and to lock-up, seal, mark or otherwise secure any goods, including ship's stores, on board such vessel; and no hatchway or entrance, after having been fastened down by such officer, shall be opened and no lock, seal or mark shall be opened, broken or altered without the consent of the proper officer of customs while the vessel is within the limits of the customs port or before any goods are delivered to be landed.

(2) The Director General may, in his absolute discretion, permit or refuse to permit the taking of anything without payment of customs duty into a ship as ship's stores and in granting permission for the embarkation of anything under this subsection impose such conditions as he may deem fit.

(3) The Director General may, in his absolute discretion, permit or refuse to permit the use, within the territorial waters, of any ship's stores on which customs duty has not been paid.

Prohibition of carriage of dutiable goods in local craft

49. (1) No goods of a class dutiable on import or export or prohibited goods shall be carried in any local craft except with the permission of the Director General and subject to such conditions as the Director General may impose.

(2) Such permission may be granted either generally, by notification in the Gazette, in

respect of all local craft or any class or classes of local craft, or specially, in writing under the hand of the Director General or an officer authorized by him in that behalf, in respect of a particular local craft.

(3) No vessel shall go alongside a legal landing place or alongside an ocean going vessel except with the permission of the proper officer of customs.

Bulk not to be broken, etc.

50. After the arrival of any vessel within territorial waters—

(a) bulk shall not be broken;

(b) no alteration shall be made in the stowage of the cargo so as to facilitate the unloading of any part of the cargo, before the permission to land goods required by paragraph 23(1)(b) has been received by the master of such vessel; and

(c) no package shall at any time be opened on board such vessel; without proper cause shown to a senior officer of customs.

Application to aircraft

51. The provisions of this part shall apply, with such modifications and adaptations as may be necessary, in respect of aircraft arriving at, or departure from, any customs airport.

PART VII MANIFESTS

Master of arriving vessel to present inward manifest

52. (1) Save as provided in subsection (3), the master or agent of every vessel, other than a local craft, arriving in any customs port, shall, within twenty-four hours after arrival and before any cargo is unshipped, present to the proper officer of customs at the customs office a true inward manifest of the vessel in the National Language or in English, substantially in the prescribed form, certified by such master or agent, together with a duplicate copy thereof,

containing all particulars as to marks, numbers and contents of each package intended to be landed at the customs port, together with the names of shippers and consignees of the same, if known to him, and the proper officer of customs may, at his discretion, demand,

in addition, a complete manifest of the whole cargo of the vessel and complete list of stores on board such vessel.

Goods for transhipment

(2) A separate transhipment manifest shall be presented in duplicate in the prescribed form in respect of goods to be transhipped at the customs port.

(3) Where it is shown to the satisfaction of the proper officer of customs that it is not practicable to present an inward manifest or a transhipment manifest within a reasonable time after the arrival of a vessel the proper officer of customs may permit cargo to be landed or transhipped prior to presentation of the manifest, but no cargo so landed shall, except with the permission of the proper officer of customs, be delivered to the importer or consignee or his agent until such time as the manifest has been presented to, and scrutinized by, the proper officer of customs.

Provision for cases where all particulars are not known

53. In any case where such master or agent is unable to ascertain the particulars of any inward or transhipment cargo or the names of the consignees thereof, he shall sign the declaration, endorsed upon the prescribed form, that he has exercised due diligence to ascertain the particulars of such cargo and the names of the consignees and shall therein enumerate the packages in respect of which his information is defective.

Person in charge of local craft to make declaration on arrival

54. The master of every local craft, whether carrying cargo or not, arriving in any customs port shall attend in person at the customs office and make a written or oral declaration in the prescribed form or manner of all the cargo to be landed from his vessel.

Correction to be made on completion of discharge

55. (1) On completion of the discharge of cargo or within two months of such discharge or within such further period as the proper officer of customs may allow, the master or agent of the vessel shall present to the proper officer of customs a certified statement in duplicate of the outturn of such cargo and shall enumerate therein any alteration in the manifest due to short shipment, short landing, over landing or any other cause.

Liability of master or agent in respect of goods not satisfactorily accounted for

(2) If any goods entered in the manifest of any vessel are not accounted for to the satisfaction of the proper officer of customs within two months of the presentation of such statement or within such further period as such officer may allow, the master or the agent of the vessel shall be liable to pay to such officer on demand a sum not exceeding *five hundred ringgit, and in addition, in the case of dutiable goods, the agent shall be liable to pay to such officer on demand the amount of customs duty leviable thereon or, when the correct duty cannot be assessed, an amount not exceeding *two thousand ringgit¹⁸).

(3) If the person liable to the penalties laid down in subsection (2) refuses or fails to pay the penalties demanded of him any senior officer of customs may sue for and recover such penalties in a court of a Magistrate of the First Class.

Pilot or agent of arriving aircraft to present inward manifest

56. The pilot or agent of every aircraft arriving at a customs airport shall, before any cargo is delivered, present to the proper officer of customs at the customs office a true inward manifest of the aircraft in the National Language or in English substantially in the prescribed form, certified by such pilot or agent, together with a duplicate copy thereof, containing particulars of all packages consigned to such airport and the proper officer of customs may, at his discretion, demand, in addition, a complete manifest of the whole cargo of the aircraft and a complete list of stores on the aircraft.

Outward manifest of vessel to be presented

57. The owner or agent of any vessel, other than a local craft, leaving any customs port shall, within seven days of the departure of such vessel, present to the proper officer of customs at the customs office a true outward manifest of the vessel in the National Language or in English, substantially in the prescribed form, certified by such owner or agent, together with a duplicate copy thereof, containing all particulars as to marks, numbers and contents of each package shipped at the customs port and the names of the shippers.

18) *NOTE—Previously “one hundred ringgit”—see.

Person in charge of local craft to make declaration before departure

58. The master of any local craft, whether carrying cargo or not, leaving any customs port shall, before the departure of such vessel, attend in person at the customs office, and make a written or oral declaration in the prescribed form or manner of all cargo shipped on board his vessel and the port or ports of destination of such cargo, and if no cargo is being carried he shall make a declaration accordingly:

Provided that in the case of a local craft which in the circumstances mentioned in, and under the provisions of, section 61 is deemed to leave such customs port, no declaration shall be required if the proper officer of customs is satisfied that a declaration has already been made at a customs port further upstream.

Pilot of departing aircraft to present outward manifest

59. The pilot or agent of any aircraft leaving any customs airport shall, before the departure of such aircraft, present to the proper officer of customs at the customs office a true outward manifest of the aircraft in the National Language or in English, substantially in the prescribed form, certified by such pilot or agent, together with a duplicate copy thereof, containing all particulars as to marks, numbers and contents of each package loaded at such customs airport and the names of the consignors and consignees of the same.

Station-master to produce railway invoices and waybills

60. The station-master at the place of import or export of goods by rail and at the customs station to which dutiable goods are consigned, shall on demand produce to the proper officer of customs the railway invoice or waybill, as the case may be, in respect of such goods.

Local craft arriving at or leaving certain navigable rivers

61. Every local craft proceeding up or down a navigable river, at or near the mouth of which there is a customs port, shall stop at such port and shall, for the purposes of this Part, be deemed to arrive at or leave, as the case may be, such customs port.

Saving in respect of exempted vessels and certain aircraft

62. The provisions of this Part shall not apply to any vessel exempted under section 39.

PART VIII
WAREHOUSING

Minister may establish customs warehouses

63. (1) The Minister may establish and maintain customs warehouses, wherein dutiable goods may be deposited and kept without payment of customs duty, at any customs port, customs airport, place of import or export or at any inland customs station and may prescribe the amount to be paid as warehouse rent on goods deposited in such warehouses and remit any amount payable as rent.

Minister may establish collection stations

(2) The Minister may establish customs warehouses in Singapore in this Act referred to as collection stations if provisions for such establishment exist by virtue of any written law in force in Singapore or by virtue of any agreement between the Governments of Malaysia and of Singapore.

Goods imported or exported from a collection station

64. Where collection stations have been established as provided by subsection 63(2), then subject to other provisions of this Act and to such conditions and restrictions as the Director General either generally by order or in any particular case may impose— (a) the provisions of this Act relating to the payment of customs duty shall not apply to goods imported from a collection station on which duty has been paid before import; and (b) the provisions of this Act requiring payment of duty on goods to be exported at the time of export shall not apply to dutiable goods which are forwarded to a collection station.

Licensed warehouse

65. (1) The Director General may, at his absolute discretion, on payment of such fees as may be fixed by him in each case, grant a licence to any person, hereinafter in this section referred to as the licensee, and when granted withdraw any licence, for warehousing goods liable to customs duties and any other goods in a place or places specified in such licence.
(2) Any such licence shall be for such period and subject to such conditions as the Director General in each case may specify in the licence.

(3) A senior officer of customs, or any officer of customs deputed by him for the purpose, shall at all times have access to any licensed warehouse.

(4) If it appears at any time that in any licensed warehouse or any part thereof there is a deficiency in the quantity of dutiable goods which ought to be found therein, the licensee of such warehouse shall, in the absence of proof to the contrary, be presumed to have illegally removed such goods and shall, without prejudice to any proceedings under this Act, be liable to pay to the proper officer of customs the customs duty leviable on the goods found deficient:

Provided that if it is shown to the satisfaction of the Director General that such deficiency has been caused by unavoidable leakage, breakage or other accident, the Director General may remit the whole or any part of the customs duty leviable on the goods found deficient.

Manufacture and other operations in relation to goods in licensed warehouse

65A. (1) In respect of a warehouse licensed under section 65, the Director General may, at his absolute discretion, on payment of such fees as may be fixed by him in each case, grant an additional licence to the licensee and when granted withdraw any such licence, to carry on any manufacturing process and other operation in respect of the goods liable to customs duties and any other goods.

(2) Any such licence shall be for such period and subject to such conditions as the Director General may specify in the licence. (3) (a) No goods which have undergone any manufacturing process in the warehouse may be released for home consumption or export without the prior approval of the Director General. (b) Subject to subsection (4), if such goods are released from the warehouse for home consumption the customs duty thereon shall be calculated on the basis as if such good had been imported: Provided that the Minister may in any particular case exempt any person from the payment of the whole or part of such duty which may be payable by such person on any such goods and in granting such exemption the Minister may impose such conditions as he may deem fit.

(4) Where in the course of any operation permissible under subsection (1) to any goods liable to customs duty there is waste or refuse customs duty shall be remitted on the quantity of goods liable to customs duty in so much of the waste or refuse as has arisen from the operations carried on in relation to the goods which have undergone any manufacturing process: Provided that such waste or refuse is destroyed subject to such

conditions as the Director General may impose or duty is paid on such waste or refuse as if it had been imported in that form, Liquidator of company to give notice of winding-up, and set aside duty

65B. (1) Where an effective resolution is passed or an order is made for the winding-up of a company which is a licensed manufacturer the liquidator of the company shall give notice thereof Customs to the Director General within fourteen days thereafter, and shall before disposing of any of the assets of the company set aside such sum out of the assets as appears to the Director General to be sufficient to provide for any customs duty that is or will thereafter become payable in respect of the company, and shall thereafter pay such customs duty.

(2) A liquidator of any such company who fails to give notice to the Director General within the time specified in subsection (1) or fails to provide for payment of the customs duty as required by that subsection shall be personally liable for any customs duty that is or become payable as aforesaid.

(2A) Any liquidator who fails to comply with subsection (1) shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit.

(3) Where two or more persons are appointed liquidators or are required by law to carry out the winding-up of any such company, subject to a right of contribution between themselves as in cases of contract, the obligations and liabilities attaching to a liquidator under this section shall attach to all such persons jointly and severally.

Appointment of receiver to be notified to the Director General

65C. (1) Where a receiver of the property of a licensed manufacturer is appointed, he shall give notice thereof to the Director General within fourteen days thereafter, and shall before disposing of any of the assets of the licensed manufacturer set aside such sum out of the assets as appears to the Director General to be sufficient to provide for any customs duty that will thereafter become payable in respect of the goods that have been sold or manufactured by the licensed manufacturer before the appointment of the receiver, and shall thereafter pay such customs duty.

(2) A person appointed as receiver who fails to give notice to the Director General within the time specified in subsection (1) or fails to provide for payment of the customs duty as required by that subsection shall be personally liable for any customs duty that is or

becomes payable as aforesaid.

(2A) Any receiver who fails to comply with subsection (1) shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit.

(3) Where two or more persons are appointed receivers, subject to a right of contribution between themselves as in cases of contract, the obligations and liabilities attaching to a receiver under this section shall attach to all such persons jointly and severally.

Licensing of duty free shop

65D. (1) The Director General may at his absolute discretion on payment of such fee as may be prescribed, grant a licence to operate a duty free shop to any person, hereinafter in this section referred to as “the licensee”, and when granted, may suspend or withdraw such licence.

(2) Any such licence shall be for such period and subject to such conditions as the Director General in each case may specify in the licence.

(3) The licensee shall, for the proper conduct of his business, furnish such security as may be required by the Director General. (4) If it appears at any time that any goods have been sold or removed from such duty free shop otherwise than in accordance with all the conditions of a licence granted under this section, the licensee of such duty free shop shall, in the absence of proof to the contrary, be presumed to have illegally removed such goods and shall, without prejudice to any proceedings under this Act, be liable to pay to the proper officer of customs the customs duty leviable on the goods sold or removed.

Licensing of inland clearance depot

65E. (1) The Director General may at his absolute discretion on payment of such fee as may be prescribed, grant a licence to operate an inland clearance depot to any person, hereinafter in this section referred to as “the licensee”, and when granted, may suspend or withdraw such licence.

(2) Any such licence shall be for such period and subject to such conditions as the Director General in each case may specify in the licence.

(3) The licensee shall, for the proper conduct of his business, furnish such security as may be required by the Director General. (4) If it appears at any time that in any inland clearance depot there is a deficiency in the quantity of dutiable goods which ought to be

found therein, the licensee of such inland clearance depot shall, in the absence of proof to the contrary, be presumed to have illegally removed such goods and shall, without prejudice to any proceedings under this Act, be liable to pay to the proper officer of customs the customs duty leviable on the goods found deficient: Provided that if it is shown to the satisfaction of the Director General that such deficiency has been caused by any leakage, breakage or other unavoidable accident, the Director General may remit the whole or any part of the customs duty leviable on the goods found deficient.

Dutiable goods to be deposited in a warehouse on arrival

66. (1) Subject to section 73, all goods imported into Malaysia shall, on first arrival or landing, be deposited by the importer or his agent in a customs or licensed warehouse or in a warehouse approved by the Director General:

Provided that, subject to such conditions as the Director General may impose either generally, by order or in any special case,

- (a) the Director General, if satisfied that on account of the weight, quantity or bulk of any such goods or for any other reason it is not practical to deposit such goods in a customs warehouse, may direct such goods to be kept in any other place where such goods shall be deemed to be under customs control;
- (b) any such goods imported by rail may lawfully be consigned to any person at an inland clearance depot or inland customs station where there is a customswarehouse, and such goods shall be deemed for the purposes of this Part and of Part IX, to have first arrived on reaching such inland clearance depot or inland customs station;
- (c) where the bill of lading, airway bill, invoice or other document covering any such goods landed at a customs port or airport shows them to be consigned to a person at an inland clearance depot or at an inland customs station, such goods may be forwarded by rail or road to an inland clearance depot or to an inland customs station, and such goods shall be deemed for the purposes of this Part, and Part IX, to have first arrived on reaching such inland clearance depot or inland customs station;
- (d) such goods on first landing at a customs airport where there is no customs warehouse may be dealt with as the Director General may direct.

(2) No goods deposited in a warehouse or directed to be deposited in any other place, under subsection (1), shall be removed from such warehouse or from such place except

with the permission of the proper officer of customs,

(3) Dutiable goods deposited in a warehouse not being a customs or licensed warehouse, shall be removed therefrom within ten days or such extended time as the Director General may allow, of their being so deposited and if the goods are not so removed, the proper officer of customs may remove them to a customs warehouse at the expense of the owner of such goods.

(4) The provisions of this section shall not apply—

(a) to goods imported by post;

(b) to goods imported by road or by sea at places of import where there is no customs warehouse;

(c) to passengers baggage, containing personal effects only.

(5) Notwithstanding anything contained in subsection (1), if the Director General is of the opinion that having regard to any particular goods imported into Malaysia it would be in the public interest not to require such goods to be deposited by the importer or his agent in accordance with the said subsection, he may direct such goods to be released subject to such conditions as he may impose.

Warehouse deposit receipts

67. (1) A warehouse deposit receipt shall be issued by the proper officer of customs for all dutiable goods deposited in a customs warehouse: Provided that in the case of dutiable goods imported by road no such receipt shall be issued except at the request of the importer or his agent.

(2) Where the warehouse deposit receipt is lost, a copy of such receipt duly certified by the proper officer of customs shall be supplied to the owner of the dutiable goods or his agent on delivery of an indemnity bond approved by a senior officer of customs and delivered to him at the customs office, securing the Government against any claim for loss owing to wrong delivery of the goods deposited.

(3) The holder or endorsee in due course of a warehouse deposit receipt or a certified copy thereof granted under subsection (2) shall be deemed, for the purposes of this Act, to be the owner of the goods deposited, and delivery to the holder or endorsee or the agent of the holder or endorsee of such warehouse deposit receipt or certified copy thereof shall be a good and lawful delivery.

Power to open and examine packages

68. A senior officer of customs may, at any time, direct that any goods or package lodged in any customs or licensed warehouse shall be opened, weighed or otherwise examined, and after such goods or package has been so opened or examined, may cause the same to be sealed or marked in such manner as he sees fit. Detention of goods where doubt exists

69. (1) The proper officer of customs may detain in a customs warehouse or any other place deemed to be under customs control any goods if he is in doubt whether such goods are dutiable or not, or any other reason.

(2) In every such case the proper officer of customs shall forthwith make a report to a senior officer of customs, who shall, without undue delay, decide whether such goods are dutiable or not.

(3) If any such goods are found not to be dutiable, no warehouse rent, handling or other charges shall be payable in respect thereof.

Protection of Government from liability

70. The Government shall not be liable to make good any loss sustained in respect of any goods by fire, theft, damage or other cause while such goods are in any customs warehouse or in the lawful custody or control of any officer of customs, unless such loss is caused by the wilful neglect, or default of an officer of customs or of a person employed by the Government in connection with the customs.

Protection of officers of customs from liability

71. No officer of customs or other person employed by the Government in connection with the customs shall be liable to make good any loss sustained in respect of any goods by fire, theft, damage or other cause while such goods are in any customs warehouse or in the lawful custody or control of such officer or any other officer of customs or person employed in connection with customs unless such loss is caused by his wilful neglect, or default.

Payment of warehouse rent

72. The owner or his agent shall pay to the proper officer of customs the warehouse rent at the prescribed rates which may be due in respect of any goods deposited in a customs

warehouse or a warehouse approved by the Director General. Such rent shall be payable at the end of each month whether or not a demand in respect thereof is made and if not so paid may be recovered as a civil debt due to the Government.

Dangerous goods

73. No goods of an inflammable nature or of such a nature as to be likely to cause detriment to other goods shall be deposited in any customs warehouse without the sanction of a senior officer of customs, and if any such goods are landed they may be deposited, at the expense and risk of the importer thereof, in any place that a senior officer of customs may deem fit, and whilst so deposited such goods shall be deemed to be in a customs warehouse, and unless within a period of fourteen days they have been duly cleared or warehoused in any warehouse approved for that purpose shall, at the expiration of that period, be liable to be dealt with in the same manner as goods of a similar nature actually deposited in a customs warehouse. Such goods shall be chargeable with such expenses for securing, watching and guarding the same until sold, cleared or warehoused as aforesaid, as the senior officer of customs may deem fit.

Government lien over goods deposited in a customs warehouse

74. (1) Goods of a perishable nature deposited in a customs warehouse shall be cleared forthwith, and if not so cleared a senior officer of customs may sell such goods.

(2) Goods of an inflammable nature deposited in a customs warehouse shall be cleared within fourteen days of the date of deposit.

(3) Goods not of a perishable or inflammable nature deposited in a customs warehouse shall be cleared within one month of the date of deposit: Provided that a senior officer of customs may permit any goods to remain deposited for such further periods of not less than one month at a time and not exceeding six months in the aggregate as he may in his discretion think fit.

(4) If any goods are not cleared within the time specified in subsection (2) or (3) or if any warehouse rent in respect of any goods is not duly paid in the manner provided by section 72, a senior officer of customs may, after giving not less than fourteen days notice in writing to the owner (if the name and address of such owner is known to him), or after due notice in the Gazette (if the name and address of such owner is not known to him),

sell such goods.

(5) The proceeds of the sale of any such goods shall be applied to the payment of any customs duties, warehouse rent and other charges and railway freight which may be due in respect of such goods or of any other goods deposited by the owner of such goods, and the surplus, if any, shall be paid to the owner of such goods and if the owner cannot be found within one month of the sale, such surplus shall be paid to the Consolidated Fund.

(6) If at the sale of any goods no sufficient bid is forthcoming to defray the customs duties, warehouse rent and other charges which are due in respect of such goods, the goods shall be forfeited to Government and shall be disposed of in such manner as the Director General may direct.

(7) Every auction sale shall under this section be conducted by or in the presence of a senior officer of customs.

Removal of dutiable goods from a warehouse

75. No dutiable goods shall be removed from customs control except—

- (a) after payment of the customs duty payable thereon; or
- (b) if such goods are in a customs or licensed warehouse, under such conditions as the Director General may impose, for deposit in another customs or licensed warehouse; or
- (c) under such conditions as the Director General may impose, for a re-export from Malaysia, and in no case shall any goods be removed from a customs warehouse or any other warehouse approved by the Director General until all warehouse rent and other charges due in respect thereof have been paid:

Provided that petroleum or any other dutiable goods as approved by the Director General in a licensed warehouse may be removed therefrom before payment of the customs duty if security has been lodged to the satisfaction of the Director General by which payment of duty is guaranteed within such time as the Director General may allow.

Landing of goods for transshipment

76. Goods arriving in Malaysia for transshipment and landed at a customs port to await the arrival of the vessel to which they are intended to be transhipped shall, if they are dutiable

on import or on export or prohibited to be imported or exported, or belong to a class of such goods, be deposited in a customs or licensed warehouse and shall be liable to warehouse rent at the prescribed rates applicable to such goods or, if such rates are not prescribed, at the prescribed rates applicable to goods warehoused prior to export:

Provided that the Director General may exempt any particular goods from the operation of this section.

Weighing and handling fees

77. (1) All necessary operations relating to the loading, shipping, unloading, unshipping, landing, carrying, weighing, opening, unpacking, repacking, bulking, sorting and marking of goods, including passenger's baggage, whether warehoused or not, shall be performed by or at the expense of the owner, importer, exporter, consignor, consignee or agent as the case may be:

Provided that the proper officer of customs may, at his discretion, direct that any such operations shall be performed by officers of customs or other persons under his control, and in any such case such operation shall be performed at the expense of the owner, importer, exporter, consignor, consignee or agent, as the case may be.

(2) The Minister may prescribe the charges to be paid for operations performed under this section by officers of customs or other persons under the control of the proper officer of customs and may remit any charges due.

PART IX

DECLARATION OF GOODS

A-Dutiable goods

Declaration of dutiable goods imported

78. (1) Every importer of dutiable goods, warehoused under section 66 or exempted from being warehoused by virtue of paragraph (a) of the proviso shall, before removal of such goods or any part thereof from customs control or if such goods are not removed within a period of one month from the date on which they were landed, within such period, make personally or by his agent to the proper officer of customs at such warehouse, a

declaration, substantially in the prescribed form, of the goods imported, and in any particular case the proper officer of customs may, by notice in writing, require the importer either personally or by his agent to submit such declaration within three days of the receipt of such notice, and the importer shall be required to comply with such notice if it is within his power to do so:

Provided that in the case of goods imported by road such declaration shall be made on arrival of such goods at the place of import.

(2) Every importer of dutiable goods exempted from being warehoused under paragraphs 66(4)(b) and (c) shall, upon arrival of such goods at a place of import, make personally or by his agent to the proper officer of customs at such place of import, a declaration, in such manner or in such form as may be prescribed, of the goods imported, and shall pay the customs duties and other charges leviable thereon within fourteen days of such declaration.

(3) The addressee of any dutiable goods imported by post shall, on demand by the proper officer of customs, make personally or by his agent to such officer a declaration, substantially in the prescribed form, of the goods imported.

Declarations to give a full and true account

79. (1) The declaration referred to in section 78 shall give a full and true account of the number and description of packages, of the description, weight, measure or quantity, and value of all such dutiable goods, and of the country of origin of such goods:

Provided that if it is shown to the satisfaction of the proper officer of customs that such goods are urgently required for home consumption and that it is not within the power of the importer to furnish all the details required, such officer may, at his discretion, release the goods on payment of such customs duty as he may estimate to be leviable thereon, together with a deposit of such amount as such officer may determine not exceeding such estimated duty and on an undertaking being given by the importer or his agent to furnish a correct declaration within two months or such further period as the proper officer of customs may allow.

(2) On the submission of a correct declaration the proper amount of customs duty and other charges leviable shall be assessed and any money paid and deposited in excess of such amount shall be returned to the importer or his agent and in default of such

submission within the aforesaid period the deposit shall be forfeited and paid into the Consolidated Fund.

Declaration of dutiable goods to be exported

80. (1) Every exporter of dutiable goods shall immediately before export—

- (a) personally or by his agent make, in the prescribed form and to the officer of customs specified in subsection (2), a declaration of the goods to be exported;
- (b) produce such goods to such officer at any place as the officer may direct;
- (c) pay the export duty and any other charge leviable thereon to such officer:

Provided that, the Director General may permit the export of any goods without prior payment of duty—

- (a) if it is shown to his satisfaction that,
 - (i) weighing of such goods for the purpose of assessment of duty can more conveniently be carried out in Singapore; or
 - (ii) unnecessary delay will be occasioned in ascertaining the net weight of the goods before the export thereof is permitted; and
- (b) if security has been given to his satisfaction for the payment of duty within such time as he may determine.

(2) The declaration referred to in paragraph (1)(a) shall be made to the proper officer of customs at the appropriate place specified hereunder that is to say—

- (a) at an inland clearance depot or at an inland customs station or at a customs port where goods are loaded if export is by sea;
- (b) at an inland clearance depot or at an inland customs station where goods are loaded or at the place of export if export is by rail;
- (c) at the place of export if export is by road, but the Director General may allow the declaration to be made to a proper officer of customs at an inland clearance depot or at an inland customs station if such export by road is on their route to a customs port or airport or any other place approved by him;
- (d) at an inland clearance depot or at an inland customs station or at a customs airport where goods are loaded if export is by air.

(3) The declaration referred to in paragraph (1)(a) shall give a full and true account of the number and description of packages and of the description, weight, measure or quantity,

and value of all such dutiable goods, and the country of destination of such goods.

(4) No dutiable goods shall be removed from the place at which such goods were produced to the officer of customs in accordance with subsection (1) unless permission in that behalf has first been obtained from a senior officer of customs.

B-Non-dutiable goods

Declaration of non-dutiable goods imported by sea or air

81. (1) When any goods which are not dutiable on import are imported by sea or air, the importer thereof shall, before taking delivery of such goods and in any case not later than ten days after the arrival of the vessel or aircraft in which such goods are imported or arrival otherwise of goods, make personally or by his agent to the proper officer of customs at the customs port at which such goods are landed or at other prescribed place, or at the customs airport at which such goods are imported, a declaration substantially in the prescribed form, giving particulars of the goods imported.

(2) No owner, master or agent of any vessel, and no pilot or agent of any aircraft arriving at any customs port or airport shall deliver any inward cargo consisting of goods which are not dutiable until he has been authorized to do so by the proper officer of customs to whom the declaration referred to in subsection (1) has been made.

Declaration of non-dutiable goods imported by rail

82. When any goods which are not dutiable on import are imported by rail the importer thereof shall make personally or by his agent to the proper officer of customs at the prescribed place of import a declaration, substantially in the prescribed form giving particulars of the goods imported, and until such a declaration has been made delivery or onward transport of the goods shall not be permitted.

Declaration of non-dutiable goods imported by road

83. When any goods which are not dutiable on import are imported by road, the importer thereof shall make personally or by his agent to the proper officer of customs at the place of import or at other prescribed place a declaration substantially in the prescribed form, giving particulars of the goods imported, and shall not proceed till this has been done.

Declaration of non-dutiable goods exported by sea or air

84. (1) When any goods which are not dutiable on export are exported by sea or air the exporter thereof shall, before such goods are shipped or water-borne to be shipped or transported otherwise to be shipped or loaded into an aircraft, make personally or by his agent to the proper officer of customs at the customs port at which such goods are to be shipped or at the customs airport at which such goods are to be loaded or at other prescribed place, a declaration substantially in the prescribed form, giving particulars of the goods to be exported.

(2) No owner, master or agent of any vessel, and no pilot or agent of any aircraft shall allow any goods which are not dutiable on export to be shipped or loaded until he has been authorized by the proper officer of customs to do so.

Declaration of non-dutiable goods exported by rail

85. When any goods which are not dutiable on export are exported by rail the exporter thereof shall make personally or by his agent to the proper officer of customs at the prescribed place of export a declaration, substantially in the prescribed form giving particulars of the goods to be exported, and until such a declaration has been made such goods shall not be released for export.

Declaration of non-dutiable goods exported by road

86. When any goods which are not dutiable on export are exported by road, the exporter thereof shall make personally or by his agent to the proper officer of customs at the place of export a declaration, substantially in the prescribed form, giving particulars of the goods to be exported, and shall not proceed till this has been done.

Declarations to give a full and true account

87. The declarations referred to in sections 81, 82, 83, 84, 85 and 86 shall give a full and true account of the particulars for which provision is made in the respective prescribed forms:

Provided that, if, in the case of imported goods, any of the particulars required be unknown to the importer thereof, delivery of such goods may be given on a written undertaking of the importer or his agent to furnish the necessary information to the proper

officer of customs or station-master, as the case may be, within ten days of such undertaking or such further period as the proper officer of customs may allow and if the importer or his agent fails to furnish the information as required by the undertaking he shall be deemed to have failed to make the required declaration.

Provisional declaration of exported goods

87A. (1) Notwithstanding subsection 80(1), sections 84, 85, 86 and 87, the Director General may allow any document approved by him to be used as a provisional declaration, in lieu of the prescribed form, for goods if—

- (a) such goods are to be exported by air, sea, rail or in any other manner approved by the Director General;
 - (b) unnecessary delay will be occasioned in preparing the prescribed form;
 - (c) such goods are not subject to a drawback claim under sections 93 and 99;
 - (d) such goods are not prohibited from export; and
 - (e) the exporter of such goods makes personally or by his agent to a proper officer of customs at the place of export where the provisional declaration was approved, a declaration substantially in the prescribed form within 7 days after the release of such goods.
- (2) The provisional declaration referred to in subsection (1) shall give a full and true account of the number, description and quantity, weight or measure, value and destination of such goods.
- (3) Paragraphs 80(2)(a), (b), (c) and (d) shall also be applicable to a provisional declaration under this section in relation to places where such provisional declaration may be made.

C-General Provisions

Goods which have been declared at a collection station exempted

88. The provisions of this Part shall not apply—

- (a) subject to such conditions and restrictions as the Director General may, either generally by order or in any particular case, impose, to goods imported from a collection station or to goods which are forwarded to a collection station;

Passengers' baggage, etc., and postal goods exempted

- (b) to accompanied passengers' baggage or personal effects;
- (c) to fresh fish locally taken; and
- (d) except as provided by subsection 78(3), to any goods sent by post.

Saving provision

89. Nothing in this Part contained shall release any person from any obligation imposed by or under any written law regulating the movement of any special goods or currency.

Control of agents

90. (1) Any person who intends to act as an agent shall—

- (a) attend a course on matters relating to customs and pass such examination as may be specified by the Director General;
- (b) produce a written authority from the person on whose behalf he is to act; and
- (c) give such security as may be considered adequate by a senior officer of customs for the faithful and incorrupt conduct of such agent and of his clerks acting for him both as regards the customs and his employers.

(2) Subject to subsection (1) any application for permission to act as an agent for transacting business relating to the import or export of any goods or luggage or the entry or clearance of any vessel or aircraft shall be considered by a senior officer of customs who may give such permission subject to such terms and conditions as he may deem fit to impose.

(3) The Director General may waive the requirement of paragraph (1)(a) if he is satisfied that the person has sufficient knowledge on matters relating to customs.

(4) A senior officer of customs may suspend or cancel any permission granted under this section, if the agent commits any breach of this Act or of any regulation made thereunder or if he fails to comply with the terms and conditions imposed pursuant to subsection (2) or any direction given by an officer of customs with regard to the business transacted by the agent.

(5) Any person aggrieved by the decision of a senior officer of customs in respect of any of the following matters, that is to say—

- (a) refusal to grant permission;

- (b) the nature or the amount of security required from the agent;
- (c) suspension or cancellation of the permission; may, within one month from the date on which the decision is notified to him, appeal to the Director General, whose decision shall be final.

(6) Any person who acts as agent when permission has not been granted to him under this section or while such permission is cancelled or suspended, or who makes or causes to be made a declaration of any goods without being duly authorized for that purpose by the proprietor or consignee of such goods shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding five hundred ringgit.

(7) The clerk or servant of any person or firm may transact business generally at any customs office on behalf of such person or firm:

Provided that a senior officer of customs may refuse to transact business with such clerk or servant unless such person or a member of such firm identifies such clerk or servant to such officer as empowered to transact such business and deposits with such officer a signed authority authorizing such clerk or servant to transact such business on behalf of such person or firm.

Person in charge of goods imported, etc., by road to be deemed agents

91. Notwithstanding anything contained in section 90 the person in charge of any goods imported or exported by road shall be deemed to be the agent of the importer or exporter, as the case may be and shall not be subject to the provision of paragraph 90(1)(a).

Licensed carrier

91A. (1) The Director General may grant a licence to any person to act as a licensed carrier subject to such terms and conditions as she may deem fit to impose and may suspend or withdraw such licence.

(2) In granting a licence under subsection (1), the Director General may require such security to be furnished as he may consider adequate to cover the customs duty payable on the goods moved and for the faithful and incorrupt conduct of such licensed carrier and of his agents and employees acting for him both as regards the customs and his employers.

Declaration to be made in duplicate

92. Every declaration required to be made under this Part shall be in duplicate or in such

other number of copies as the person, to whom such declaration is required to be made, may direct.

PART X DRAWBACK

Definition of “re-export” in sections 93, 94 and 99

92A. In sections 93, 94 and 99 of this Part, the expression “reexport” includes the movement of goods to a warehouse licensed under section 65A and to a duty free shop licensed under section 65D of the Act.

Conditions under which drawback may be paid

93. (1) When any goods, other than goods affected by section 95 and section 96, upon which customs duty has been paid are re-exported, nine-tenths of the duties calculated in accordance with subsection (2) may be repaid as drawback, if—

- (a) the goods are identified to the satisfaction of a senior officer of customs at the customs port or customs airport at which such goods are shipped or loaded for re-export, or at the place of re-export;
- (b) the drawback claimed in respect of any one consignment of re-exported goods is not less than fifty ringgit;
- (c) the goods are re-exported within twelve months of the date upon which the customs duty was paid;
- (d) payment of drawback upon goods of a class to which the goods to be re-exported belong has not been prohibited by regulations made under this Act;
- (e) written notice has been given to a senior officer of customs at or before the time of re-export that a claim for drawback will be made, and such claim is made in the prescribed form and established to the satisfaction of a senior officer of customs within three months of the date of re-export; and
- (f) the goods have not been used after importation.

(2) The amount of drawback allowed shall be calculated at the rate of the customs duty levied at the time of import, or at the rate of customs duty leviable on goods of a like

description at the time of re-export of the goods, whichever is the lower.

Declaration by claimant

94. Every person claiming drawback on any goods re-exported shall, personally or by his agent, make to a senior officer of customs a declaration in duplicate, substantially in the prescribed form, that such goods have actually been re-exported and have not been relanded or detained and are not intended to be relanded or detained at any customs port, customs airport or place in Malaysia or within any port of Malaysia, where goods of a like description are liable to customs duty.

Drawback on destroyed goods

95. The Director General may, at his discretion, allow drawback of customs duty on goods which suffer deterioration or damage and are destroyed in the presence of a senior officer of customs, if the conditions set out in section 93 in respect of re-exported goods are fulfilled in respect of such destroyed goods, and sections 93 and 94 shall, mutatis mutandis apply to such destroyed goods.

Refund to visitors and owners of samples

96. When any personal effects or other goods which have been imported by visitors to Malaysia for their personal use, or samples imported by commercial travellers, or trade samples or such other goods as may be prescribed, on which customs duty has been paid are re-exported within three months from the date of importation or within such further period as the Director General may, either generally or in any special case allow, the Director General may allow a drawback of such customs duty.

Relief from duty on goods temporarily imported

97. Where the Director General is satisfied that goods are imported only temporarily with a view to subsequent re-exportation, he may permit the goods to be delivered on importation without payment of duty subject to the payment of a deposit equivalent to not less than the amount of duty which would be payable if the goods were imported for home use or security being given to the satisfaction of the Director General for the payment of such duty, and such deposit shall be refunded or such security discharged if the goods are re-exported within three months of the date of

importation or within such further period as the Director General may allow.

Export and reimport of trade sample free of duty

98. The Director General may, in any case, at his discretion and subject to such restriction as he may deem fit to impose, allow any goods, which on the exportation thereof have been declared as trade samples, to be reimported free of duty.

Drawback on imported goods used in manufacture or in packing

99. (1) Where any imported goods are re-exported by the manufacturer as part or ingredient of any goods manufactured in Malaysia or as the packing, or part or ingredient of the packing, of such manufactured goods, then, if customs duty has been paid on such imported goods, the Director General may, on such re-export, allow to the manufacturer a full drawback of the duty so paid, if-

- (a) the finished goods exported have been manufactured on premises approved by the Director General;
- (b) such books and account are kept as the Director General may require for the purpose of ascertaining the quantity of the goods used in such manufacture or for or in the packing of such manufactured goods;
- (c) such goods are re-exported within twelve months of the date upon which the import duty was paid or such further period as the Director General may approve;
- (d) written notice has been given on the export declaration form that a claim for drawback will be made, and such claim is made in the prescribed form and established to the satisfaction of a senior officer of customs within six months of the date of such re-export or such further period as the Director General may approve; and
- (e) the finished goods shall be exported through such places or routes as the Director General may approve.

(1A) In determining the amount of drawback of customs duty paid, the Director General may allow drawback of such duty on waste or refuse resulting from such manufacture, whether re-exported or otherwise:

Provided that such drawback shall only be allowed where the quantity of such waste or refuse has been proven to the satisfaction of the Director General.

(2) In this section the expression “manufacturer” includes any person to whom the

manufactured goods have been sold or otherwise disposed of.

PART XI MISCELLANEOUS PROVISIONS

Documents to be produced on demand

100. On demand of the proper officer of customs the importer or exporter of any goods or his agent shall produce to such officer all invoices, bills of lading, certificates of origin or of analysis and any other documents, which such officer may require to test the accuracy of any declaration made by such importer or exporter to any officer of customs and such officers may retain any such invoice, bill of lading, certificate of origin or analysis or other documents.

Records of imported goods

100A. (1) Every person who has possession of documents and records pertaining to valuation of goods imported shall preserve for a period of six years following the importation of the goods all records that relate to the purchase of, cost of, value of, payment for and disposal of the goods.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and—

- (a) where the value of the goods can be ascertained, shall be liable to a fine of not less than two times and not more than ten times the value of the goods; or
- (b) where the value of the goods cannot be ascertained, shall be liable to a fine of not less than one hundred thousand ringgit and not more than five hundred thousand ringgit.

Persons legally bound to give information

101. Every person required by the proper officer of customs to give information or produce any documents on any subject into which it is such officer's duty to enquire under this Act and which it is in such person's power to give shall be legally bound to give such information or produce such documents.

Service of notices

102. (1) Every notice or document required by this Act to be served on any person may be

served-

(a) personally upon that person; or

(b) by sending such notice or document to that person by registered post.

(2) A notice or document sent by registered post to a person shall be deemed to have been served on that person at the time at which it would have been delivered to that person in the ordinary course of the post if such notice or document was addressed-

(a) in the case of a company, a firm, a society, an association or other body of persons-

(i) to its registered office;

(ii) to its last known address; or

(iii) to any person authorized by it to accept service of process; and

(b) in the case of an individual, to his usual or last known place of abode.

Baggage of passengers

103. (1) Notwithstanding anything in this Act contained, every passenger or other person arriving in or leaving Malaysia shall declare all dutiable or prohibited goods in his possession, either on his person or in any baggage or in any vehicle, to the proper officer of customs, and if he fails so to do such goods shall be deemed to be uncustomed goods.

(2) The baggage of passengers may be examined and delivered in such manner as the Director General may direct, and it shall be the duty of the person in charge of such baggage to produce, open, unpack and repack such baggage.

The proper officer of customs may take samples

104. (1) The proper officer of customs may at any time, if his duty so requires, take samples of any goods to ascertain whether they are goods of a description liable to any customs duty, or to ascertain the customs duty payable on such goods or for such other purposes as the proper officer of customs may deem necessary, and such samples may be disposed of in such manner as the Director General shall direct.

(2) No payment shall be made for the cost of any sample taken but the proper officer of customs shall, on demand, give a receipt for any such sample.

Packing of dutiable goods

105. No dutiable goods shall be packed in any manner calculated to deceive an officer of customs so that a proper account of such goods may not be taken.

Addition or deduction of new or altered duties in the case of contract

106. (1) Where any new customs duty is imposed or where any customs duty is increased, and any goods in respect of which the duty is payable are delivered after the day on which the new or increased duty takes effect, in pursuance of a contract made before that day, the seller of the goods may, in the absence of agreement to the contrary, recover from the purchaser of the goods as an addition to the contract price, a sum equal to any amount paid by him in respect of the goods on account of the new duty or increase of duty, as the case may be.

(2) Where any customs duty is cancelled or decreased and any goods affected by the duty are delivered after the day on which the duty is cancelled or the decrease in the duty takes effect, in pursuance of a contract made before that day, the purchaser of the goods, in the absence of agreement to the contrary, may if the seller of the goods has had in respect of those goods the benefit of the cancellation or decrease of the duty, deduct from the contract price a sum equal to the amount of the duty or decrease of duty, as the case may be.

PART XII**INSPECTION, INVESTIGATION, SEARCH, SEIZURE AND ARREST****Access to place or premises**

106A. (1) Any senior officer of customs shall for the purposes of this Act at all times have access to any place or premises where an importer carries on his business or where any person who has dealings with such importer carries on his business.

(2) Where any senior officer of customs enters upon any premises in accordance with the provisions of this section, then—

- (a) he may require the importer or the person who has dealings with such importer, as the case may be, to produce any book, data, document or other record, or thing which such importer or person is required to keep under the provisions of this Act, or which relate to any imported goods;
- (b) he may examine any book, data, document or other record, or thing and make copies of or take extracts from any such book or document;

- (c) he may seize and detain any book, data, document or other record, or thing if in his opinion it may afford evidence of the commission of any offence under this Act;
 - (d) he may require the importer or the person who has dealings with such importer or any person employed by such importer or person to answer questions relating to—
 - (i) any book, data, document or other record, or thing;
 - (ii) any entry in any book, data, document or other record; or
 - (iii) any imported goods;
 - (e) he may require any container, envelope or other receptacle in any such premises to be opened;
 - (f) he may at the risk and expense of the importer or the person who has dealings with such importer open and examine any package, or any goods or materials, in any such premises.
- (3) Where the senior officer of customs acting under the provisions of this section is unable to obtain free access to any premises where an importer carries on his business or where a person who has dealings with such importer carries on his business or to any receptacle contained in those premises, he may, at any time, enter such premises and open such receptacle in such manner, if necessary by force, as he may think necessary.
- (4) Where, on the entry upon any premises under the provisions of this section, any dutiable goods are found in relation to which any offence under the provisions of this Act has been committed, then such dutiable goods shall be liable to forfeiture.

Power of investigation

106B. A proper officer of customs shall have all the powers necessary to carry out an inspection and to investigate the commission of any offence under this Act.

Magistrate may issue search warrant

107. (1) Whenever it appears to any Magistrate, upon written information upon oath, and after any enquiry which he may think necessary, that there is reasonable cause to believe that in any dwelling-house, shop, or other building or place, there are concealed or deposited any prohibited or uncustomed goods or goods liable to forfeiture under this Act or under any regulation made thereunder, or as to which any offence under this Act or such regulation has been committed, or any books or documents relating to any such goods such Magistrate may issue a warrant authorizing any officer of customs named

therein, by day or night and with or without assistance—

- (a) to enter such dwelling-house, shop, or other building or place and there to search for and seize any goods reasonably suspected of being prohibited or uncustomed goods, or goods liable to forfeiture under this Act or any regulation made thereunder, or as to which any offence under this Act or such regulation is suspected to have been committed, and any books or documents which may reasonably be believed to contain information as to any offence under this Act or any regulation made thereunder;
 - (b) to arrest any person or persons being in such dwellinghouse, shop, building or place, in whose possession such goods as aforesaid may be found, or whom such officer may reasonably suspect to have concealed or deposited such goods.
- (2) Such officer may if it is necessary so to do—
- (a) break open any outer or inner door of such dwellinghouse, shop, or other building or place, and enter thereinto;
 - (b) forcibly enter such place and every part thereof;
 - (c) remove by force any obstruction to such entry, search, seizure and removal as he is empowered to effect;
 - (d) detain every person found in such place until such place has been searched.

When search may be made without warrant

108. Whenever it appears to any senior officer of customs that there is reasonable cause to believe that in any dwelling-house, shop, or other building or place there are concealed or deposited any prohibited or uncustomed goods or goods liable to forfeiture under this Act or any regulation made thereunder or as to which an offence under this Act or such regulation has been committed, and if he has reasonable grounds for believing that by reason of the delay in obtaining a search warrant such goods are likely to be removed, such officer may exercise in, upon and in respect of such dwelling-house, shop, or other building or place all the powers mentioned in section 107 in as full and ample a manner as if he were authorized so to do by a warrant issued under that section.

Power to search vessels and aircraft

109. (1) A proper officer of customs may—

- (a) go on board any vessel or aircraft in any customs port or customs airport or place or

within territorial waters;

- (b) require the master of such vessel or the pilot of such aircraft to give such information relating to the vessel or aircraft, cargo, stores, crew, passengers or voyage as he may deem necessary;
- (c) rummage and search all parts of such vessel or aircraft for prohibited or uncustomed goods;
- (d) examine all goods on board and all goods then being loaded or unloaded;
- (e) demand all documents which ought to be on board such vessel or aircraft; and
- (f) require all or any such documents to be brought to him for inspection;

and the master of any vessel and the pilot of any aircraft refusing to allow such officer to board or search such vessel or aircraft, or refusing to give such information or to produce such documents on demand shall be guilty of an offence against this Act.

(2) If any place, box or chest on board such vessel or aircraft is locked and the key withheld, such officer may break open any such place, box or chest.

(3) If any goods be found concealed on board any vessel or aircraft, they shall be deemed to be uncustomed goods.

Proper officer of customs to exercise powers of search

110. (1) A proper officer of customs may enter into and exercise in and upon and in respect of any vessel, aircraft, landing place, wharf, jetty, port installation or railway or any place at which the goods produced to an officer of customs under section 80 are deposited all the powers mentioned in section 107 in as full and ample a manner as if he were authorized so to do by a warrant under that section.

(2) In this section the expression "railway" shall have the meaning assigned to it by any written law relating to railways.

Officers of customs may stop and search conveyances

111. (1) The person in charge or in control of any vehicle arriving at a prescribed place of import and export shall, on arrival at such place, produce his vehicle to the proper officer of customs, and shall, if so required, move his vehicle to another place for examination, and shall not proceed until permission to do so has been given by the proper officer of customs.

(2) Any officer of customs may stop and examine any vehicle for the purpose of ascertaining whether any uncustomed or prohibited goods are contained therein, and the person in control or in charge of such vehicle shall if required so to do by such officer, stop such vehicle and allow such officer to examine the same.

(3) The person in control or in charge of any vehicle examined under this section shall on request by the proper officer of customs open all parts of the vehicle for examination by such officers and take all measures necessary to enable such examination as such officer considers necessary to be made.

Power to set up roadblocks

111A. (1) Notwithstanding anything contained in any other law, any proper officer of customs may, if he deems it necessary to do so for the enforcement of the provisions of this Act, erect or place or cause to be erected or placed any barrier on or across any public road or street or in any public place in such manner as he may think fit; and any proper officer may take all reasonable measures to prevent any person from passing or any vehicle from being driven past any such barrier, including any measure to pursue and apprehend any such person or stop any such vehicle where, having regard to the attendant circumstances at a given moment of time, it is apparent that if such measure is not taken the escape of such person and vehicle to avoid detection or otherwise is likely to be imminent.

(2) Any person who fails to comply with any reasonable signal of a proper officer requiring such person or vehicle to stop before reaching any such barrier, or attempt to cross or knock any such barrier, shall be guilty of an offence and shall be liable to a fine not exceeding one thousand ringgit or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment; and any proper officer may, without warrant, arrest such person unless he gives his name and address and otherwise satisfies the proper officer that he will duly answer any summons or other proceedings that may be taken against him.

(3) No proper officer shall be liable for any loss, injury or damage caused to any person or property consequent upon his taking the steps mentioned in subsection (1).

Access to recorded information or computerized data

111B. (1) Any officer of customs exercising his powers under sections 106A, 107, 108, 109 and 111 shall be given access to any recorded information or computerized data, whether stored in a computer or otherwise.

(2) In addition, an officer of customs exercising his powers under sections 106A, 107, 108, 109 and 111—

(a) may inspect and check the operation of any computer and any associated apparatus or material which he has reasonable cause to suspect is or has been used in connection with that information or data; and

(b) may require—

(i) the person by whom or on whose behalf the officer of customs has reasonable cause to suspect the computer is or has been so used; or

(ii) the person having charge of, or is otherwise concerned with, the operation of the computer, apparatus or material, to provide him with such reasonable assistance as he may require for the purposes of this section.

(3) For the purposes of subsection (1), “access” includes being provided with the necessary password, encryption code, decryption code, software or hardware and any other means required to enable comprehension of recorded information or computerized data.

Power to open packages and examine goods

112. Any proper officer of customs may examine any goods in the course of being imported or exported or intended to be imported or exported and may for the purposes of such examination bring the same to a customs office and may open any package or receptacle.

Search of persons arriving in Malaysia

113. Any person landing, or being about to land, or having recently landed, from any vessel or aircraft, or leaving any vessel or aircraft in territorial waters, whether for the purpose of landing or otherwise, or entering or having recently entered Malaysia by road or railway shall, on demand by any proper officer of customs either permit his person, goods and baggage to be searched by such officer, or together with such goods and baggage accompany such officer to a customs office or police station and there permit his

person, goods and baggage to be searched by an officer of customs:

Provided that—

- (a) any person who requests that his person be searched in the presence of a senior officer of customs shall not be searched except in the presence of and under the supervision of such officer, but such person may be detained until the arrival of such officer, or taken to any customs office or police station where such officer may be found;
- (b) the goods and baggage of any person who requests to be present when they are searched and so presents himself within a reasonable time shall not be searched except in his presence;
- (c) no female shall be searched except by another female with strict regard to decency.

Seizure of goods the subject of an offence

114. (1) All goods in respect of which there has been, or there is, reasonable cause to suspect that there has been committed any offence against this Act or any regulation made thereunder, or any breach of any of the provisions of this Act or of any regulation made thereunder or of any restriction or condition subject to or upon which any licence or permit has been granted, together with any receptacle, package, conveyance, vessel not exceeding two hundred tons nett registered tonnage, or aircraft other than an aircraft engaged in international carriage, in which the same may have been found or which has been used in connection with such offence or breach, and any books or documents which may reasonably be believed to have a bearing on the case, may be seized by any officer of customs in any place either on land or in territorial waters.

(2) All such goods and such receptacles, packages, conveyances, vessels or aircraft shall, as soon as conveniently may be, be delivered into the care of a proper officer of customs whose duty it is to receive the same.

(3) Whenever any goods, conveyances, vessels or aircraft are seized under this Act, the seizing officer shall forthwith give notice in writing of such seizure and the grounds thereof to the owner of such goods, if known, either by delivering such notice to him personally or by post at his place of abode, if known: Provided that such notice shall not be required to be given where such seizure is made on the person, or in the presence of the offender or the owner or his agent, or in the case of a vessel or an aircraft, in the presence of the master or pilot, as the case may be.

(4) This section relating to the seizure of goods shall apply to all the contents of any package or receptacle in which the same are found and to any article used to conceal the same.

(5) This section relating to the seizure of any vessel or aircraft shall apply also to the tackle, equipment and furnishing of such vessel or aircraft.

(6) This section relating to the seizure of conveyances shall apply to all equipment thereof and to any animal by which the same is drawn.

Return or disposal of movable property

115. (1) Where any movable property has been seized under this Act, a senior officer of customs may, at his discretion—

- (a) temporarily return the movable property to the owner thereof or to the person from whose possession, custody or control it was seized, or to such person as a senior officer of customs may consider entitled thereto, subject to such terms and conditions as a senior officer of customs may impose, and, subject, in any case, to sufficient security being furnished to the satisfaction of a senior officer of customs that the movable property shall be surrendered to a senior officer of customs on demand being made by a senior officer of customs and that the said terms and conditions, if any, shall be complied with; or
- (b) return the movable property to the owner thereof or to the person from whose possession, custody or control it was seized, or to such person as a senior officer of customs may consider entitled thereto, with liberty for the person to whom the movable property is so returned to dispose of the same, such return being subject to security being furnished to the satisfaction of a senior officer of customs in an amount not less than an amount which, in the opinion of a senior officer of customs, represents—
 - (i) for property other than dutiable or uncustomed goods, its open market value, and for dutiable or uncustomed goods, their value, on the date on which the property or goods are so returned;
 - (ii) the customs duty payable in respect thereof; and
 - (iii) any tax payable in respect thereof under any written law, for the payment of the amount so secured to the Director General in the event of the court making an order for the forfeiture of such amount under subsection 127(1A) or 128(4), or in the event

of such amount being forfeited under section 131, as the case may be; or

(c) sell or destroy the movable property, as appropriate in the circumstances, where it is a living creature or where, in the opinion of a senior officer of customs, it is of a perishable or dangerous nature or likely to speedily deteriorate in quality or value, and where it is so sold, he shall hold the proceeds of sale to abide the result of any prosecution or claim, or a forfeiture under section 131, as the case may be.

(2) Any person who—

(a) fails to surrender on demand to a senior officer of customs the movable property temporarily returned to him under paragraph (1)(a) or

(b) fails to comply with or contravenes any of the terms or conditions imposed under paragraph (1)(a), shall be guilty of an offence and shall, on conviction, be liable to imprisonment for a term not exceeding three years or to a fine not exceeding ten thousand ringgit or to both.

(3) The criminal liability of any person under subsection (2) shall be in addition to any other liability that the said person or any other person may incur under the terms and conditions relating to the return of the movable property under paragraph (1)(a).

(4) The provisions of subsection (2) shall not apply to such person, if any, who is the guarantor or surety of the person to whom the property is returned under paragraph (1)(a).

(5) The Minister may, from time to time, either generally or in any particular case or class of cases, give such directions to the Director General as he may deem necessary or expedient with regard to the exercise of the powers conferred on a senior officer of customs under subsection (1).

(6) No person shall be entitled to maintain any action on account of any act done or any decision taken by or on behalf of the Minister or by or on behalf of a senior officer of customs under this section, and no court shall have any jurisdiction to entertain any such action.

(7) For the purpose of this section “movable property” includes any description of movable property whatsoever seized under this

Production of a certificate of an analyst, or a senior officer of customs, or a person authorized by the Minister

115A. (1) In any proceedings in respect of any offence against this Act or any regulation

made thereunder in which the existence, description, classification, composition, quantity, quality or value of, or any other matter in relation to, any movable property returned under paragraph 115(1)(a) or (b) or sold or destroyed under paragraph 115(1)(c), is in question, any document produced by the prosecution purporting to be a certificate in respect of any such matter given and signed by—

- (a) an “analyst” within the meaning of subsection 121(5); or
- (b) a senior officer of customs; or
- (c) any person, regardless whether or not he is a public officer, authorized by or on behalf of the Minister, either generally or in any particular case, for the purposes of this section, shall be admissible in evidence and its conclusiveness shall not be challenged on the ground that the movable property in respect of which the certificate is given has not been produced before the court either in part or in entirety, and it shall be evidence of its contents, including the facts stated therein, without proof of the signature to such certificate.

(2) The provisions of this section shall apply notwithstanding anything contained in any other written law or rule of evidence to the contrary.

Powers of arrest

116. (1) Any officer of customs may arrest without warrant—

- (a) any person found committing or attempting to commit, or employing or aiding any person to commit, or abetting the commission of, an offence against this Act or any regulation made thereunder;
- (b) any person whom he may reasonably suspect to have in his possession any uncustomed or prohibited goods or any goods liable to seizure under this Act;
- (c) any person against whom a reasonable suspicion exists that he has been guilty of an offence against this Act or any regulation made thereunder, and may search or cause to be searched, any person so arrested:

Provided that no female shall be searched except by another female with strict regard to decency.

(2) Every person so arrested shall be taken to a police station or may be detained in the custody of the proper officer of customs.

(3) The proper officer of customs may take or cause to be taken photographs and finger

and thumb impressions of any person charged with an offence under this Act or any regulation made thereunder.

(4) If any person liable to arrest under this Act is not arrested at the time of committing the offence for which he is so liable, or after arrest makes his escape, he may at any time afterwards be arrested and be dealt with as if he had been arrested at the time of committing such offence.

(5) Every person so arrested may be released from custody—

(a) on his depositing such reasonable sum of money as the proper officer of customs may require;

(b) on his executing a bond, with such surety or sureties, as the proper officer of customs may require; or

(c) on his depositing such reasonable sum of money as the proper officer of customs may require and his executing a bond, with such surety or sureties, as the proper officer of customs may require.

(6) Any person who has been released from custody under subsection (5) may be arrested without warrant by any officer of customs—

(a) if such officer has reasonable grounds for believing that any condition on or subject to which such person was released or otherwise admitted to bail has been or is likely to be breached; or

(b) on being notified in writing by the surety of such person that such person is likely to breach any condition on or subject to which such person was released and that the surety wishes to be relieved of his obligation as surety.

Power to examine persons

116A. (1) A senior officer of customs investigating an offence under this Act may—

(a) order any person who appears to be acquainted with the facts and circumstances of the case to attend before him for the purpose of being examined orally in relation to any matter which may, in his opinion, assist in the investigation into the offence; or

(b) order any person to produce before him any book, document or any certified copy of it, or any other article which may, in his opinion, assist in the investigation into the offence.

(2) Paragraph (1)(b) shall not apply to banker's books.

- (3) A person to whom an order under paragraph (1)(a) has been given shall—
- (a) attend in accordance with the terms of the order to be examined, and shall continue to attend from day to day where so directed until the examination is completed; and
 - (b) during such examination, be bound to answer all questions relating to the case put to him and shall be legally bound to state the truth, whether or not such answer is made wholly or partly in answer to questions but he may refuse to answer any question the answer to which would have a tendency to expose him to a criminal charge or penalty or forfeiture.
- (4) A person to whom an order has been given under paragraph (1)(b) shall not conceal, destroy, alter, remove from Malaysia, or deal with, expend, or dispose of, any book, document or article specified in the order, or alter or deface any entry in any such book or document, or cause such act to be done, or assist or conspire to do such act.
- (5) A person to whom an order is given under subsection (1) shall comply with such order and with the requirements of subsections (3) and (4) notwithstanding any written law to the contrary.
- (6) A statement made by any person in the course of investigation under this Act whether or not a caution has been administered to him under subsection 116B(3) shall be recorded in writing by the senior officer of customs examining him and the statement so recorded shall be read to and signed by the person, and where such person refuses to sign the record, the senior officer of customs shall endorse on it under his hand the fact of such refusal and the reason for it, if any, stated by the person examined.
- (7) The record of an examination made in the course of an investigation under this Act or any book, document or article produced under paragraph (1)(b) or otherwise in the course of an examination under paragraph (1)(a), shall, notwithstanding any written law to the contrary, be admissible in evidence in any proceedings under this Act in any court—
- (a) for offence under this Act; or
 - (b) for the forfeiture of property pursuant to section 127, 128 or 131, regardless whether such proceedings are against the person who was examined, or who produced the book, document or article, or against any other person.

Admissibility of statements in evidence

116B. (1) In any trial or inquiry by a court into an offence under this Act, any statement,

whether the statement amounts to a confession or not or whether it is oral or in writing, made at anytime, whether before or after the person is charged and whether in the course of an investigation under this Act or not, and whether or not wholly or partly in answers to questions, by an accused person to or in the hearing of any officer of customs, and whether or not interpreted to him by any other officer of customs or any other person, shall, notwithstanding any written law to the contrary, be admissible at his trial in evidence and, if that person tenders himself as a witness, any such statement may be used in cross-examination and for the purpose of impeaching his credit.

(2) No statement made under subsection (1) shall be admissible or used in cross-examination or for the purpose of impeaching the credit of the person making the statement if the making of the statement appears to the court to have been caused by any inducement, threat or promise having reference to the charge against the person, proceeding from a person in authority and sufficient in the opinion of the court to give that person grounds which would appear to him reasonable for supposing that by making it he would gain any advantage or avoid any evil of a temporal nature in reference to the proceedings against him.

(3) Where any person is arrested for an offence under this Act, he shall be cautioned in the following words or words to the like effect:

“It is my duty to warn you that you are not obliged to say anything or to answer any question, but anything you say, whether in answer to a question or not, may be given in evidence”.

(4) A statement made by any person accused of an offence under this Act made before there is time to caution him shall not be rendered inadmissible in evidence merely by reason of no such caution having been administered if it has been administered as soon as possible.

(5) Notwithstanding anything to the contrary contained in any written law, a person accused of an offence under this Act to which subsection (1) applies, shall not be bound to answer any question relating to the case after any caution referred to in subsection (3) has been administered to him.

Procedure where investigation cannot be completed within twenty-four hours

116C. (1) Whenever any person is arrested and detained in custody and it appears that the

investigation cannot be completed within a period of twenty-four hours and there are grounds for believing that the accusation or information is well founded, the senior officer of customs making the investigation under this Act shall immediately transmit to a Magistrate a copy of the entries in the diary prescribed under section 116D relating to the case and shall at the same time produce such person before the Magistrate.

(2) The Magistrate before whom a person is produced under this section may, whether he has or has no jurisdiction to try the case, from time to time, authorize the detention of such person in such custody as the Magistrate considers fit for a term not exceeding fifteen days in the whole.

(3) If the Magistrate has no jurisdiction to try the case and considers further detention unnecessary, he may order such person to be produced before a Magistrate having such jurisdiction or, if the case is triable only by the High Court, before himself or another Magistrate having jurisdiction with a view to transmitting the case for trial by the High Court.

(4) A magistrate authorizing detention under this section shall record his reasons for so doing.

Diary of proceedings in investigation

116D. (1) Every officer of customs making an investigation under this Act shall day by day enter his proceedings in the investigation in a diary setting forth—

- (a) the time at which the order, if any, for investigation reached him;
- (b) the time at which he began and closed the investigation;
- (c) the place or places visited by him; and
- (d) a statement of the circumstances ascertained through his investigation.

(2) Notwithstanding anything contained in the Evidence Act 1950, an accused person shall not be entitled, either before or in the course of any proceedings under this Act, to call for or inspect any such diary:

Provided that if the officer of customs who has made the investigation refers to the diary for the purposes of section 159 or 160 of the Evidence Act 1950, such entries only as the officer has referred to shall be shown to the accused, and the court shall at the request of the officer cause any other entries to be concealed from view or obliterated.

PART XIII
PROVISIONS AS TO TRIALS AND PROCEEDINGS

117. (Deleted by Act A1109).

Magistrate of the First Class to have full jurisdiction

118. Notwithstanding the provisions of any written law to the contrary, a court of a Magistrate of the First Class shall have jurisdiction to try any offence under this Act and to award the full punishment for any such offence.

Burden of proof

119. If in any prosecution in respect of any goods seized for nonpayment of duties or for any other cause of for-feiture or for the recovery of any penalty or penalties under this Act, any dispute arises whether the customs duties have been paid in respect of such goods, or whether the same have been lawfully imported or exported or lawfully landed or loaded, or concerning the place whence such goods were brought or where such goods were loaded, or whether anything is exempt from duty under section 14 then and in every such case the burden of proof there of shall lie on the defendant in such prosecution.

Proportional examination of goods seized to be accepted by courts

120. (1) When any goods suspected of being prohibited or uncustomed or otherwise liable to seizure have been seized, it shall be sufficient to open and examine five per centum only of each description of the package or receptacle in which such goods are contained.

(2) If it is necessary to test any goods seized under this Act, it shall be sufficient to test only a sample not exceeding five per centum in volume or weight of the goods examined under subsection (1).

(3) The court shall presume that the goods contained in the unopened packages or receptacles are of the same nature, quantity and quality as those found in the similar packages or receptacles which have been opened.

Evidence of analysis may be given in writing

121. (1) In any prosecution for a breach of a provision of this Act or of any regulation made thereunder, a certificate of analysis purporting to be under the hand of an analyst shall, on production thereof by the prosecutor, be sufficient evidence of the facts stated

therein unless the defendant requires that the analyst be called as a witness, in which case he shall give notice thereof to the prosecutor not less than three clear days before the day on which the summons is returnable.

(2) In like manner a certificate of analysis purporting to be under the hand of an analyst shall, on production thereof by the defendant, be sufficient evidence of the facts stated therein, unless the prosecutor requires that the analyst be called as a witness.

(3) A copy of the certificate referred to in subsections (1) and (2) shall be sent to the defendant or prosecutor not less than ten clear days before the day fixed for the hearing of the summons, and if it is not so sent the court may adjourn the hearing on such terms as it may think proper.

(4) Analysts are by this Act bound to state the truth in certificates of analysis under their hands.

(5) In this section, "analyst" means—

- (a) a person employed as Chemist in the Department of Chemistry, or as Chemist or Assistant Chemist at the Institute for Medical Research;
- (b) the Senior Chemist, Department of Agriculture;
- (c) a person employed as chemist or geologist in the Geological Survey Department; and
- (d) any other person or class of persons who is or are declared by the Minister charged with responsibility for chemistry, by notification in the Gazette, to be an analyst or analysts for the purposes of this section.

(6) If an analyst is called by the defendant as provided by subsection (1), he shall be called at the expense of the defendant unless the court otherwise directs.

(7) If in any trial or proceeding had under this Act it is necessary to determine the alcoholic content of any liquor, the certificate of a senior officer of customs as to such alcoholic content shall be accepted as if such officer were an analyst and in any such case subsections (1), (4) and (6) shall apply in the same manner and to the same extent as if such officer were an analyst.

Proof as to registration or licensing of vessels and conveyances in Malaysia or Singapore

122. Where in any prosecution under this Act it is relevant to ascertain particulars as to the registration or licensing of any vessel or conveyance registered or licensed in any port or place in Malaysia or Singapore, a certificate purporting to be signed by the officer

responsible under any written law for the time being in force in Malaysia or any part thereof or in Singapore for such registration or licensing shall be prima facie evidence as to all particulars concerning such registration or licensing contained therein, and the burden of proving the incorrectness of any particulars stated in such certificate shall be on the person denying the same.

Proof as to tonnage or build of a craft

122A. (1) Where in any prosecution under this Act or any regulation made thereunder, it is relevant to ascertain the tonnage or build or such other particulars descriptive of the identity of a craft, and if any of these particulars relating to the identity of the craft is in question, then any document produced by the prosecution purporting to be a certificate in respect of any such matter given and signed by any officer responsible for such under any written law for the time being in force in Malaysia shall be admissible in evidence, and it shall be evidence of its contents, including the facts stated therein, without proof of the signature to such certificate.

(2) The provisions of this section shall apply notwithstanding anything contained in any other written law or rule of evidence to the contrary.

Proof as to accuracy of a compass radar, etc.

122B. Where in any proceedings it is necessary to prove the accuracy of a compass, radar or any other navigational aid, a certificate purporting to be signed by a harbour master or any officer appointed by the Minister responsible in respect of such compass, radar or any other navigational aid, shall be accepted by the court as prima facie proof of the facts certified in such certificate.

Proof as to countervailing and anti dumping duties payable

122C. Where in any proceedings it is necessary to prove the amount of countervailing duty or anti dumping duty payable, the production of a certificate signed by the Director General stating the amount of duty payable shall be sufficient authority for the court to give judgement for that amount.

Proof as to accuracy of a meter or other device for measuring petroleum

122D. Where in any proceedings under this Act or any regulations made thereunder it is

necessary to prove the accuracy of a meter or any other device for measuring petroleum, a certificate purporting to be signed by any officer responsible under any written law for the time being in force in Malaysia for such measurement shall be admissible in evidence and shall be accepted by the court as prima facie evidence of the facts stated in such certificate.

Imprisonment for non-payment of fine

123. Notwithstanding the provisions of the Criminal Procedure Code [Act 593] the period of imprisonment imposed by any court in respect of the non-payment of any fine under this Act, or in respect of the default of a sufficient distress to satisfy any such fine, shall be such period of such description, as in the opinion of the court will satisfy the justice of the case, but shall not exceed in any case the maximum fixed by the following scale:

Where the fine does not exceed fifty ringgit	The period may extend to two months
exceeds fifty ringgit but does not exceed one hundred ringgit	four months
exceeds one hundred ringgit but does not exceed two hundred ringgit	six months

with two additional months for every hundred ringgit after the first two hundred ringgit of the fine until a maximum period of six years is reached.

Manner of seizure not to be enquired into on trial before court or on appeal to High Court

124. On any trial before any court and in any proceeding on appeal in the High Court, relating to the seizure of goods subject to forfeiture under this Act, the court shall proceed to such trial or hear such appeal on the merits of the case only, without enquiring into the manner or form of making any seizure, except in so far as the manner and form of seizure may be evidence on such merits.

Obligation of secrecy

124A. (1) Except as provided under section 125, the name and address of an informer and

the substance of the information received from an informer shall be kept secret and shall not be disclosed by any proper officer of customs or any person who in the ordinary course of his duties comes into possession of or has control of or access to such information to any person except the designated officer of customs authorized by the Director General.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding five years or to both.

Protection of informers from discovery

125. (1) Except as hereinafter provided, no witness in any civil or criminal proceeding shall be obliged or permitted to disclose the name or address of an informer or the substance of the information received from him or to state any matter which might lead to his discovery.

(2) If any books, documents or papers which are in evidence or liable to inspection in any civil or criminal proceeding whatsoever contain any entry in which any informer is named or described or which might lead to his discovery, the court shall cause all such passages to be concealed from view or to be obliterated so far only as may be necessary to protect the informer from discovery.

(3) If on the trial for any offence against this Act or any regulation made thereunder the court after full enquiry into the case believes that the informer wilfully made in his complaint a material statement which he knew or believed to be false or did not believe to be true, or if in any other proceeding the court is of opinion that justice cannot be fully done between the parties thereto without the discovery of the informer, it shall be lawful for the court to require the production of the original complaint, if in writing, and permit enquiry, and require full disclosure, concerning the informer.

Confidentiality of information

125A. (1) Any information relating to valuation is confidential and any proper officer of customs or any person who in the ordinary course of his duties come into possession of or has control of or access to such information shall not—

(a) communicate such information; or

(b) suffer or permit any person to have access to such information.

- (2) Any person who contravenes subsection (1) shall be guilty of an offence.
- (3) Notwithstanding subsection (1), it shall not be an offence—
 - (a) as regards information relating to the valuation of imported goods, if disclosure is made—
 - (i) on the order of a court; or
 - (ii) after written consent has been obtained from the person or government giving such information; and
 - (b) as regards information relating to the valuation of exported goods, if the Director General deems it expedient or necessary to allow disclosure of certain information to such person as he thinks fit.

Goods liable to seizure liable to forfeiture

126. All goods liable to seizure under this Act, shall be liable to forfeiture.

Court to order disposal of goods seized

127. (1) An order for the forfeiture or for the release of anything liable to forfeiture under this Act shall be made by the court before which the prosecution with regard thereto has been held, and an order for the forfeiture of goods shall be made if it is proved to Customs the satisfaction of the court that an offence against this Act or any regulation made thereunder has been committed and that the goods were the subject matter of or were used in the commission of the offence notwithstanding that no person may have been convicted of such offence.

(1A) The amount secured under paragraph 115(1)(a) or (b) or the amount realized by sale under paragraph 115(1)(c) shall be forfeited by the court if it is proved to the satisfaction of the court that an offence against this Act or any regulation made thereunder has been committed and that the movable property in respect of which the amount was secured or realized by sale, as the case may be, was the subject matter of or was used in the commission of the offence notwithstanding that no person may have been convicted of such offence.

(2) All things forfeited shall be delivered to a proper officer of customs and shall be disposed of in accordance with the directions of the Director General.

Goods seized in respect of which there is no prosecution, or the proceeds of sale thereof,

are forfeited if not claimed within one month

128. (1) If there be no prosecution with regard to any goods seized under this Act, such goods or the proceeds of sale of such goods which are held pursuant to paragraph 115(1)(c) shall be taken and deemed to be forfeited at the expiration of one calendar month from the date of seizure of the goods unless, before such expiration –

(a) a claim to such goods or the proceeds of sale of such goods is made under subsection (2);

(b) a written application is made for the return of such goods under paragraph 115(1)(a) or (b) or

(c) such goods are returned under the said paragraph (a) or (b).

(2) Any person asserting that he is the owner of such goods or the proceeds of sale of such goods, as the case may be, and that they are not liable to forfeiture may give written notice to a senior officer of customs that he claims the same.

(3) On the expiration of the period mentioned in subsection (1), or, if a decision is made earlier that there be no prosecution with regard to the goods, on the making of the decision the senior officer of customs shall, if such goods or the proceeds of sale of such goods are not taken and deemed to be forfeited under that subsection, refer the claim to the Director General who may direct that such goods or the proceeds of sale of such goods or the security furnished under paragraph 115(1)(a) or (b), as the case may be, be released, or may direct such senior officer of customs, by information in the prescribed form, to refer the matter to a Magistrate of the First Class for his decision.

(4) The Magistrate of the First Class shall issue a summons requiring the person asserting that he is the owner of the goods or the proceeds of sale of such goods, and the person from whom the goods were seized, to appear before him, and upon their appearance or default to appear, due service of such summons being proved, the Magistrate of the First Class shall proceed to the examination of the matter, and upon proof that an offence against this Act or any regulations made thereunder has been committed and that such goods were the subject matter, or were used in the commission, of such offence, shall order such goods or the proceeds of sale of such goods or the amount secured under paragraph

115(1)(a) or (b), as the case may be, to be forfeited, or in the absence of such proof, may

order the release of such goods or the proceeds of sale of such goods or the security furnished under paragraph 115(1)(a) or (b), as the case may be.

(5) In any proceedings under subsection (4), section 119 shall apply to the person asserting that he is the owner of the goods and to the person from whom they were seized as if such owner or person had been the defendant in a prosecution under this Act. Goods or amount forfeited may be delivered or refunded to the owner or other person

129. The Minister may, upon application made to him in writing through the Director General, order—

(a) any goods seized under this Act; or

(b) any amount secured under paragraph 115(1)(a) or (b) or the amount realized by sale under paragraph 115(1)(c) whether forfeited, or taken and deemed to be forfeited, pursuant to section 127 or 128, to be delivered or refunded, as the case may be, to the owner or other person entitled thereto or payment of such amount and upon such terms and conditions as he may deem fit: Provided that any such application shall be made before the expiration of one calendar month from the date on which such goods or amount are forfeited or are taken and deemed to be forfeited, as the case may be.

Conviction under other law

130. Nothing in this Act contained shall be deemed to prevent the prosecution, conviction and punishment of any person according to the provisions of any other written law; but so that no person shall be punished more than once for the same offence.

Compounding of offences

131. (1) Any senior officer of customs may compound any offence, which is prescribed to be a compoundable offence, by accepting from the person reasonably suspected of having committed such offence a sum of money not exceeding five thousand ringgit.

(2) In like manner the proper officer of customs, not being a senior officer of customs, may compound any offence which is prescribed to be compoundable by such officer, by accepting from the person reasonably suspected of having committed such offence a sum of money not exceeding one hundred ringgit.

(2A) In addition to the power to compound in subsection (1), the Director General may compound any offence under subsection 135(1) by accepting from the person reasonably

suspected of having committed such offence—

- (a) in the case of dutiable goods, a sum of money which shall be a sum not more than ten times the customs duty; and
- (b) in the case of prohibited goods, a sum of money which shall be a sum not more than ten times the value of the goods.

(2B) Notwithstanding subsection 3(3), for the purpose of subsection (2A) the power conferred on the Director General shall only be exercised by the Director General himself or by any other senior officer of customs not below the rank of Senior Assistant Director of Customs and Excise.

(3) On the payment of such sum of money—

- (a) the person reasonably suspected of having committed an offence, if in custody, shall be discharged and no further proceedings shall be taken against such person; and
- (b) any property seized shall be released and no further proceedings shall be taken against such property except that—
 - (i) if the property seized consists of dutiable goods, such goods or the amount secured under paragraph 115(1)(a) or (b) or the amount realized by sale under paragraph 115(1)(c), as the case may be, shall only be released after payment of the customs duties payable; and
 - (ii) if the property seized consists of prohibited goods, such goods or the amount secured under paragraph 115(1)(a) or (b) or the amount realized by sale under paragraph 115(1)(c), as the case may be, shall be forfeited:

Provided that where the prohibition is conditional upon a licence being issued, a senior officer of customs may release such goods if a licence is issued by any relevant authority within thirty days from the date such sum of money is paid.

No costs of damages arising from seizure to be recoverable unless seizure without reasonable or probable cause 132. No person shall in any proceedings before any court in respect of the seizure of any goods seized in exercise or the purported exercise of any power conferred under this Act, be entitled to the costs of such proceedings or to any damages or other relief other than an order for the return of such goods or the payment of their value unless such seizure was made without reasonable or probable cause.

PART XIV
OFFENCES AND PENALTIES

Penalty on making incorrect declarations and on falsifying documents

133. (1) Whoever—

- (a) makes, orally or in writing, or signs any declaration, certificate or other document required by this Act which is untrue or incorrect in any particular;
- (b) makes, orally or in writing, or signs any declaration or document, made for consideration of any officer of customs on any application presented to him, which is untrue or incorrect in any particular;
- (c) counterfeits or falsifies, or uses, when counterfeited or falsified, any document which is or may be required under this Act or any document used in the transaction of any business or matter relating to customs;
- (d) fraudulently alters any document, or counterfeits the seal, signature, initials or other mark of, or used by, any officer of customs for the verification of any such document or for the security of any goods or any other purpose in the conduct of business relating to customs;
- (e) being required by this Act to make a declaration of dutiable goods imported or exported, fails to make such declaration as required;
- (f) fails or refuses to produce to a proper officer of customs any document required to be produced under section 100; or
- (g) being so required under section 87A fails to make a declaration in the prescribed form, within the stipulated period thereunder, of goods exported, shall, on conviction, be liable to a fine not exceeding *five hundred thousand ringgit¹⁹⁾ or to imprisonment for a term not exceeding **five years²⁰⁾ or to both.

(2) When any such declaration whether oral or written, or any such certificate or other document as is referred to in paragraphs (1)(a), (b) and (c) has been proved to be untrue or incorrect or counterfeited or falsified in whole or in part, it shall be no defence to allege that such declaration, certificate or other document was made or used inadvertently or

19) *NOTE—Previously “five thousand ringgit”—see Customs (Amendment) Act 2001 [Act A1109].

20) *NOTE—Previously “one thousand ringgit”—see Customs (Amendment) Act 2001 [Act A1109].

without criminal or fraudulent intent, or that the person signing the same, was not aware of, or did not understand the contents of, such document, or where any declaration was made or recorded in National Language or in English by interpretation from any other language, that such declaration was misinterpreted or not fully interpreted by any interpreter provided by the declarant.

(3) For the purposes of this section, “falsified” in relation to a document shall be deemed to include a document which is untrue or incorrect in any material particular, and “falsifies” has a similar meaning.

Penalty on refusing to answer questions or on giving false information

134. (1) Whoever, being required by this Act to give any information which may reasonably be required by a proper officer of customs and which it is in his power to give, refuses to give such information or furnishes as true information which he knows or has reason to believe to be false, shall, on conviction, be liable to imprisonment for a term not exceeding six months or to a fine not exceeding one thousand ringgit or to both.

(2) When any such information is proved to be untrue or incorrect in whole or in part it shall be no defence to allege that such information or any part thereof was furnished inadvertently or without criminal or fraudulent intent, or was misinterpreted or not fully interpreted by an interpreter provided by the informant.

Penalty for various smuggling offences

135. (1) Whoever—

- (a) is concerned in importing or exporting any uncustomed goods or any prohibited goods contrary to such prohibition whether such uncustomed or prohibited goods be shipped, unshipped, delivered or not;
- (b) ships, unships, delivers or assists or is concerned in the shipping, unshipping or delivery of any uncustomed goods or any prohibited goods contrary to such prohibition; Customs
- (c) illegally removes or withdraws or in any way assists or is concerned in the illegal removal or withdrawal of any goods from any customs control;
- (d) knowingly harbours, keeps, conceals, or is in possession of, or permits, suffers, causes or procures to be harboured, kept or concealed, any uncustomed or prohibited goods;

- (e) is in any way knowingly concerned in conveying, removing, depositing or dealing with any dutiable, uncustomed or prohibited goods with intent to defraud the Government of any duties thereon, or to evade any of the provisions of this Act or to evade any prohibition applicable to such goods;
- (f) being a passenger or other person, is found to have in his baggage or upon his person or otherwise in his possession, after having denied that he has any dutiable or prohibited goods in his baggage or upon his person or otherwise in his possession, any dutiable or prohibited goods; or
- (g) is in any way knowingly concerned in any fraudulent evasion or attempt at fraudulent evasion of any customs duty, or in evasion or attempt at evasion of any prohibition of import or export;
shall be guilty of an offence and shall, on conviction—
 - (i) in the case of goods included in a class of goods appearing in an order made under subsection 11(1)—
 - (aa) be liable for the first offence to a fine of not less than ten times the amount of the customs duty or fifty thousand ringgit, whichever is the lesser amount, and of not more than twenty times the amount of the customs duty or one hundred thousand ringgit, whichever is the greater amount, or to imprisonment for a term not exceeding three years or to both; and
 - (bb) be liable for a second or any subsequent offence to a fine of not less than ten times the amount of the customs duty or one hundred thousand ringgit, whichever is the lesser amount, and of not more than forty times the amount of the customs duty or five hundred thousand ringgit, whichever is the greater amount, or to imprisonment for a term not exceeding five years or to both:
Provided that where the amount of the customs duty cannot be ascertained, the penalty may amount to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both;
 - (ii) in the case of uncustomed goods, such goods not being dutiable or prohibited, be liable to a fine not exceeding twice the value of the goods or ten thousand ringgit whichever is the greater amount: Provided that where the value cannot be ascertained the penalty may amount to a fine not exceeding ten thousand ringgit; and

(iii) in the case of prohibited goods–

(aa) be liable for the first offence to a fine of not less than ten times the value of the goods or fifty thousand ringgit, whichever is the lesser amount, and of not more than twenty times the value of the goods or one hundred thousand ringgit, whichever is the greater amount, or to imprisonment for a term not exceeding three years or to both; and

(bb) be liable for a second or any subsequent offence to a fine of not less than ten times the value of the goods or one hundred thousand ringgit, whichever is the lesser amount, and of not more than forty times the value of the goods or five hundred thousand ringgit, whichever is the greater amount, or to imprisonment for a term not exceeding five years or to both,

Provided that where the value of the goods cannot be ascertained, the penalty may amount to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both.

(2) In any prosecution under this section or section 139 any dutiable, uncustomed or prohibited goods shall be deemed to be dutiable, uncustomed or prohibited goods, as the case may be, to the knowledge of the defendant unless the contrary be proved by such defendant.

Penalty for assaulting or obstructing officers of customs and rescuing goods

136. Every person who–

(a) assaults or obstructs any officer of customs or other public servant or any person acting in his aid or assistance or duly employed for the prevention of smuggling, in the execution of his duty or in the due seizing of any goods liable to seizure under this Act;

(b) rescues or endeavours to rescue, or causes to be rescued, any goods which have been duly seized; or

(c) before or after any seizure staves, breaks or otherwise destroys any package or goods to prevent the seizure thereof or the securing of the same, shall for any such offence be liable–

(i) on the first conviction, to imprisonment for a term not exceeding *three years²¹⁾ or to a

21) *NOTE-Previously “twelve months” or “five thousand ringgit”-see Customs (Amendment) Act 2001 [Act A1109].

fine not exceeding ten thousand ringgit or to both; and

(ii) on the second or subsequent conviction to imprisonment for a term not exceeding **five years²²⁾ or to a fine not exceeding twenty thousand ringgit or to both.

Penalty for offering or receiving bribes

137. (1) If any officer of customs or other person duly employed for the prevention of smuggling—

(a) makes any collusive seizure or delivers up or makes any agreement to deliver up or not to seize any vessel or aircraft or other means of conveyance, or any goods liable to seizure;

(b) accepts, agrees to accept, or attempts to obtain, any bribe, gratuity, recompense or reward for the neglect or nonperformance of his duty; or

(c) conspires or connives with any person to import or export or is in any way concerned in the importation or exportation of any goods liable to customs duties or any goods prohibited to be imported or exported for the purpose of seizing any vessel, aircraft or conveyance or any goods and obtaining any reward for such seizure or otherwise, every such officer so offending shall be guilty of an offence against this Act and shall, on conviction, be liable to imprisonment for a term not exceeding *five years or to a fine not exceeding *ten thousand ringgit²³⁾ or to both such imprisonment and fine, and shall be interdicted from holding office in the public service of the Federal Government or the Government of any State, and every person who gives or offers or promises to give or procures to be given any bribes, gratuity, recompense or reward to, or makes any collusive agreement with, any such officer or person as aforesaid to induce him in any way to neglect his duty or to do, conceal or connive at any act whereby any of the provisions of any other law relating to imports or to exports may be evaded, shall be guilty as an abettor and so punishable under this Act.

(2) Any officer of customs who is found when on duty to have in his possession any monies in contravention of any departmental regulations issued in writing shall be presumed, until the contrary is proved, to have received the same in contravention of

22) **NOTE-Previously “eighteen months, and to a fine not exceeding five thousand ringgit”-see Customs (Amendment) Act 2001 [Act A1109].

23) *NOTE-Previously “three years” or “five thousand ringgit”-see Finance Act 1983 [Act 293].

paragraph (1)(b).

(3) If an officer of customs has reasonable suspicion that another officer of customs junior in rank to him has in his possession any money received in contravention of paragraph(1)(b) he may search such other officer.

Penalty for offences not otherwise provided for

138. Every omission or neglect to comply with, and every act done or attempted to be done contrary to, the provisions of this Act, or any breach of the conditions and restrictions subject to, or upon which, any licence or permit is issued or any exemption is granted under this Act, shall be an offence against this Act and in respect of any such offence for which no penalty is expressly provided the offender shall be liable to a fine of not exceeding ****twenty thousand ringgit²⁴⁾** or to imprisonment for a term not exceeding five years or to both.

Attempts and abetments

139. Whoever attempts to commit any offence punishable under this Act, or abets the commission of such offence, shall be punishable with the punishment provided for such offence.

Offences by bodies of persons and by servants and agents

140. (1) Where an offence against this Act or any regulation made thereunder has been committed by a company, a firm, a society, an association or other body of persons, any person who at the time of the commission of the offence was a director, manager, secretary or other similar officer or a partner of the company, firm, society, association or other body of persons or was purporting to act in such capacity shall be deemed to be guilty of that offence unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised, having regard to the nature of his functions in that capacity and to all the circumstances.

(2) Where any person would be liable under this Act to any punishment, penalty or forfeiture for any act, omission, neglect or default he shall be liable to the same punishment, penalty or forfeiture for every such act, omission, neglect or default of any

24) ****NOTE-Previously “ten thousand ringgit”-see Customs (Amendment) Act 2001 [Act A1109].**

clerk, servant or agent, or of the clerk or servant of such agent provided that such act, omission, neglect or default was committed by such clerk, or servant in the course of his employment or by such agent when acting on behalf of such person or by the clerk or servant of such agent when acting in the course of his employment in such circumstances that had such act, omission, neglect or default been committed by the agent his principal would have been liable under this section.

Rewards

141. The Director General may order such rewards as he may deem fit to be paid to any officer or other person for services rendered in connection with the detection of cases of smuggling or of offences under this Act, or in connection with any seizures made under this Act.

PART XV
REGULATIONS

Power to make regulations

142. The Minister may make regulations—

- (1) to regulate the powers and duties to be exercised and performed by officers of customs;
- (2) to regulate the conduct of all matters relating to the collection of customs duties including the time of payment hereof and the imposition of a surcharge for late payment;
- (3) to prescribe the time and the manner for payment of customs duties in Sarawak;
- (4) to prescribe customs ports and legal landing places within those customs ports for the landing and shipping of goods imported, exported or transported by sea, and to define the limits of such ports and landing places and to prescribe the goods that may be landed or shipped thereat;
- (5) to prescribe places of import and export by road and rail and the routes to be used for the import and export of goods by road;
- (6) to prescribe customs airports for the import or export of goods by air;
- (7) to prescribe inland customs stations at which customs duties may be collected;

- (7A) to prescribe, for any purpose under this Act, places other than those mentioned in paragraphs (4), (5), (6) and (7);
- (8) to prescribe the days and times during which any customs office, customs station or customs or licensed warehouse may be open for business and the times during which any goods may be landed, shipped or loaded at any customs port or customs airport or imported or exported by road at any place of import and export;
- (9) to prescribe the rates of overtime fees to be paid by the masters or agents of vessels or by pilots of aircraft or agents of aircraft or by the persons in charge of vehicles or by the importers or exporters of goods or their agents in respect of the services of officers of customs rendered on request beyond the ordinary hours prescribed and the conditions under which such overtime may be permitted;
- (10) to provide for the control by officers of customs of traffic carried on in coasting vessels in the territorial waters;
- (11) to prescribe the flag to be flown by vessels employed for the prevention of smuggling;
- (12) to prescribe the forms to be used under this Act;
- (13) to regulate the deposit, custody and withdrawal of goods in and from customs and licensed warehouses and the management and control of the same;
- (14) to regulate the issue of licences;
- (15) to prescribe the fees, if any, to be paid for permits and licences, other than warehouse licences;
- (16) to prescribe the stock books to be kept by licensees and the method of keeping the same;
- (17) to prescribe the method of importing, exporting, transporting or removing any goods under a licence or permit;
- (18) to prescribe the manner in which the packages of goods imported or exported shall be marked and numbered and the manner in which the invoices shall be prepared;
- (19) to regulate the manner in which goods may be transhipped or goods in transit may be moved;
- (20) to prescribe customs areas and to regulate or prohibit, either absolutely or conditionally, the movement of goods or persons within such areas for the purposes of this Act;

- (21) to prescribe the manner in which intoxicating liquor shall be denatured in customs or licensed warehouse;
- (22) to regulate the blending, compounding, varying and bottling of intoxicating liquor in customs or licensed warehouse;
- (23) to prohibit the payment of drawback upon the re-exportation of any specified goods or class of goods;
- (24) to specify the goods dutiable on import in respect of which drawback may be allowed on re-export as part or ingredient of any goods manufactured in Malaysia and to fix the rate of drawback thereon;
- (25) to prescribe the conditions under which any goods may be moved in transit through Malaysia;
- (26) to prescribe the offences which may be compounded and the manner in which, and the officer of customs by whom, they may be compounded;
- (27) to define for the purposes of this Act any goods;
- (28) to prescribe penalties for any contravention or failure to comply with any of the provisions of any regulation made under this section or with the restrictions of conditions of any licence or permission granted under any such regulations:
Provided that no such penalty exceed the penalty prescribed under section 138;
- (29) to prescribe permits and other documents to be carried by local craft or barges transporting cargo from or to vessels in a customs port;
- (30) to prescribe the manner in which dutiable or prohibited goods shall or shall not be packed, and to regulate or prohibit the inclusion of dutiable or prohibited goods in the same package or receptacle with non-dutiable goods;
- (31) to prescribe standard containers in which dutiable goods shall be exported;
- (32) to regulate the erection, inspection, supervision, management and control of premises licensed under section 65A and the fittings, implements, machinery and apparatus maintained therein;
- (33) to regulate the hours during which manufacture may or may not take place and during which goods may be removed from premises licensed under this Act;
- (34) to prescribe what accommodation any person licensed under section 65A shall provide free of cost for such proper officers as the Director General may deem to be necessary

- for the control of the licensed premises;
- (35) to regulate the conduct of all matters relating to duty freeshops;
- (35A) to regulate the movement of goods into and from the Joint Development Area;
- (35B) to determine the customs value of imported goods;
- (36) generally to give effect to the provisions of this Act.

PART XVI

GENERAL

Appeal from decision of Director General

143. Where it is provided in this Act that the decision on any matter rests with the Director General then unless it is specifically provided that such decision is at the absolute discretion of the Director General, any person aggrieved by such decision may appeal therefrom to the Minister whose decision shall be final.

Appeal on valuation of imported goods

143A. (1) Notwithstanding section 143, any person aggrieved by a decision of the Director General on the valuation of imported goods may appeal therefrom to the court.

(2) On an appeal under subsection (1), the court may—

- (i) dismiss the appeal;
- (ii) substitute for the amount decided upon by the Director General another amount; or
- (iii) make such other decision as the court deems fit.

Power of Director General to charge fees

144. The Director General may charge such fee as he may consider reasonable in respect of any act or service done or rendered by the Customs Department which is not required to be done or rendered under this Act and for which no fee is prescribed by any written law.

Forms to be used

145. Where any forms have been prescribed under the provisions of paragraph 142(12), no person shall, for the purposes of this Act use any form which is not printed or issued by authority of the Director General:

Provided that the Director General may, at his discretion and subject to such conditions as he may deem fit to impose, permit any person to use forms which are not so printed or issued as aforesaid, or permit the use of any form submitted through an electronic data interchange.

PART XVII

SPECIAL PROVISIONS DEALING WITH PENANG

146-153. (Deleted by Act 329).

PART XVIII

SPECIAL PROVISIONS DEALING WITH LABUAN

Interpretation

154. In this Part, unless the context otherwise requires—“Labuan” means the Island of Labuan and its dependent islands, viz. Rusukan Besar, Rusukan Kecil, Keraman, Burong, Papan and Daat;

“principal customs area” means Malaysia exclusive of Labuan, Langkawi and Tioman.

Customs duties on goods imported into or exported from Labuan or transported to or from Labuan from or to the principal customs area

155. (1) Notwithstanding anything to the contrary contained in this Act—

- (a) no import duty shall be payable upon any goods imported into Labuan, other than goods which the Minister may from time to time declare by order published in the Gazette
- (b) no export duty shall be payable upon any goods exported from Labuan;
- (c) import duty shall be payable upon all dutiable goods transported to the principal customs area from Labuan to all intents as if such transportation to the principal customs area were importation into Malaysia;
- (d) export duty shall be payable upon all dutiable goods transported from the principal customs area to Labuan to all intents as if such transportation from the principal

customs area were export from Malaysia;

(e) the Minister may, by order, prescribe the meaning of the word “value” in relation to goods transported from Labuan to the principal customs area.

(2) Subsections 11(2), (3), (4) and (5) shall apply to any order made by the Minister under paragraph (1)(a).

(3) Nothing in this section shall render inapplicable to Labuan any other customs duty which may be fixed by the Minister under subsection 11(1).

Transportation of goods to or from Labuan from or to the principal customs area

156. Where goods are transported—

(a) from Labuan to the principal customs area; or

(b) from the principal customs area to Labuan, the provisions of this Act shall, with such modifications and adaptations as may be necessary, apply as if such goods were imported into, or as the case may be, exported from, the principal customs area from or to a place outside Malaysia, and without prejudice to the above generality, the provisions of Part XII shall apply to goods transported to or from Labuan from or to the principal customs area and to persons and vessels and aircraft transporting such goods as if Labuan were a place outside Malaysia.

Declaration of goods transported from Labuan to the principal customs area

157. The person in charge of any vessel or aircraft on which goods are transported from Labuan to the principal customs area shall make a declaration substantially in the prescribed form giving particulars of the goods transported in such vessel or aircraft.

Dutiable goods to be deemed to be non-dutiable while in Labuan

158. Except for the purposes of section 48, any dutiable goods, other than goods declared by the Minister under paragraph 155(1)(a) or deemed to have been declared by the Minister under that section, shall, while in Labuan, be deemed to be non-dutiable goods and the provisions of this Act shall be construed accordingly.

Collection of duties in Labuan

159. In making regulations under section 142 the Minister may provide—

(a) for the collection in Labuan of customs duties payable in respect of goods transported

- or about to be transported from or to Labuan to or from the principal customs area;
- (b) for the limitation or restriction of vessels and aircraft which may be used to transport such goods; and
- (c) for the licensing or control of persons or vessels or aircraft transporting such goods.

Application of Part X to goods transported to Labuan

160. The provisions of Part X (which deals with drawback) shall apply to goods (other than goods declared by the Minister under paragraph 155(1)(a) or deemed to have been declared by the Minister under that section), transported from the principal customs area to Labuan as if such goods had been re-exported.

PART XIX

SPECIAL PROVISIONS DEALING WITH SABAH AND SARAWAK

Agreements between Sabah and Sarawak relating to movement of goods

161. Notwithstanding anything to the contrary contained in this Act any agreement in force in respect of Sabah and Sarawak relating to the movement of goods between those States shall, until the Minister otherwise directs, have effect with such modifications as the Minister may specify by notification in the Government Gazettes of Sabah and Sarawak.

Saving in respect of vessels entering territorial waters due to circumstances beyond the Master's control or in respect of local craft from any other place without clearance or manifest

162. Notwithstanding anything to the contrary contained in this Act, sections 44 and 45 shall not apply in Sabah and Sarawak to—

- (a) any vessel, the Master of which satisfies the proper officer of customs that its entry into the waters of Malaysia was due to circumstances beyond his control, and that its entry and the reason therefor was at the first possible opportunity reported to the nearest customs or police authority, and that after such entry no person on board or connected with the vessel has done any act contrary to any written law; or
- (b) any local craft if the person in charge thereof can show to the satisfaction of a proper officer of customs that he has come from a place of departure from which it is unusual

to grant or carry clearances or manifests.

Time and manner of payment of duty in Sarawak

163. Notwithstanding anything to the contrary contained in this Act, all customs duties payable in Sarawak under this Act shall be paid within such period after the date of importation or exportation, or loading of the goods for transshipment for export, as the case may be, as the Minister may by regulation made hereunder provide, or in default of any such regulation, before such goods are removed from customs control:

Provided that the customs duty on goods stored in a customs licensed or approved warehouse in accordance with any regulation made hereunder in that behalf shall be paid at such time and in such manner as may be prescribed by such regulations.

PART XIXA

SPECIAL PROVISIONS DEALING WITH LANGKAWI

Interpretation

163A. In this Part, unless the context otherwise requires- “Langkawi” means the Langkawi Island and all adjacent islands lying nearer to Langkawi Island than to the mainland; “principal customs area” means Malaysia exclusive of Labuan, Langkawi and Tioman.

Customs duties relating to Langkawi

163B. (1) Notwithstanding anything to the contrary contained in this Act-

- (a) no import duty shall be payable upon any goods imported into Langkawi, other than goods which the Minister may from time to time declare by order published in the Gazette
- (b) no export duty shall be payable upon any goods exported from Langkawi, other than any goods which the Minister may from time to time declare by order published in the Gazette
- (c) Import duty shall be payable upon all dutiable goods transported to the principal customs area from Langkawi as if such transportation to the principal customs area were importation into Malaysia;
- (d) export duty shall be payable upon all dutiable goods transported from the principal

- customs area to Langkawi to all intents as if such transportation from the principal
- (e) the Minister may by order, prescribe the meaning of the word “value” in relation to goods transported from Langkawi to the principal customs area.
- (2) Subsections 11(2), (3), (4) and (5) shall apply to any order made by the Minister under paragraph (1)(a) or (b).
- (3) Nothing in this section shall render inapplicable to Langkawi any other customs duty which may be fixed by the Minister under subsection 11(1).

Transportation of goods to or from Langkawi from or to the principal customs area

163C. Where goods are transported—

- (a) from Langkawi to the principal customs area; or
- (b) from the principal customs area to Langkawi,

the provisions of this Act, other than sections 81, 82, 83, 84, 85, 86, 87 and 87A thereof, shall with such modifications and adaptations as may be necessary, apply as if such goods were imported into, or as the case may be, exported from, the principal customs area from or to a place outside Malaysia, and without prejudice to the above generality, Part XII shall apply to goods transported to or from Langkawi from or to the principal customs area and to persons and vehicles transporting such goods as if Langkawi were a place outside Malaysia.

Declaration of goods transported from Langkawi into the principal customs area

163D. The person in charge of any vessel or aircraft on which goods are transported from Langkawi to the principal customs area shall make a declaration substantially in the prescribed form giving particulars of the goods transported in such vessel or aircraft.

Dutiable goods to be deemed to be non-dutiable while in Langkawi

163E. Except for the purpose of section 48, any dutiable goods, other than goods declared by the Minister under paragraph 163B(1)(a) or deemed to have been declared by the Minister under that section, shall while in Langkawi, be deemed to be non-dutiable goods and the provisions of this Act shall be construed accordingly.

Collection of duties in Langkawi

163F. In making regulations under section 142, the Minister may provide for the collection

in Langkawi of the customs duties payable in respect of goods transported or about to be transported from or to Langkawi to or from the principal customs area.

Application of Part X to goods transported to Langkawi

163G. The provisions of Part X which deals with drawback shall apply to goods other than goods declared by the Minister under paragraph 163B(1)(a) or deemed to have been declared by the Minister under that section, transported from the principal customs area to Langkawi as if such goods had been exported.

PART XIXB
SPECIAL PROVISION DEALING WITH THE JOINT
DEVELOPMENT AREA

Movement of goods into or from Joint Development Area

163H. (1) The movement of goods from a country other than Malaysia or the Kingdom of Thailand or from a licensed warehouse of Malaysia or the Kingdom of Thailand into the Joint Development Area shall be deemed to be an importation of such goods into the Joint Development Area.

(2) The movement of goods produced in the Joint Development Area from the Joint Development Area into Malaysia, the Kingdom of Thailand or any other country shall be deemed to be an exportation of such goods from the Joint Development Area.

(3) The movement of goods from Malaysia or the Kingdom of Thailand into the Joint Development Area for use in the Joint Development Area and the movement of such goods from the Joint Development Area into Malaysia or the Kingdom of Thailand shall be deemed to be an internal movement of such goods.

Customs duty payable on importation into or exportation from Joint Development Area

163I. (1) Import duty shall be payable on all goods imported into the Joint Development Area.

(2) Export duty shall be payable on all goods exported from the Joint Development Area.

PART XIXC
SPECIAL PROVISIONS DEALING WITH TIOMAN

Interpretation

163J. In this Part, unless the context otherwise requires—“Tioman” means the Island of Tioman and the islands of Soyak, Rengis, Tumok, Tulai, Chebeh, Labas, Sepoi and Jahat; “principal customs area” means Malaysia exclusive of Labuan, Langkawi and Tioman.

Customs duties relating to Tioman

163K. (1) Notwithstanding anything to the contrary contained in this Act—

- (a) no import duty shall be payable upon any goods imported into Tioman, other than goods which the Minister may from time to time declare by order published in the Gazette
- (b) no export duty shall be payable upon any goods exported from Tioman, other than goods which the Minister may from time to time declare by order published in the Gazette
- (c) import duty shall be payable upon all dutiable goods transported to the principal customs area from Tioman as if such transportation to the principal customs area were importation into Malaysia;
- (d) export duty shall be payable upon all dutiable goods transported from the principal customs area to Tioman to all intents as if such transportation from the principal customs area were export from Malaysia; and
- (e) the Minister may by order, prescribe the meaning of the word “value” in relation to goods transported from Tioman to the principal customs area.

(2) Subsections 11(2), (3), (4) and (5) shall apply to any order made by the Minister under paragraph 1(a) or (b).

(3) Nothing in this section shall render inapplicable to Tioman any other customs duty which may be fixed by the Minister under subsection 11(1).

Transportation of goods from or to Tioman to or from the principal customs area

163L. Where goods are transported—

- (a) from Tioman to the principal customs area; or
- (b) from the principal customs area to Tioman,

the provisions of this Act, other than sections 81, 82, 83, 84, 85, 86, 87 and 87A thereof, shall with such modifications and adaptations as may be necessary, apply as if such goods were imported into, or as the case may be, exported from, the principal customs area from or to a place outside Malaysia, and without prejudice to the above generality, Part XII shall apply to goods transported to or from Tioman from or to the principal customs area and to persons and vehicles, vessels and aircraft transporting such goods as if Tioman were a place outside Malaysia.

Declaration of goods transported from Tioman to the principal customs area

163M. The person in charge of any vessel or aircraft on which goods are transported from Tioman to the principal customs area shall make a declaration substantially in the prescribed form giving particulars of the goods transported in such vessel or aircraft.

Dutiable goods to be deemed to be non-dutiable while in Tioman

163N. Except for the purpose of section 48, any dutiable goods, other than goods declared by the Minister under paragraph 163K(1)(a) or deemed to have been declared by the Minister under that section shall, while in Tioman, be deemed to be non-dutiable goods and the provisions of this Act shall be construed accordingly.

163O. In making regulations under section 142, the Minister may provide for the collection in Tioman of the customs duties payable in respect of goods transported or about to be transported from or to Tioman to or from the principal customs area.

Application of Part X to goods transported to Tioman

163P. The provisions of Part X which deals with drawback shall apply to goods other than goods declared by the Minister under paragraph 163K(1)(a) or deemed to have been declared by the Minister under that section, transported from the principal customs area to Tioman as if such goods had been exported.

PART XX
SINGAPORE PREVENTIVE VESSELS

Interpretation

164. In this Part—

“Singapore preventive vessel” means any vessel owned or employed by the Government of Singapore for the prevention of smuggling;

“preventive flag” means a flag prescribed under subsection 142(11).

Powers of master of Singapore preventive vessels

165. It shall be lawful for the master or other persons having the charge or command of a Singapore preventive vessel, on hoisting a preventive flag, to exercise with such assistance as he may consider necessary within the territorial waters or upon any vessel or is let therein, or upon any landing place or wharf abutting thereon, all the powers conferred by sections 109, 110, 114 and subsection 116(1).

How person arrested dealt with

166. Every person arrested and every article seized under the powers conferred by section 165 shall, without unnecessary delay, be taken to a police station or to a customs office.

Offence

167. Any person who obstructs or hinders any person lawfully exercising any of the powers conferred by section 165 or any person acting in his assistance shall be guilty of an offence against this Act.

Master and crew of Singapore preventive vessel to be public servants

168. The master or other person having the charge or command of a Singapore preventive vessel and all members of the crew thereof shall, while such vessel is within the territorial waters, be deemed to be public servants within the meaning of the Penal Code.

PART XXI
REPEAL

Repeal and saving

169. (1) The written laws specified in the Schedule are hereby repealed.

(2) Unless the contrary intention appears in this Act—(a) all persons, things and circumstances appointed or created by or under any of the laws repealed by subsection (1) or existing or continuing under any of such laws immediately before the commencement of this Act shall, under and subject to this Act and regulations made thereunder, continue to have the same status, operation and effect as they respectively would have had as if such laws had not been so repealed; and

(b) in particular and without effecting the generality of paragraph (a) such repeal shall not affect licences, permits, appointments, orders, rules and regulations issued or made under or by virtue of the aforesaid laws and in force immediately before the commencement of this Act and such licences, permits, appointments, orders, rules and regulations shall remain in force and shall continue to remain in force as if every such licence, permit, appointment, order, rule or regulation were issued or made under and by virtue of this Act until replaced or revoked by any licence, permit, appointment, order, rule or regulation made under or by virtue of this Act.

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