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TRADE POLICY REVIEW

MALAYSIA

Pursuant to the Agreement Establishing the Trade Policy Review Mechanism (Annex 3 of the Marrakesh Agreement Establishing the World Trade Organization), the policy statement by the Government of Malaysia is attached.

Note: This report is subject to restricted circulation and press embargo until the end of the meeting of the Trade Policy Review Body on Malaysia.

บันทึกข้อความ

กองการค้าพหุภาคี
กรมเศรษฐกิจการพาณิชย์
เลขรับ 5607
วันที่ 17 ธ.ค. 40
เวลา 11.05 น.

ส่วนราชการ คณะผู้แทนถาวรไทยประจำองค์การการค้าโลก

ที่ พณ 0204(จว)/1401 **วันที่** 10 ธันวาคม พ.ศ. 2540

เรื่อง การทบทวนนโยบายการค้ามาเลเซีย ระหว่างวันที่ 4-5 ธันวาคม 2540

เรียน ปลัดกระทรวงพาณิชย์

ด้วยองค์กรทบทวนนโยบายการค้า (Trade Policy Review Body) ได้พิจารณานโยบายการค้าของประเทศมาเลเซีย ระหว่างวันที่ 4-5 ธันวาคม 2540 โดยมี Mr. Chiedu Osekwe , ที่ปรึกษาอาวุโส คณะผู้แทนถาวรไนจีเรีย และ Mr. Knut Brunjes, อัครราชทูตคณะผู้แทนถาวรเยอรมัน เป็นผู้กล่าวถ้อยแถลงชักถามนำ สาระสำคัญของการประชุมสรุปได้ ดังนี้

1 ประเทศสมาชิกต่างแสดงความยินดีกับความสำเร็จทางเศรษฐกิจของมาเลเซียในระยะ 4 ปีที่ผ่านมา ที่มาเลเซียสามารถปรับเปลี่ยนการส่งออกจากการส่งออกสินค้าเกษตรโดยตรงเป็นการส่งออกสินค้าเกษตรแปรรูปและสินค้าอุตสาหกรรมมากขึ้น รวมทั้งการใช้นโยบายชักนำต่างๆ เพื่อจูงใจให้มีการลงทุนจากต่างประเทศ (Foreign Direct Investment. FDI) เพิ่มขึ้นมาก ทำให้ปริมาณผลผลิตมวลรวมเพิ่มขึ้นเกือบ 2 เท่าจาก 58.31 พันล้านเหรียญสหรัฐฯ ในปี 1992 เป็น 98.11 พันล้านเหรียญสหรัฐฯ ในปี 1996 โดยยังสามารถควบคุมอัตราการว่างงานและอัตราเงินเฟ้อให้อยู่ในเกณฑ์ที่ต่ำ

2 มาเลเซียชี้แจงเกี่ยวกับปัญหาทางการเงินในปัจจุบันเกิดจากการถ่ายเทของเงินตราต่างประเทศออกจากมาเลเซียอย่างรวดเร็ว เนื่องจากมีการแรงกดดันจากผู้ค้าเงินตราต่างประเทศมาก รวมทั้งการไหลออกของเงินเนื่องจากการค้าระหว่างประเทศด้วย ดังนั้น เพื่อเป็นการป้องกันการขยายตัวของปัญหาดังกล่าว และสร้างเสถียรภาพของตลาดภายในประเทศ มาเลเซียจำเป็นต้องใช้มาตรการควบคุมและกำกับดูแลการนำเข้าสินค้าจากต่างประเทศมากขึ้น เพื่อสนับสนุนให้ผู้ผลิตหันมาใช้สินค้าภายในประเทศและเพิ่มประสิทธิภาพของสินค้านำเข้าที่มีอยู่ภายในประเทศแล้วให้มากขึ้น รวมทั้งเป็นการป้องกันการรั่วไหลของเงินตราต่างประเทศอีกทางหนึ่ง ทั้งนี้ มาเลเซียย้ำว่า การกำหนดมาตรการที่เข้มงวดขึ้นได้คำนึงถึงสิทธิและข้อผูกพันภายใต้องค์การการค้าโลกและเป็นมาตรการชั่วคราวเพื่อแก้ไขปัญหาเฉพาะหน้าเท่านั้น

3 . ประเทศสมาชิกได้กล่าวถึงปัญหาทางทางการเงินในเอเชียในขณะนี้และเห็นว่า มาเลเซียเป็นประเทศที่มีพื้นฐานทางเศรษฐกิจที่ดีทั้งในด้านการลงทุนและการผลิตภายในประเทศอีกทั้งยังเป็นประเทศที่มีมาตรการทางการค้าที่ค่อนข้างเปิดมาโดยตลอด ดังนั้น การปรับปรุงด้านอัตราแลกเปลี่ยนเงินตราที่ผ่านมาน่าจะเพียงพอสำหรับการแก้ปัญหาดังกล่าวและหวังว่า มาเลเซียจะไม่ใช้มาตรการที่จะทำให้เกิดการกีดกันทางการค้าเพิ่มมากขึ้น

ความเห็น/คำสั่ง

ที่ พณ 0204(จว)/1401
เรื่อง กรมเศรษฐกิจการพาณิชย์
เพื่อโปรดทราบด้วย

WTO

เรียน พล.
18 10 40

ได้รับ FAX แล้ว

ไท.
เพื่อทราบ

23-12-40

ถึง ฝ่ายองค์การรัฐสภาอาเซียน
กององค์การรัฐสภาระหว่างประเทศ
สำนักงานเลขาธิการสภาผู้แทนราษฎร

4. อาเซียนและอินเดีย ได้กล่าวให้การสนับสนุนมาเลเซียในการใช้มาตรการทางการเงินและการค้าซึ่งอยู่ภายใต้กรอบกฎระเบียบขององค์การการค้าโลกแก้ไขปัญหาทางการเงินที่เกิดขึ้นและขอให้ประเทศสมาชิกเห็นใจและสนับสนุนประเทศกำลังพัฒนาที่ประสบปัญหานี้

5. ที่ประชุมได้พิจารณาข้อซักถามต่างๆ ซึ่งรวมถึงข้อกังวลเกี่ยวกับมาตรการต่างๆ ภายใต้งบประมาณปี 2541 สาระสำคัญสรุปได้ดังนี้

5.1. การควบคุมการนำเข้าสินค้าประเภทเครื่องจักรและอุปกรณ์ก่อสร้าง นิวซีแลนด์ แคนาดา ญี่ปุ่นออสเตรเลียและสหภาพยุโรปขอทราบรายละเอียดเกี่ยวกับการควบคุมการนำเข้าและการขึ้นภาษีขาเข้าสินค้าประเภทเครื่องจักรและอุปกรณ์ก่อสร้างในประกาศงบประมาณปี 1998 ของมาเลเซีย ซึ่งมาเลเซียชี้แจงว่า อัตราภาษีขาเข้าที่เพิ่มขึ้นยังอยู่ภายใต้ระดับที่ผูกพันไว้กับองค์การการค้าโลกและการควบคุมการนำเข้าโดยการใช้การออกใบอนุญาตนำเข้านั้นเป็นเพียงมาตรการที่จะทำให้รัฐบาลมาเลเซียสามารถกำกับดูแลปริมาณนำเข้าสินค้าดังกล่าวให้มีความเหมาะสมเท่านั้น

5.2. <u>การใช้มาตรการใบอนุญาตนำเข้า</u> ประเทศสมาชิกแสดงความกังวลเกี่ยวกับปริมาณสินค้าที่อยู่ในข่ายต้องขออนุญาตนำเข้าสูงถึงร้อยละ 17 ของจำนวนรายการสินค้าทั้งหมด ซึ่งมาเลเซียชี้แจงว่า ใช้มาตรการออกใบอนุญาตเพื่อเป็นการควบคุมคุณภาพของสินค้าที่มีการนำเข้าและเป็นการตรวจสอบดูแล (monitor) ปริมาณนำเข้า และร้อยละ 60 ของรายการสินค้าภายใต้มาตรการนี้เป็นสินค้าไม้ซึ่งมาเลเซียต้องการควบคุมคุณภาพของสินค้านำเข้าและอนุรักษ์และบริหารทรัพยากรป่าไม้ของมาเลเซีย ทั้งนี้ การออกใบอนุญาตสินค้าเหล่านี้มักกระทำอย่างอัตโนมัติ สำหรับการออกใบอนุญาตที่ไม่อัตโนมัติมีเพียงส่วนน้อยเพื่อเป็นการปกป้องและพัฒนาอุตสาหกรรมใหม่และอุตสาหกรรมที่มีความสำคัญต่อความมั่นคง (strategic industries)

5.3. <u>การใช้มาตรการกำหนดมาตรฐานสินค้า(Technical Standard) และมาตรการสุขอนามัยและสุขอนามัย</u> พืช (SPS) แคนาดา ญี่ปุ่น และฮ่องกงได้สอบถามเกี่ยวกับการกำหนดมาตรฐานสินค้านำเข้าของมาเลเซีย และกิจกรรมของหน่วยงาน Sirim Berhad รวมถึงความสัมพันธ์ของหน่วยงานดังกล่าวกับกระทรวงอุตสาหกรรมและการค้ามาเลเซีย มาเลเซียชี้แจงว่า ได้ใช้มาตรฐานสากลซึ่งเป็นที่ยอมรับในระดับพหุภาคีเป็นหลัก ในส่วนของ Sirim Berhad นั้นเป็นหน่วยงานเอกชนที่ได้รับมอบหมายสิทธิขาดในการออกใบรับรองมาตรฐานสินค้าอุตสาหกรรมโดยเฉพาะอย่างยิ่งภายใต้มาตรฐาน ISO 14000 ในขณะที่บริษัทเอกชนบางรายได้รับสิทธิการออกใบรับรองสินค้าภายใต้มาตรฐาน ISO อื่นๆ อาทิ ISO 9000 เป็นต้น

ทั้งนี้ มาเลเซียได้คัดค้านการเชื่อมโยงข้อกำหนดด้านสิ่งแวดล้อมและการติดฉลากกับประเด็นที่ไม่ใช่การค้าโดยเฉพาะอย่างยิ่งสำหรับสินค้าป่าไม้ เนื่องจากการกำหนดเงื่อนไขดังกล่าวมีส่วนเกี่ยวข้องกับหลักการบริหารทรัพยากรธรรมชาติ ซึ่งมีความแตกต่างระหว่างประเทศในเขตอบอุ่นและเขตร้อน จึงไม่สามารถนำมาเปรียบเทียบกันได้

5.4. <u>การเปิดตลาดการค้าบริการ</u> ประเทศสมาชิกตั้งข้อสังเกตุว่า มาเลเซียยังไม่เปิดตลาดในสาขาการธนาคาร การประกันภัยและการค้าหลักทรัพย์เท่ากับการค้าสินค้า และได้สอบถามเจตนารมย์ของรัฐบาลมาเลเซียในเรื่องดังกล่าว ซึ่งมาเลเซียชี้แจงว่า ในปัจจุบันมาเลเซียมีธนาคารพาณิชย์ บริษัทเงินทุนฯ และธนาคาร merchant เพียงพอต่อความต้องการของเศรษฐกิจแล้ว สำหรับการถือหุ้นของธนาคาร มาเลเซียกำหนดให้ต่างชาติสามารถถือหุ้นได้ไม่เกินร้อยละ 30 และแจ้งว่า จะไม่เปลี่ยนอัตราดังกล่าว อย่างไรก็ตาม ใน

ส่วนของธุรกิจประกันภัย มาเลเซียอยู่ระหว่างการพิจารณาเพิ่มสัดส่วนผู้ถือหุ้นต่างชาติให้ถึงร้อยละ 51 ทั้งนี้ จะประกาศอย่างเป็นทางการในโอกาสต่อไป

5.5. การคุ้มครองอุตสาหกรรมรถยนต์ภายในประเทศ ออสเตรเลีย เกาหลี สหภาพยุโรป สหรัฐฯ และบราซิลได้ขอคำชี้แจงเกี่ยวกับมาตรการคุ้มครองและสนับสนุนอุตสาหกรรมรถยนต์ภายในประเทศของมาเลเซีย (Proton Component Scheme) ซึ่งให้สิทธิพิเศษแก่ผู้ผลิตภายในประเทศที่ใช้ชิ้นส่วนภายในประเทศในอัตราที่ได้กำหนดไว้ รวมถึงการควบคุมการนำเข้ารถยนต์และการกำหนดอัตราภาษีที่สูงสำหรับการนำเข้ารถยนต์สำเร็จรูป

มาเลเซียชี้แจงว่า จะลดเลิกการกำหนดสัดส่วนปัจจัยการผลิตภายในประเทศภายในกำหนดเวลาตามที่ระบุในความตกลงว่าด้วยการค้าและการลงทุน (5 ปีนับตั้งแต่วันที่ 1 มกราคม 1995) และในด้านภาษี มาเลเซียไม่ได้ผูกพันภาษีสินค้ารถยนต์ภายใต้องค์การการค้าโลกแต่ได้ลดอัตราภาษีขาเข้าสินค้าดังกล่าวลงมามากในระยะเวลา 2-3 ปีที่ผ่านมา สำหรับการอุดหนุน มาเลเซียเห็นว่า ไม่ได้เป็นการอุดหนุนเฉพาะเจาะจงจึงไม่ระบุเป็นการอุดหนุนที่ต้องมีการแจ้งต่อองค์การการค้าโลก

6. ไทยได้ขอคำชี้แจงเป็นรายลักษณอักษรเกี่ยวกับมาตรการออกใบอนุญาตการนำเข้าสินค้าแป้งข้าวเจ้าและการห้ามนำเข้าสินค้าไก่ส่งออกจากประเทศไทย ดังรายละเอียดปรากฏตามหนังสือที่แนบ ซึ่งมาเลเซียจะชี้แจงเป็นลายลักษณอักษรในโอกาสต่อไป ทั้งนี้ ได้รับแจ้งอย่างไม่เป็นทางการว่า มาเลเซียยืนยันปฏิบัติตามความตกลงเกษตรอย่างเคร่งครัด ซึ่งรวมถึงการเปิดตลาดสินค้าไก่ด้วย

จึงเรียนมาเพื่อโปรดทราบ

(นางพวงรัตน์ อัศวพิศิษฐ์)

อัครราชทูต

ปฏิบัติราชการแทน เอกอัครราชทูต

ผู้แทนการค้าไทยประจำองค์การการค้าโลก

สำเนาเรียน กรมเศรษฐกิจการพาณิชย์
เพื่อโปรดสำเนาเรียน กรมการค้าต่างประเทศ
คณะทูตถาวรฯ ณ นครเจนีวา

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No. 0204(GE)/ 1673

Permanent Mission of Thailand
to
The World Trade Organization

4 December, 1997

Excellency,

Referring to the up-coming Trade Policy Review of Malaysia between 4-5 December 1997, Thailand welcomes the economic and development progress that Malaysia has gone through over the review period. The economic indicators provided by the Secretariat's report are very impressive.

During the 5 years period (1990-1996), the Malaysian economy has doubled in size as represented by the doubling of the GDP. At the same time, the Malaysian Government has undertaken many new initiatives both in the goods and the services sectors, including the reduction of more than half of the import tariff in agriculture and manufacturing sector. The introduction of the Malaysia's Multi-media Super Corridor will be the first of its kind in Southeast Asia.

With respect to this Trade Policy Review, Thailand would appreciate written clarifications with regard to some aspects of Malaysian import regime, as follows :

1. Thailand has been facing with an implementation of a very stringent import licensing programs for **rice flour exported from Thailand** contradicting to the liberalization schemes that the Malaysian Government has undertaken in many other fields.

In this matter, can Malaysian Government provide information on the present rules, regulations and the conditions for the importation of rice flour into Malaysia ? How does the Malaysian Government perceive its consistency to the non-trade restrictive requirements of the Agreement on Import Licensing ?

2. Thailand has also learnt that, in 1998, the Malaysian Government intends to prohibit poultry import from Thailand. This action contradicts the principle of market liberalization under the Agreement on Agriculture and seriously effect Thai poultry industry.

Thailand would like to seek clarification of Malaysian intention on this matter and its view on the consistency of this intended action to the Agreement on Agriculture.

FAX

Bat F-G - Route de Pre-Bois 20 - Case Postale 1848 - 1215 Geneve 15 - Tel: (41-22) 9295200 - Fax: (41-22) 7910166

Your prompt reply to these inquiries will be much appreciated.

Please accept, Excellency, the renewed assurances of my highest consideration.

Krirk-Krai Jirapaet
Ambassador
Permanent Representative of Thailand
[illegible]

H.E. Ali Hamidon
Ambassador Permanent Representative to the WTO
Permanent Mission of Malaysia to the WTO
Geneve
Telefax: 788-0975
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WORLD TRADE ORGANIZATION
TRADE POLICY REVIEW OF MALAYSIA
1997

QUESTIONS SUBMITTED ON BEHALF OF THE GOVERNMENT OF CANADA

A. Report by the Government of Malaysia (WT/TPR/G/31)

Questions

Paragraph 28

1. Can Malaysia be more specific as to the timetable for completing legislative and regulatory changes for the implementation of Uruguay Round undertakings, e.g. changes to local content requirements for incentives, standards requirements?

Paragraph 57

2. The Report by the Government includes a projection that average Malaysian tariff rates for trade under the 92% of total tariff lines eligible for concessions under the ASEAN Free Trade Agreement will be 4.04 % for 1997, declining to 1.97 % by 2003. Are there any comparable figures for average MFN rates of duty?

B. Trade Policy Review of Malaysia (WT/TPR/S/31)

Section III (2) (i)
Registration, Valuation and Procedures

Section III (2) (i), paragraph 14 highlights the results of a survey that was conducted by the central bank of Malaysia. The survey found the level of satisfaction with the Customs Departments to be the lowest of all public services provided. Complaints were raised about the slow clearance of goods, the excessive amount of "bureaucratic red tape", inconsistencies in coding classification by the Customs Department, and a shortage of experienced officers.

Question

1. What measures has Malaysia taken to address these problems so that trade is not unduly delayed at the border?

Section III (2) (ii) (b)
Tariff Reform

Section III (2) (ii) (b), paragraph 25 explains that tariff protection may be provided to "deserving infant industries" upon recommendations from a Special Advisory Committee on Tariffs (SACT). Any recommendation made by the SACT must be approved by the Minister of Finance and the Minister of International Trade and Industry.

Questions

1. What are the criteria that are used to determine whether an infant industry is deserving of tariff protection?

2. Could Malaysia provide information on the cases where such tariff protection was provided to deserving infant industries with particulars as to the industry, tariff rates, and products that tariff protection was provided to at the 6 digit HS level?

Section III (4) (iv) paragraphs 112-13, page 78
Standards and Technical Requirements

Questions

1. We note that the Malaysian Department of Standards reports to the Minister of Science, Technology and the Environment and that a Malaysian Standards and Accreditation Council has been established to advise the Minister. Sirim Berhad is the sole national agency appointed to coordinate the development of standards. What form of consultation mechanism exists between these standards bodies and the Ministry of International Trade and Industry?

2. Does the government exercise direct policy control over Sirim or does Sirim operate at arms length?

3. With respect to the Malaysian Standards and Accreditation Council, could Malaysia please indicate the composition of the Council?

4. Are there any private sector standards development bodies in Malaysia?

5. We note that while the overall percentage of Malaysian standards aligned with ISO/IEC standards is low at 21.6 percent, this pattern has changed over the last four years with 63.7 percent being based upon ISO/IEC standards. Does Malaysia have a national policy to adopt international standards whenever possible? Does Malaysia have a review mechanism in place to help ensure that domestic standards are aligned with international standards?

6. Section III (4) (iv) paragraph 120, page 80
Conformity Assessment

Questions

1. We note that Sirim Berhad has been accredited as an ISO 9000 certification body. Malaysia currently has over 1,000 companies certified to ISO 9000 and 7 to ISO 14000. Could Malaysia please indicate whether it has had problems with certificates to ISO 9000 or 14000 issued by Malaysian registrars being accepted in foreign markets?

2. Is Sirim an accrediting body or is it a certification body? If the former, does Sirim publish its domestic standards or guidelines with respect to accreditation? If these are published could Malaysia please provide a copy of these standards or guidelines?

3. We understand that Malaysia participates as a Participating member of ISO TC 207, the ISO technical committee responsible for ISO 14000. Does Malaysia also participate in the TC 207 sub-committees and working groups and, if so, which ones? Do any Malaysian firms also participate in Malaysian delegations to ISO 14000?

4. Could Malaysia please indicate which ISO/IEC conformity assessment guides are used by Sirim or other government agencies, if any, when a positive assurance is required that products conform with technical regulations and standards?

5. Could Malaysia please comment on its experience related to environmental requirements, including labelling, related to forest products exports.

Government Procurement
Section II (4) (v) paragraph 122, page 81

Questions

1. The Secretariat Report (page 81, para 122) notes that Malaysia takes the view that state-owned firms, which are eligible for government procurement preferences, must follow procurement regulations that may impose higher costs on the state-owned firms. It is noted that the Ministry of Finance is to review regularly these procurement regulations to enable the firms to improve their competitiveness. What criteria are employed in this review?

7. **Section III (4) (v) (a) paragraphs 125 - 131, pages 82-83**

Questions

1. From descriptions provided in the Secretariat Report, Malaysia appears to operate a number of programs to encourage local investment, employment and development. (e.g. para 125 - use of local materials and components; para 127 - 30% set-aside for local contractors; para 130 - local content, active involvement of local companies). Are there any plans to review these programs in terms of their economic efficiency?

2. What portion of calls for tender are competed openly (para 128)? What portion is open to non-Malaysian suppliers?

3. As a member of ASEAN, does Malaysia apply a preferential margin of 2.5 per cent to bids from suppliers from other ASEAN members (Article 7, Agreement on ASEAN Preferential Trading Arrangements)?

4. Is Malaysia's bid challenge system available only in cases where tender specifications have specified name brands (para 131)? Is the system open to foreigners and, if so, in what circumstances?

Services
Section IV (4) (i) paragraphs 37-38, page 108

Questions

1. The Secretariat Report at paragraph 37 notes that while a commercial presence is required for the effective delivery of most services, by limiting voting rights of foreign interests in Malaysian companies (maximum aggregate share of 30%), the "aggregate foreign investment in the services sector is thus substantially less than the average 51 per cent equity ownership realized in the manufacturing sector". We would be interested in Malaysia's explanation for the policy basis for the differential treatment of the services sector versus the manufacturing sector.

2. We note that Malaysia maintains restrictions in terms of the number and category of foreign professionals that may be employed (paragraph 38). In the "Multi-media Super Corridor", however, all restrictions on foreign ownership and presence of foreign professionals have been eliminated. Does Malaysia propose to extend the liberalization in this sector to other services sectors?

8. Air Transport Services
Section IV (4) (iv) (a) paragraphs 81-83, pages 124-25

Questions

1. We note some limited liberalization of air transport services applicable to two regional trade areas. Are there plans to extend liberalization further?

2. How is the establishment of strategic alliance groups among major airlines affecting Malaysian air transport policy?

3. When is the new Kuala Lumpur Airport expected to enter into operation? What types of specialty services will be available (e.g. over-sized cargo, live animal transportation, other perishable goods, handling of toxic chemicals)?

Maritime Services
Section IV (4) (iv) (b) paragraph 86, page 126

Question

1. The Secretariat's Report at paragraph 86 states that "the 1996 Budget announced that measures will be taken to increase the utilization of locally owned ships..." We would appreciate an update from Malaysia on this issue, particularly as to the nature of the measures and when they are to be implemented. If there are discriminatory aspects, please indicate how such measures are consistent with Malaysia's WTO commitments, as set out in paragraph 90 of the same document.

GENERAL

Question

1. Can Malaysia provide an update on the tariff changes (including tariff increases on some goods) announced in last month's Budget, e.g. on certain heavy machinery, construction trucks, etc? Recognizing that the ostensible rationale for such increases was to address problems associated with the impacts of monetary turbulence in the South East Asian area, is there any sense of how long such increases might stay in place? Do any of the changes impact bound tariff lines?

TRADE POLICY REVIEW

MALAYSIA

4-5 December 1997

ADVANCE WRITTEN QUESTIONS

Trade Policy Review of Malaysia

4-5 December 1997

Questions from Australia

1. Malaysia's 1998 Budget Speech announced that use of local goods must be increased and all Government agencies and companies have been directed to do this. The stated purpose is to reduce imports and hence strengthen the balance of payments. How does Malaysia propose to increase use of local goods?

2. Similarly, the 1998 Budget announced priority would be given to the use of domestic services for example, shipping, ports, air services and professional and consultancy services. In what way does Malaysia propose to do this?

3. In the construction industry, tariffs were increased in the 1998 Budget, especially on heavy machinery. Approval to import heavy machinery is required now from MITI and will be granted only if machinery is not available locally. How does Malaysia plan to implement this to ensure consistency with its existing WTO commitments?

4. In the recent Budget, tariffs on CKD vehicles were increased to as much as 80 per cent. Could Malaysia confirm that these increases did not apply to automotive components? If this is the case, could Malaysia explain how it will distinguish between CKD vehicles and automotive components in implementing tariffs on the former?

Regional Arrangements

5. The Government Report (paragraph 58) states that 20 priority product groups have been identified by ASEAN for standards harmonisation. Can Malaysia advise what those groups are and what time frame it has in mind for standards harmonisation of those product groups in Malaysia?

6. Furthermore, the Government Report says standards will be aligned to international standards. Which standards does Malaysia have in mind?

7. Australia notes the acceleration of regional trade liberalisation in the AFTA. We note that the ASEAN members notified AFTA to the Committee on Trade and Development. Are the ASEAN members considering the additional volountary step of notifying the relevant agreements to the Council for Trade in Goods and the Council for Trade in Services under GATT Article XXIV and GATS Article V?

Malaysia : Trade Policy Review
(4-5 December 1997)

Written Questions from Hong Kong, China

Tariffs
[WT/TPR/S/31, PP. 40-49, Paras. 15-33]

1. It is mentioned that "textiles, clothing and leather products ... are the product groups currently most protected by ad valorem tariffs". (P. 42, Para. 19) and "average applied MFN tariffs are relatively high for imports of products like textiles ..." (P. 91, Para. 1). In this regard, we would like to know whether Malaysia plans to reduce tariffs for textiles and clothing products.

Import Licensing
[WT/TPR/S/31, P. 49, Para. 35]

2. We would like to know under what circumstances the Third Schedule (aiming at "affording protection of a temporary nature to local manufactuers") will be applicable, what licensing conditions or other protection measures will be in place and how long they will last.

Anti-dumping
[WT/TPR/S/31, P. 54, Para. 46]

3. We notice that Malaysia has a frequent recourse to anti-dumping investigations in recent years. Between 1990 and 1994, Malaysia did not initiate any anti-dumping action. However, between 1995 and 1996, five investigations took place. Although one of the five cases was terminated without further action, two resulted in the imposition of definitive anti-dumping duties and the remaining two were under provisional anti-dumping measures pending final determination.

4. We would like to know if there is any special reason for the upsurge in anti-dumping investigations. Does Malaysia expect this as the

beginning of a new trend? What is Malaysia's view towards employing anti-dumping measures as a trade policy instrument?

<u>Standards and Technical Requirements - Conformity Assessment</u>
[WT/TPR/S/31, PP. 80-81, Paras. 119, 121]

5. It is noted that Department of Standards Malaysia (DSM) accreditation is open to any applicant, local or foreign, and that 109 laboratories have been accredited for specific tests and/or calibration. We are interested to know how many of the 109 laboratories are foreign, and whether there are regular re-assessment of the technical competence accredited laboratories.

6. We would like to have more information on the Memorandum of Understanding between DSM and the Joint Accreditation System of Australia and New Zealand. Is it the kind of mutual recognition agreements envisaged under Article 6.2 of the TBT Agreement? Has DSM entered into similar bilateral arrangements with other countries?

<u>Government Procurement</u>
[WT/TPR/S/31, P. 83, Para. 131]

7. It is noted that tenderers may contest the decisions of the procuring authority if there is suspicion that <u>specifications</u> for a particular tender are tailored to suit an individual brand or product. We are interested to know whether similar channels are available to tenderers to challenge the tender <u>awards</u>. And if so, are these channels open to foreign suppliers as well?

<u>Rules of Origin</u>
[WT/TPR/S/31, P. 102, Para. 22]

8. Imports of fully-processed textiles and clothing items from AFTA countries into Malaysia are treated more favourably in that their tariffs are on average less than half the MFN rates, provided these products satisfy the relevant rules of origin. By 2003, this margin of preference may increase to 75 per cent if MFN tariffs are not reduced.

9. Does Malaysia envisage trade diversion effects as a result of such preferential tariffs? How would Malaysia ensure that its MFN based

commitments to other WTO Members are not prejudiced with the increasing use of preferential tariffs in AFTA countries?

Services

(a) Overview : WTO Commitment
[WT/TPR/S/31, P.108, Para. 39]

10. In Malaysia's schedule of commitments, commercial presence is generally limited to joint ventures, and foreign equity participation is limited to 15% for an individual and 30% in aggregate. We hope Malaysia will remove or relax these restrictions.

(b) Insurance
[WT/TPR/S/31, P. 114, Para. 55]

11. It is stated that foreign equity participation in locally incorporated insurance companies is normally limited to 30% but the Central Bank of Malaysia sometimes grants exceptions. Grateful to know under what circumstances the Central Bank would grant such exceptions and whether Malaysia will relax the limit in the current round of financial services gotiation.

(c) Securities Trading
[WT/TPR/S/31, P. 119, Para. 71]

12. For securities trading, it is stated that foreign equity participation in locally incorporated joint venture companies can be higher than the normal 30% as determined by the relevant authorities. We are interested to know what criteria the relevant authorities have adopted in determining higher foreign participation.

NEW ZEALAND PERMANENT MISSION &
CONSULATE-GENERAL

28A, CHEMIN DU PETIT-SACONNEX. 1209 GENEVA
P.O. BOX 334, 1211 GENEVA 19, SWITZERLAND

Tel (41 22) 734 9530
Fax (41 22) 734 3062

FACSIMILE MESSAGE

DATE:	28 November 1997	**PAGE:**	1 of 1
TO:	Mrs Julia Roberts Trade Policies Review Division, WTO	**FAX NO:**	739 5765
FROM:	Mr Marshall Couper, New Zealand		

SUBJECT: TRADE POLICY REVIEW OF MALAYSIA

The following are questions to the Malaysian delegation from New Zealand:

TRADE POLICIES AND PRACTICES BY MEASURE

Tariffs

Question (p42, para 15): Could the Malaysian authorities please advise the steps and timetable for replacing alternative specific duties and mixed duties with ad valorem tariffs only.

Question (p51, para 26): Have the Malaysian authorities examined the trade diversion effects of AFTA on the Malaysian economy and, if so, what efforts are being made to limit the trade diversionary impact?

Anti-Dumping

Question (p57, para 41): Could Malaysia please outline its timetable for bringing its anti-dumping legislation into full accordance with WTO rules.

1998 Budget

Question (Summary Observations, p.xv, paras 28-29): In light of the Government's commitment to deregulation and liberalisation, what is the timeframe envisaged for removing the trade control measures announced in the 1998 Budget to tackle the current account deficit?

For Marshall Couper
for Permanent Representative

2383

TPR Malaysia, 4 and 5 December 1997

Advance questions from EC

Our advance questions are set out below. We may pose further questions.

General

- Since the last TPR in 1993, Malaysia has recorded impressive growth, has reduced its import duties substantially and has accepted disciplines on non-tariff measures contained in the results of the Uruguay Round of Multilateral Negotiations. However, the currency upheavals which have recently hit the whole region have also dampened the short-term economic performance of Malaysia's economy. Nevertheless, we see no indication of a systemic decline in the dynamism of the Malaysian economy. Does Malaysia agree with this assessment?
- The 1998 budget, announced on 17 October 1997, contains a number of specific measures aimed at reducing imports and promoting exports. Does Malaysia agree that a more effective way to tackle the problems that have arisen is by using appropriate macro-economic measures? Does Malaysia have plans to phase-out the specific trade measures that have been taken?

Investment

- Could Malaysia explain the need to require conditions, such as higher levels for domestic content in new product lines, for the Malaysian Industrial Development Authority to approve applications for investment?

Tariffs

- Tariffs have been liberalised substantially since the previous Trade Policy Review and the percentage of tariffs that are bound in WTO has increased considerably. Malaysia states in its report that it is "committed towards continual liberalisation of trade". However, the 1998 Budget increased import duties on capital goods, heavy vehicles, cars, motorcycles and construction materials. Are these increases expected to be temporary and if so, are their plans for their reduction? Does Malaysia plan to reduce tariff escalation and to further increase the coverage of its bindings?
- Could Malaysia confirm that it applies its high specific tariffs on spirituous beverages on the assumption that all imported bottles contain 0.75 litre, even when the bottle effectively contains only 0.70 litre?

Quantitative restrictions, import licensing

- The Secretariat's report mentions that the importation of a number of automotive products is subject to quotas. Could Malaysia explain what are the relevant provisions of the WTO agreement under which the maintenance of these measures could be justified? Are there any plans to eliminate or phase these quotas out?
- In its report, the Malaysian government indicates that "Malaysia is committed to implementing its obligations and responsibilities arising from the Uruguay Round". How can this statement be reconciled with the introduction in the 1998 Budget on 17 October 1997 of an import prohibition on certain machinery and construction equipment which is available locally?

หน้าว่าง

Services

- Regarding the Telecommunications Agreement, we wonder if and when Malaysia intends to fully adopt the regulatory reference paper of the Agreement and to make commitments for future liberalisation in the sector?

APEC

- Mention is made in the Secretariat report of specific "down-payments". Could Malaysia tell us what concrete liberalisation measures it took as part of its own down-payment?

When will this licensing system be implemented and for what duration?

Malaysia has explained that these tariff increases are intended to promote the domestic reconditioning of existing equipment. We would appreciate statistical support as to whether this policy has had its intended effect.

Section III. Trade Policies and Practices by Measure

1. Import Licensing

Paras. 37 and 38: Malaysia indicates that licensing requirements act as substitutes for, and complements for, import tariffs, and that they are prevalent in forestry and logging. Malaysia also indicates that both "automatic" and "non-automatic" licensing requires the approval of one or more agencies. Import licensing requirements, except for truly "automatic" licenses that are maintained for statistical purposes, are a violation of Article XI of the GATT 1994 which prohibits such restrictive measures. Unless such restrictions are justified under another Article of the GATT/WTO, such as Articles XII and XVIII for balance-of-payments reasons, they are not WTO-legal and should be removed. When does Malaysia plan to eliminate these requirements?

An "automatic" license that requires agency review and a wait of up to three days for approval is not *prima facie* "automatic"even if maintained for monitoring and/or statistical purposes. What is meant by "monitoring" in the sense that it is used in Paragraph 38?

Para. 42. Malaysia indicates that a licensing system is maintained to allocate the import of automobiles. How does Malaysia justify the maintenance of this restrictive import measure?

2. National Auto Program (TRIMS)

Para. 49. Under the TRIMS agreement, Malaysia is required to phase out all local-content and other TRIMs-inconsistent measures by 2000. Please clarify the GOM's current thinking on the means by which this commitment will be implemented. Specifically, does Malaysia have a plan to phase-back TRIMs in order to ease the Malaysian domestic industry's adjustment to an environment not characterized by policies which are currently excepted under TRIMS?

3. Anti-Dumping and Countervailing Duty Legislation and Measures

Para. 45: Malaysia's antidumping and countervailing duty legislation and regulations were reviewed in the WTO Committees on Anti-Dumping Practices and on Subsidies and Countervailing Measures in December 1995. Several WTO Members noted that Malaysia's AD and CVD laws do not comply with the terms of the WTO AD and SCM Agreements. In response, the "Malaysian authorities informed the Committees that they are in the process of

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measures being taken in Malaysia to deter piracy of digital technologies, such as registration of CD plants, monitoring and prior-import approval for CD reproduction equipment and presses, and mandatory use of S.I.D. codes by plants to track production and distribution

Given the strides Malaysia has made in improving IPR protection in the past decade, we believe Malaysia could provide a useful model for other developing countries by volunteering to submit to a TRIPS review before the year 2000. Could Malaysia consider such a step?

6. Incentives; the Industrial Adjustment Allowance

Para. 94: The Secretariat Report indicates that the Industrial Adjustment Allowance (IAA) is an allowance of up to 100 percent of a qualifying capital expenditure by a manufacturing company undertaking industrial adjustment. The Secretariat Report states that a "RM 1,990,000 IAA was granted to three wholly Malaysian-owned textile companies in 1994." Could Malaysia provide further information about the eligibility requirements for the IAA, explain how the program is consistent with the SCM Agreement and indicate whether it is anticipated that any Industrial Adjustment Allowance grants will be made in the future?

7. Competition Policy and Related Issues

Para. 138: Section III(4)(vi) of the Report states that "a draft competition law has been prepared by the Ministry of Domestic Trade and Consumer Affairs and is under review following comments from other government organizations and the private sector." With a competition law, consumers benefit from lower prices, greater output, and increased innovation as domestic producers are exposed to competition. There is also a reduced risk of domestic producers using supracompetitive rents at home to permit dumping abroad. We are interested in the specifics of this draft law, and request further information on its content. What is the current status of this draft competition law?

Section IV. Trade Policies by Sector

1. Textiles and Clothing; Rules of Origin Issues

Para. 25: We would like to note that the previous U.S. rule did not allow that "two finishing operations confer origin to a product;" rather it allowed that "dyeing and printing, when accompanied by two or more finishing operations," conferred origin.

2. Automobiles; Preferential Measures

Paras. 26-32: The Secretariat Report lists a number of measures which benefit the Malaysian auto industry. Specifically, certain Malaysian-owned auto producers are assessed excise duties at rates which are either zero or 50% of the normal rate. *See* WT/TPR/S/31 at 105, Table IV.8. Completely knocked-down (CKD) motor vehicles are subject to import licensing, quotas and import tariffs of up to 200 percent. *Id.* at 104 Local content requirements are imposed on

TRADE POLICY REVIEW
MALAYSIA (04-05 December 1997)

QUESTIONS BY BRAZIL

1 - Tariff protection

Tariff protection for infant industry can be granted through the Malaysian Industrial Development Authority - MIDA (pg. 46).

Could Malaysia give more details about the conditions and rules concerning this program?

2 - Anti-dumping and countervailing duties

According to the WTO Secretariat's Report, Malaysia's anti-dumping and countervailing legislation and regulation do not fully reflect the requirements of the WTO Agreements, and the authorities are applying WTO provisions administratively (pgs. 53 and 54).

Since WTO Agreements do not have legal status in Malaysia, what steps are being taken to conform its legislation to WTO rules?

3 - Local content requirements

Malaysia notified the TRIMs Committee that it has no local content laws or regulations. However the government encourages the use of local content in the manufacturing sector and local content is also taken into account when granting investment incentives (pg. 55).

Could Malaysia provide clarifications on the administration of the IPL - Industrial Linkage Program and the Vendor Development Program, particularly on how the requisition of local content is applied?

4 - Incentives

One important instrument of the Malaysian Industrial Policy is the concession of tax incentives, through direct and indirect taxes, sales and excise taxes and customs duties, aiming at the manufacturing sector (pg.67).

Could Malaysia explain how these subsidies are administered under the rules of the Subsidies Agreement?

5 - Recent developments

a) Could Malaysia elucidate why are imports of heavy machinery used in civil construction subject to import licensing?

b) Could Malaysia comment the increase of import tariffs on:

- construction materials;
- machines and equipment;
- autos, trucks and loading equipment; and
- electronic equipment?

Are (a) and (b) temporary measures? If so, how long will they be kept in place?

Are there plans to further alter Malaysia's trade policy, in the near future, in order to respond to the current international financial volatility?

No. 0204(GE)/ 1673

Permanent Mission of Thailand
to
The World Trade Organization

4 December, 1997

Excellency,

Referring to the up-coming Trade Policy Review of Malaysia between 4-5 December 1997, Thailand welcomes the economic and development progress that Malaysia has gone through over the review period. The economic indicators provided by the Secretariat's report are very impressive.

During the 5 years period (1990-1996), the Malaysian economy has doubled in size as represented by the doubling of the GDP. At the same time, the Malaysian Government has undertaken many new initiatives both in the goods and the services sectors, including the reduction of more than half of the import tariff in agriculture and manufacturing sector. The introduction of the Malaysia's Multi-media Super Corridor will be the first of its kind in Southeast Asia.

With respect to this Trade Policy Review, Thailand would appreciate written clarifications with regard to some aspects of Malaysian import regime, as follows :

1. Thailand has been facing with an implementation of a very stringent import licensing programs for **rice flour exported from Thailand** contradicting to the liberalization schemes that the Malaysian Government has undertaken in many other fields.

In this matter, can Malaysian Government provide information on the present rules, regulations and the conditions for the importation of rice flour into Malaysia ? How does the Malaysian Government perceive its consistency to the non-trade restrictive requirements of the Agreement on Import Licensing ?

2. Thailand has also learnt that, in 1998, the Malaysian Government intends to prohibit poultry import from Thailand. This action contradicts the principle of market liberalization under the Agreement on Agriculture and seriously effect Thai poultry industry.

Thailand would like to seek clarification of Malaysian intention on this matter and its view on the consistency of this intended action to the Agreement on Agriculture.

Bat F-G - Route de Pre-Bois 20 - Case Postale 1848 - 1215 Geneve 15 - Tel: (41-22) 9295200 - Fax: (41-22) 7910166

Trade Policy Review Body

5 December 1997

TRADE POLICY REVIEW OF MALAYSIA, 4-5 DECEMBER 1997

Concluding Remarks by the Chairperson

1. The second Trade Policy Review of Malaysia was conducted by the TPRB on 4-5 December 1997. These remarks, prepared on my own responsibility, are intended to summarize the main points of the discussion and not to be a full report. Details of the discussion will be reflected in the minutes of the meeting.

2. The discussion developed under four main themes: Malaysia's economic performance and reaction to present financial "turbulence"; regional and multilateral issues; specific trade policy issues; and sectoral questions.

Malaysia's economic performance and reactions to the present financial "turbulence"

3. Members commended Malaysia on its remarkable macroeconomic performance since 1993. High rates of growth were coupled with low unemployment and inflation, and an improvement in the well-being of the population. This had been assisted by the pursuit of open trade policies. Nevertheless, questions were raised on macroeconomic and structural problems such as the savings-investment gap, the current account deficit, the lack of skilled labour and the recent slowdown in productivity growth. The rapid transformation of the Malaysian economy from one largely dependent upon exports of primary products into one in which exports of manufactures predominate was noted. In this context, comments were made on the scope and impact of incentives in the transformation.

4. Members generally considered Malaysia's underlying economic fundamentals to be sound. Therefore, a number of members were concerned about the signals given by restrictive trade measures announced in Malaysia's 1998 Budget to address the current crisis. In this context various views were expressed on the factors underlying market volatility. Clarification was sought on a timetable to review and phase out these measures and the criteria on which these would be based. Noting that trade was central to the Malaysian economy, some expressed the view that currency adjustment could itself be sufficient to correct the external deficit and warned against short-term measures with trade restrictive effects. However, some Members felt that the WTO system should provide the necessary supportive environment to countries like Malaysia when they face difficulties. These Members pointed out that Malaysia has been pursuing a very liberal trade policy for many years. They suggested that Malaysia,

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13. Information was sought regarding the phase-out programme for export subsidies. Concerns were expressed as to whether recently announced tax exemptions were WTO consistent. Noting the existence of investment and export incentives, Members sought clarification as to whether Malaysia had plans to evaluate their economic efficiency. Members sought information on plans to phase out local content and export balancing requirements attached to incentives and other measures inconsistent with the TRIMS Agreement. The environmental justification for different export taxes was also questioned.

14. Some Members sought information regarding progress in amending Malaysia's intellectual property legislation to bring it into compliance with the TRIPS Agreement. Questions were posed on Malaysia's schedule for implementing the provisions of the Agreement and the relevant laws to be applied within the Multimedia Super Corridor (MSC).

15. Regarding competition policy, Members asked about the current status and content of a draft competition law prepared by the Ministry of Domestic Trade and Consumer Affairs. Questions were raised regarding how price controls on basic and strategic goods were applied to imports.

16. In reply, the representative of Malaysia emphasized that the tariff increases and other measures introduced in the 1997 Budget were consistent with its rights and obligations under the WTO. All the increases in tariffs, for example, were within the bound rates. The temporary nature of these measures was also stressed.

17. Non-automatic licensing was confined to 17 per cent of national tariff lines, 60 per cent of which related to wood products. This mechanism was designed to facilitate development of infant and strategic industries, and, in the case of wood products, for conservation purposes. The licensing requirement introduced in the 1997 budget for heavy machinery was largely to ensure that existing idle machinery was utilized, thereby optimizing the use of foreign exchange. Since the requirement was put in place, all applications had been approved by MITI.

18. While participation in the Working Group on Transparency in Government Procurement was viewed as an educational process, Malaysia did not see the need to accede to the GPA. Although government procurement policy was designed to enhance socio-economic development, it was relatively open and provided adequate opportunities to foreign suppliers. There were plans, however, to undertake periodic reviews as regards the economic efficiency of existing policy.

19. The representative stated that Malaysia's standards would be aligned to international standards. There were no private sector standards bodies. In order to accommodate the provisions of the SPS Agreement, acts to be amended included the Animal Ordinance 1953, the Fisheries Act (Amendment) 1993 and the Fisheries Development Board of Malaysia Act.

20. He indicated that new anti-dumping and countervailing legislation was being finalized and would be tabled in Parliament at its next sitting. In the meantime, as notified to the WTO, Malaysian anti-dumping authorities were applying measures administratively. Only two actions were taken during the period under review, both in 1995-1996.

21. Export levies and licensing on timber were designed to ensure sustainable forestry management, encourage downstream activities and finance R & D. These measures were constantly reviewed to ensure that the intended objectives are met. The local content requirement for the automotive sector would be phased out by 2000.

22. Drafting of new legislation on intellectual property was at an advanced stage. Among the key changes were new laws on "neighbouring rights", "industrial designs", "layout designs of integrated circuits" and "plant varieties". As regards enforcement of existing legislation, in the case of copyrights more than 5,000 cases had been resolved and 32 million ringgit worth of goods confiscated during the past ten years. In addition, judges and enforcement officers were undergoing training. The Ministry of Domestic Trade and Consumer Affairs was still examining the feasibility of a Competition Act and was discussing the matter with relevant groups. Import licensing applicable to goods subject to price control was intended to ensure their adequate supply.

Sectoral elements

23. Some Members questioned the differential treatment applied to services, as compared with manufacturing, regarding limitations on foreign ownership and voting rights in Malaysian companies, and asked whether these limitations would be relaxed. Members also asked whether liberalization measures planned for the MSC would be extended to other sectors. Some Members enquired about restrictions on foreign participation in Malaysian-owned banks, insurance companies and securities trading companies; on the establishment of new bank branches; and on the issuance of new licenses for banks and insurance companies. Questions were raised regarding the timetable to adopt the regulatory reference paper of the Agreement on Telecommunications, future liberalization plans, and limitations on foreign participation in the sector. Details were requested on future liberalization of air transport

TRADE POLICY REVIEW OF MALAYSIA
4 - 5 DECEMBER 1997, GENEVA

STATEMENT BY MALAYSIA

Mr. Chairman,

The Malaysian delegation would like to record its appreciation to the WTO Secretariat for its report on Malaysia. Although the report in general is balanced, there are several observations reflected in the report which need to be clarified. We have already notified the Secretariat as regards some factual aspects of the report and we understand that the Secretariat will be making the necessary amendments.

2. With respect to the **services sector**, the Secretariat's report has stated that foreign participation particularly in the banking and insurance sector is limited. The report also states that this has curtailed competition and impaired the potential efficiency of that sector. This observation does not accurately reflect the current situation in Malaysia. There is a very high level of foreign content in Malaysia's banking and insurance sector. This reflects the openness of the market even before the Uruguay Round. The regulations and administrative requirements apply equally to both local and foreign institutions.

3. In banking, 13 out of 35 commercial banks are entirely foreign controlled. Foreign interest in commercial banks and finance companies account for 30% of the total combined assets of these two groups of institutions. Foreign commercial banks have significant share of the commercial banking business, accounting for 27% of total loans, 26% of total deposits and 36% of total trade credits.

4. In insurance, foreign service providers have equity participation in 44 domestic companies (out of 49). Among these 44 companies, 12 are foreign controlled with majority foreign shareholding. In addition, foreign insurers accounted for more than 30% of aggregate gross premium and control 70% of the market share of life insurance business.

5. The conclusion that the lack of foreign participation curtails competition and impairs efficiency is misleading as it had failed to recognise that competition can even prevail among domestic firms.

Para 7

On the statement that consumer groups do not appear to make any formal input

6. This is inaccurate. Consumer groups are well represented in the various fora of policy formulation. For instance, at the Federal level, consumer groups participate in the annual dialogue sessions of the Ministry of International Trade and Industry, the Treasury, the Ministry of Domestic Trade and Consumer Affairs and the Central Bank.

Para 18

7. The statement that alludes the view where "**such incentives may also contribute to a "beggar-thy-neighbour" situation........**" is not totally correct. This situation may arise if the neighbours have similar factor endowments and are at the same level of industrialization or development. If the neighbours have different factor endowments and are at different stage or level of industrialization, such argument does not hold. This is because the neighbours will have different priorities in their industrialization process. For example, Malaysia does not compete with Vietnam and Cambodia in attracting FDI because Malaysia cannot attract labour-intensive industries as the other two countries could.

8. In addition, we know for a fact that by and large, developed countries have also benefited from the provision of incentives. Their firms in Malaysia have also similarly benefitted, as acknowledged by the Secretariat.

9. As outlined in the Report by the Government of Malaysia WT/TPR/G/31, Malaysia had been enjoying a decade of high growth and underwent rapid transformation since 1988. These had been brought about by a combination of several factors which include diversification and restructuring of the economy, accompanied by market oriented and outward looking policies as well as its integration into the world trading system.

10. The government's pro-business and pro-liberalisation policies as well as the private sector's active participation in development have helped Malaysia and her foreign trade and investment partners to reap benefits from the accelerated industrialisation process and the dynamism of the external sector.

11. This dynamism has been a fundamental factor in Malaysia's economic advancement. The targeted economic growth of 7% per annum in realising Malaysia's vision to become a developed country by the year 2020 will be export-driven.

12. Malaysia's open economy, underpinned by a liberal trade policy provides the means for economic growth and adaptability to an increasingly globalised economy. As such, Malaysia takes a global orientation in its trade and investment relations.

13. The open and liberal trade and investment regime had facilitated the expansion of trade and investment flows. Given the liberal import regime, over a period of only six years, Malaysia's import ranking in the world improved from being the 24th largest importer in 1990, 20th in 1993 to 17th in 1996. Malaysia's current import per capita of US$3,900 is higher than many of her trading partners in the OECD. The liberal foreign exchange policies had enabled profits to be easily and freely repatriated. This has partly contributed to the current account deficit problem.

14. Malaysia in particular attaches great importance to the multilateral trading system which has contributed much to the stability and growth in international trade. Malaysia has therefore always supported the role of the WTO in strengthening the multilateral trading system.

15. Malaysia has made substantial contribution in the area of liberalisation and deregulation. These include:

- under the Uruguay Round, 65% or 7197 tariff lines were bound compared to only 1% before. Malaysia's market access offers constitute 70% of Malaysia's total imports.

- tariffs on some 4,100 items were reduced or abolished between 1994 and 1997.

- the implementation of the market access package in the services sector covering a variety of financial, business, professional, telecommunications and hospitality services

- deregulation and privatisation of power generation, telecommunications infrastructure and other government services.

16. Efforts will be continued towards further structural transformation of the Malaysian economy through enhancing productivity and competitiveness of the manufacturing and services sectors. Towards this end, Malaysia will continue to undertake further liberalisation and deregulation within the context of its international relations multilaterally, regionally and bilaterally.

17. You would by now be all too familiar with the recent turmoil in the currency and the stock markets which has brought about a tremendous setback to the growth and development of many countries in Asia, including Malaysia.

18. In the case of Malaysia, excessive speculative activity in the foreign exchange and stock markets which unfortunately were not based on the underlying strong fundamentals of the Malaysian economy has led to the erosion of investor confidence on the sustainability of growth and the external payments position.

19. Although the financial markets have been beset with considerable uncertainty, the performance of the real sectors of the economy continues to be encouraging. During the first eight months of this year, the output of the manufacturing sector increased by an annual rate of 13.4%, with output of semi-conductors increasing by 24.7% and plastics and chemical products by 26.7%. In September, exports of goods rose by 21.7% enabling the trade account to record a surplus of RM 1.2 billion (US$0.4 billion), on top of a similar surplus achieved in August. Gross inflow of long term foreign corporate investment rose by 14% during the first part of this year to about RM 25.7 billion (US$10.3 billion). During the period, foreign companies on the average retained 75% of their profits in the country for reinvestment, against 60% last year. More recently, a number of foreign companies including manufacturing and oil companies have indicated that they are stepping by their investments in a significant way this year and next.

20. Let me take this opportunity to highlight the major efforts including policy responses undertaken by the Government to address Malaysia's current economic problems. These measures have been outlined in the recent annual Budget announced by the Minister of Finance. Basically these measures were aimed at further strengthening the economic fundamentals to restore stability and enhancing productivity and competitiveness of the export sector. The major challenge facing Malaysia is the ability to moderate growth without unduly causing an economic slowdown and to bolster greater investor confidence in the economy particularly from foreign investors.

21. As enumerated in both the Secretariat's and the Government of Malaysia's reports, the persistent deficit in the services account more than offsets the surplus in the merchandise account and requires time and conscious effort to resolve. More focus is to be given to enhance the contribution of the services sector and the export sector in turning around the current account deficit.

22. The relatively high import content of domestic economic activities has not only contributed to the deficit, which in the first half of 1997 alone amounted to RM2.7 billion (US$1.07 billion) but also to the relatively weak inter-industrial linkages and the continued low value added of the manufacturing sector. Hence, certain short term measures are necessary with the view to strengthening economic fundamentals and stabilising the financial market as well as to consolidate current efforts towards realising the long term objectives of the Second Industrial Master Plan.

23. The major challenge which the 1998 Budget attempts to address is how to maintain sustainable growth and improving the external payments current account. Towards this end, apart from enhancing productivity to remain competitive, efforts would be intensified to promote greater efficiency in the utilisation of existing resources. Greater priority is to be given to more productive investments which would generate higher returns for exports. The construction sector particularly in property development, which is non tradeable, had over the recent years enjoyed too much investments and had generated higher imports as well as diverted domestic output consumption locally rather than generating exports. This is evident from the import statistics on merchandise trade for the years 1995 and 1996. In terms of contribution to GDP, the construction sector only accounted for

4.5% in 1996, as compared to the services and manufacturing sectors, which together accounted for 79%.

24. The recent set of measures following from the 1998 Budget are aimed at optimising the use of locally available materials including reconditioned and refurbished machinery, used in the construction sector. Given the current economic realities these temporary measures are necessary to avoid any fallout arising from the postponement of several mega projects. The measures have been perceived by some as trade restrictive and inconsistent with Malaysia's commitments in the WTO. I would like to assure WTO members that this is not the case. In designing these short term and temporary measures, Malaysia is mindful of its obligations in the international and regional fora. In fact, consistent with its commitment to liberalisation, import tariffs on some 60 items of export interest to WTO members were reduced or abolished in the recent Budget. In addition, customs procedures related to exports and imports were simplified to further facilitate trade.

25. Malaysia remains committed towards continual liberalisation of trade and investment and progressive opening of the services sector. The Finance Minister in the 1998 Budget speech reaffirmed the Government's commitment to liberalise the financial sector despite the current economic setback faced by Malaysia. Malaysia will continue to actively participate and contribute positively towards the successful conclusion of the negotiations.

26. In order for the WTO to remain credible, it must demonstrate a high degree of sensitivity to the economic setback faced by some of the developing countries including Malaysia resulting from the financial turmoil. It is important that these countries be given sufficient flexibility in adopting policy options in order to overcome their difficulties even if they are perceived to be trade restrictive.

27. In conclusion, I would like to state that the Malaysian economy remains on track. There will not be any major policy shift which would jeopardise or retard Malaysia's outward orientation that has predominantly contributed to her economic success in the last decade. The Government has laid down the strategies to tackle any possible economic downturn. The recent 1998 Budget, especially, is aimed at further strengthening the country's economic fundamentals. These strategies have been acknowledged as workable by the IMF. The Malaysian economy may experience a degree of slower growth in the

next year or so (6-7%). This will have some impact on trade with our trading partners but it is not expected to be significant. The medium to long term outlook, however, will remain positive as the economy will remain strong and dynamic.

28. Export-oriented industries are expected to show stronger output growth while output of domestic oriented industries is expected to slow down consistent with the policy stance aimed at containing excessive demand. With the trade surpluses recorded recently and prospective expansion of export capacity, the external payments current account deficit should continue to be on a downward path.

Thank you.

ms tpr2

ASEAN STATEMENT
TRADE POLICY REVIEW OF MALAYSIA
4-5 DECEMBER 1997

Mr. Chairman,

Distinguished Delegates,

It is a great pleasure for Indonesia on behalf of the ASEAN Countries, to welcome our colleagues of the Malaysian delegation from Kuala Lumpur, to this important meeting. We would like to thank them for presenting the informative report, which gives us a valuable insight into Malaysian economic and trade policy developments in recent years, and most importantly the direction of Malaysian trade policy for the future.

We would also like to express our deep appreciation for the work done by the WTO Secretariat in preparing the useful and comprehensive report on Malaysia's trade policy for this meeting. This report gives us a clear picture of the situation, economics and practices involved.

We also would like to extend our thanks to the discussants, Mr. Knut Brunjes and Dr. Chiedu Osakwe, for elaborating on some important issues, which has facilitated the discussion this morning.

Mr. Chairman,

As Malaysia is one of the member countries of ASEAN, we are proud that it has achieved such an impressive high growth, with an average annual real rate of 8.6 per cent since 1992 and with remarkably low unemployment and inflation rates. We recognize that its growth was mainly generated by Malaysia's international trade, which increased more than double in the past 5 years. The fact also indicates that on average of 90 and 91 per cent of its GDP derived from foreign trade, signifying that Malaysia is an open trading country. It is also interesting to note that Malaysia has diverted its exports from primary product-oriented such as tin, natural rubber, tropical timber, palm oil and other agricultural products to more value added, processed and manufactured products.

Malaysia has also undertaken a unilateral trade liberalization and deregulation some of *which* are even beyond Malaysia's commitment in the Uruguay Round. This indicates that Malaysia is strongly committed to the multilateral trading system.

We also recognize that the success of Malaysia in attracting Foreign Direct Investment (FDI) has been contributed by the use of appropriate incentives, bilateral agreements and most importantly is an open trade regime. It is also our believe that it is the FDI would be one of the cures for the current financial difficulties.

Mr. Chairman,

The current difficulties faced by countries in the Southeast Asian region, including Malaysia, are to us only a temporary aberration, and we are fully confident that, based on its strong economic fundamentals, Malaysia will be able to overcome this temporary setback. This period provides Malaysia with an opportunity for consolidation and to devote its energies to overcoming any obstacles currently impeding further economic expansion and sustained growth.

It is therefore ASEA N's view that WTO members such as Malaysia which is experiencing such difficulties be given understanding and sufficient flexibility to implement appropriate policy options ***within the framework of WTO provisions*** to resolve its problem over the short and medium term. ASEAN understands and sympathizes with the difficulties that Malaysia is in and thus considers this flexibility necessary to ensure that developing countries like Malaysia are able to restore stability and continue contributing and benefitting from the opportunities arising from liberalized trading system.

Thank you Mr. Chairman.

STATEMENT INDONESIA

Mr. Chairman,

On behalf of Indonesian delegation, I would like to make some points :
With regard to the financial difficulties, we are of the view that these difficulties serve as a reminder to us that the destiny of an economy cannot be left entirely to market forces. One of the major reasons for the excessive speculative attacks on the Malaysian currency was the perceived weakness in the country's economic fundamentals, namely the deficit in the current account of the Balance of Payments. A closer examination of this account, which is alluded to in the Secretariat's report, will reveal that the primary cause for outflows are the repatriation of investment income, mainly from foreign direct investment as well as insurance and freight, associated with the merchandise trade.

Having said that Mr. Chairman, as the ASEAN mentioned earlier in its statement, my delegation is of the view that Malaysian unilateral trade liberalization and deregulation can be a unique model for other members of the WTO, as these measures a part from being undertaken unilaterally, are implemented on MFN basis. In this regard, Indonesia notes with great interest the recent budget of Malaysia for the year 1998 which among others, involved the liberalization of 60 products. This is in spite of the difficulty faced by the country now. This is a testimony of Malaysia.commitment to the multilateral trading system.

Thank you Mr. Chairman.

Cairns Group, APEC, and the WTO) to achieve our shared goal of a dynamic multilateral trading system and a balanced comprehensive agenda for future negotiations.

MACRO ECONOMIC STRATEGY TO ADDRESS CURRENT ECONOMIC SETBACK

1. The current economic difficulties faced by Malaysia is mainly attributed to the massive shifts in capital flow and the use of massive funds to attack its currency that is perceived to be out of alignment. It is apparent that the recent speculative activities have been excessive and the depreciation of Malaysian Ringgit have gone beyond levels that should reflect fundamental.

2. In Malaysia's view the risks associated with such flows can be minimised if the country's external payments current account and reserve position is kept at equilibrium or better still in surplus. This, has necessitated a policy response that would help improve the level of national savings and keep the level of investment at a prudent level with the view to building up external reserves and reducing external liabilities.

3. We believe we can achieve high growth with lower rates of investment if there are increases in productivity. In this regard greater priorities will be accorded to more productive investments particularly those which can generate higher rates of return in terms of foreign exchange earnings, while discouraging less productive investments in the non tradeable sector. This is why the 1998 Budget has provided incentives to encourage increases in export as well as reinvestment for purpose of raising productivity and competitiveness.

4. The private sector has been investing more than it can save since 1990. It has been building up its external and domestic debts to finance investments. This has adversely affected the nations balance sheet.

5. Hence, there is a need to increase savings by reducing wastage and unnecessary expenditure. There are already too much investments in some segments of the construction sector at this point of time. This has led to higher imports and a larger amount of domestic output being consumed locally when it could have been exported.

6. To address this, higher import duties have been imposed on materials and machinery used by the construction sector. This measure should also encourage the use of locally produced materials as well as reconditioned and refurbished machinery.

7. Through savings from unnecessary wastage and expenditure as well as the saving generated through the 2 percentage reduction in corporate tax provided by Government in the 1998 Budget, the private sector should be able to finance a large portion of its investment through internally generated funds. This will help to reduce its exposure to risks associated with exchange and interest rate movements.

8. There ~~This~~ is also the need to reduce the level of domestic loan growth for prudential reasons, as the present level of growth is high when we compare to GDP growth. Reducing credits will be a critical ingredient of Malaysia macro-economic adjustment. The banking institutions are now working with the Central Bank to lower the level of loan growth to a manageable level (15%) by the end of the next year. Loans for productive investments, especially those in expanding the export capacity of the economy and increasing productivity will not be affected. In restraining credit growth a wide range of instruments will be used without over reliance on one instrument.

9. To minimise the impact of government expenditure on domestic demand, Malaysia will continue to exercise a high degree of financial prudence. This is seen in the surplus recorded by the Government in its overall financial position since 1993. The Government is budgeting for a budgetary surplus of RM 3 billion in 1998.

10. Given the strong investment confidence in the real economy, we are confident that the 8% growth we have projected for this year and a maximum of 7% for next year will be achievable.

11. If our private sector exercise greater prudence and undertake strategic adjustments to minimise their expenditure to risks associated volatility in the financial markets as well as to strengthen their competitive position, we should be able to overcome the short term difficulties caused by turbulence in the financial markets.

12. While the fundamentals of the economy remains strong, the Government will continue to monitor closely the impact of the ongoing volatility in the financial markets. If additional measures are needed to strengthen further the resilience of the economy, in the light of changing situation, this will be done.

1998 Budget Measures

Several delegations particularly New Zealand, Canada, Japan, Australia, the European Communities and the United States raised issues on:-

- tariff increases on certain products
- consistency of the measures vis-a-vis WTO obligations
- the time frame for reviewing or removing such measures.
- Clarification on licensing for heavy machinery

Response

- The tariff increases and other measures introduced in the Budget are consistent with Malaysia's rights and obligations under the WTO. For example, tariff increases for the various products are within the bound rates. One-third of the items are excluded from the offer list.
- The measures in place are temporary.
- Prior approval from MITI is only applicable to a small number of heavy machinery. The automatic licensing is for monitoring purposes to ensure existing machinery that are left idle are utilised. It is intended to optimise the use of such machinery to save on foreign exchange.
- Since the requirement was put in place 100 percent of all the applications have been processed and approved. (528,629 units)

Regional Arrangements
(ASEAN AFTA, APEC)

- On AFTA, Questions by Hong Kong, New Zealand, Japan, Australia touched on:

- changes to tariffs
- trade diversion effects of AFTA
- WTO consistency of AFTA and related notification.

Response

- changes of specific duties, to ad valorem gradually being undertaken by ASEAN member countries. MFN rates will also be gradually reduced.

- do not envisage trade diversion effect of AFTA as large part of ASEAN's trade is with non-ASEAN partners.

- notification already made in Committee on Trade and Development.

- EC enquired on Malaysia's "down payment" under APEC

Response

Details outlined in Malaysia's IAP Osaka

- Bilateral Tariff Preferences With New Zealand as well as Australia (raised by Japan).

Response

- Existing bilateral preferences justified under Article 2(a) of GATT 1994

- New bilateral Trade and Economic Cooperation Agreements

Import licensing

- Several delegations, particularly Japan, Hong Kong, EC and the United States enquired on Malaysia's import licensing mechanism.

Response

- Non-automatic licensing is only confined to a small number of products. The mechanism instituted is to facilitate development of infant industries and strategic industries which are promoted to achieve certain socio-economic objectives.

- The Secretariat reported that licensing requirements were most pervasive in certain products and that 17 percent of Malaysia's tariff lines are currently subjected to licensing. To put things in perspective, about 60% of the total number of items subject to licensing are related to timber, the reason for which is for conservation, sustainable forest management and ensuring quanlity.

Malaysia's Participation in WTO Agreement and Undertakings, including notifications and timetables for compliance

- Canada raised this issue

Response

As outlined in the Government of Malaysia's report WT/TPR/G/31, Malaysia has already submitted various notifications according to specific deadlines and timeframe and initiated actions to modify existing legislations and policies as well as introduce new legislations.

Trade Facilitation

Rules of Origin

- Japan touched on whether Malaysia has rules of origin on non-preferential trade and how do we determine a product's country of origin.

Response

- As per our notification to WTO we don't have any non-preferential rules of origin.

  - Rely on accompanying documentary evidence via declaration in Customs form.

Anti-Dumping

- Questions raised by Brazil, New Zealand and European Commission pertaining to:
  - timetable for bringing Malaysia's anti-dumping legislation in accordance with WTO rules.
- Hong Kong claimed Malaysia frequently resorted to anti-dumping action.

Response

- The amendments to the existing Countervailing and Anti-Dumping Legislations are being finalised and will be tabled in Parliament at its next sitting.
- Meanwhile, Malaysian AD authorities are applying the WTO provisions administratively. We have officially indicated to the Committee on Anti-Dumping.
- On Hong Kong's claim that Malaysia has frequently resorted to AD action is not true. Only 2 cases thus far during 1995-1996 period. 1990-1994 - no cases as the legislations were not in place yet. (370 WTO cases initiated by 21 WTO members in same period).

STANDARDS AND SPS

Several specific questions on standards have been forwarded by Canada, Australia and Hong Kong, while Japan, one on SPS. The answers to the questions are as follows:

- The time frame for harmonization of the 20 priority products identified by ASEAN is by the year 2000. These products can be categorized into electrical and electronic products and/or components and rubber products. Examples include air-conditioners, refrigerators, parts of TV and radio, rubber gloves and condoms.

- There are 4 manuals for the regularisation of production and utilisation of animal vaccines. These include, the Manual of ASEAN Criteria for Accreditation of Animal Vaccine Testing Laboratories and the Manual of ASEAN Standards for Annual Vaccines.

- Malaysia's standards will be aligned to international standards or relevant parts of them, which are developed and agreed to on a multilateral basis.

- The consultative mechanism between the Ministry of International Trade and Industry and SIRIM Berhad.

- There are no private sector standards development bodies in Malaysia. The responsibility for the appointment of the Standards-Writing Organizations (SWOs) rests with SIRIM Berhad.

- SIRIM is a certification body while the Department of Standards, is an accrediting body. For ISO 9000 certificates, a few companies have sought clarifications on SIRIM Berhad's status as the accredited ISO 9000 certification body, while none have done so as regards the ISO 14000 certificates.

- Malaysia participates in ISO/TC 207 Sub-Committees 1, 2, 3, 4, 5 and 6. Malaysian firms are also a part of the Malaysia delegation to ISO/TC 207.

- Out of 109 laboratories accredited by the Department of Standards Malaysia, one is a foreign calibration laboratory.

- The MOU between DSM and the Joint Accreditation System of Australia and New Zealand is not equivalent to mutual recognition agreements.

- On the question of Malaysia's experience with regard to environmental requirements, including labeling;

  ° Malaysia cannot accept any attempt to link trade with non-trade issues such as certification and labeling as a condition to timber trade. Certification and labeling of timber products involve the usage of a set of criteria and indicators to evaluate the extent of sustainable forest management practices. The criteria and indicators differ from one country to another to suit the different geographical and local conditions. In many instances, third party initiatives particularly in temperate countries have been advanced without adequate understanding of the actual situation in tropical countries. Furthermore, there is a great deal of differing perceptions and interpretations regarding the issue of sustainability.

  ° The formulation of criteria and indicators for sustainable forest management for a country is best understood by local experts.

  ° The National Committee on Sustainable Forest Management oversees the implementation of the Malaysia criteria and indicators (MC & I) based on ITTO guidelines. We are also in the process of establishing the National Timber Certification Council to undertake the verification exercise involved in the labeling and certification process.

- The Malaysian Standards and Accreditation Council comprise a Chair and his Deputy, a representative of SIRIM, 5 representatives from relevant Government Ministries and not more than 7 representatives from the private sector and NGOs experienced in or having special knowledge in matters related to the Council.

SPS

- The Acts to be amended include the Animal Ordinance 1953, the Fisheries Act (amendment) 1993 and the Fisheries Development Board of Malaysia Act.

Export licensing

Japan enquired on Malaysia's export restrictions on log exports.

Response

For environmental conservation and promotion of sustainable forest management.

Export taxes

Concern of the EC on the appropriateness of export taxes for environmental protection.

Response

For environmental conservation, Malaysia has resorted to export levy rather than export taxes eg. for timber.

Under the Federal Constitution, forestry is a state matter. All matters relating to forestry except for export (for Peninsula Malaysia only) and import, comes under the jurisdiction of the individual states. As such the Federal government has to institute an export levy to fund activities solely for forest activities and environmental protection. As a consequence and as a matter of administrative convenience, export levies are collected by the Federal government at the export point and not at production point. In addition, because of the peculiar nature of production and given the limited capacity in terms of manpower, it is more efficient and effective to levy duty at the export rather than the production point. As previously mentioned, the export levy is collected by the Federal government for three main reasons, viz:

i) to ensure sustainable management;
ii) to encourage more downstream activities; and
iii) for marketing and R&D.

In short they are collected to ensure that our forests are sustainably managed for environmental protection and R&D purposes. These policies are constantly reviewed to ensure the intended objectives are met.

Trade Policy Review of Malaysia
Questions by Japan

1. Questions on the Report by the Government
(3) Trade Policy Development 1993-1997
(para 26,p.8)

1) Export subsidies in the manufacturing sector are reported as being phased-out by the year 2003. Please list the subsidies to be phased out.

Answer

Please refer to our notifications to the WTO.

SUBSIDIES/INCENTIVES

Issue/Concern

Phasing out of export subsidies
raised by Japan

Response

Request Japan to check with WTO Secretariat pertaining to Malaysia's notification.

Issue/Concern (Brazil)

How granting of tax incentives (direct/indirect taxes/sales and excise taxes, customs duties for manufacturing sector are administered under the rules of the Subsidies Agreement

Response

The various incentives are generally widely available and deemed non-specific in the context of the Agreement on Subsidies.

Investment

- EC enquired on need for conditions such as higher levels of domestic content imposed by MIDA before approval for investment application is granted.

Response

- needed to achieve certain objectives of industrialisation such as localisation, industrial linkages and SMI development, transfer of technology and developing self-sufficiency as well as meeting socio-economic objectives.

TRIMS

Japan wanted to know our plans for phasing out local content requirement applicable to the automative sector.

Response

Within the specific timeframe of 5 years commencing 1 January 1995.

TRIPS

Questions related to TRIPS have been raised by the second discussant, Mr. Knutt Brunjes, the US and the EC.

- the amendments and the enactments of new legislation are at an advanced stage.

- the changes of existing legislation include new laws on 'neighbouring rights,' 'industrial designs,' 'layout designs of integrated circuits' and ' plant varieties.'

- Since the implementation of the Copyright Act, over the last 10 years, there were 5,100 cases resolved and goods confiscated valued at 32.4 million ringgit.

- on the question of meaningful sentences judges from the Attorney General's Department are undergoing training courses, both at the national and international levels.

- enforcement officers, including those at the border continue to receive training on IPR matters.

Government Procurement

Questions on Government Procurement were forwarded by Hong Kong, Canada, Japan and the EC.

Response

- Malaysia does not see the need to accede to the GPA. Our participation in the Working Group on Transparency in Government Procurement is without prejudice to the outcome of the discussions in the Working Group. We view this as an educational process.

- Tender awards can also be challenged and is also open to foreign suppliers:

- the periodic review of procurement regulations as regards state-owned firms is undertaken by the Ministry of Finance and is based on the review of government equity in state-owned firms, with the objective of enhancing the competitiveness of the government procurement system.

- all suppliers not available locally are opened to international call for tenders.

- although there exists the provision for the application of a preferential margin of 2.5 percent to bids from ASEAN members, it has not been fully utilized.

- Although foreigners do not have recourse to Malaysia's bid challenge system, there are sufficient checks and balances in the form of independent bodies such as the Public Complaints Bureau and the Anti-Corruption Agency to which any supplier local or foreign can have recourse to, at all stages of the procurement process.

- although the government procurement policy is aimed at enhancing socio-economic development, it is relatively open and provide adequate opportunities to foreign suppliers. There are however plans to undertake periodic reviews as regards the economic efficiency of such programs.

COMPETITION POLICY

Questions on competition policy have been raised by the second discussant, Mr. Knut Brunjes, the US and Japan.

- As regards the draft Competition Act, the Ministry of Domestic Trade and Consumer Affairs is currently examining the feasibility of a Competition Act. The Ministry has initiated discussions with relevant government agencies as well as private sector, industry associations, including consumer associations, with a view to seeking their reactions.

- On the subject of price controls for certain 'basic' and 'strategic' goods, import licensing applicable to the items are to ensure adequate supply of such strategic and essential items. the items are not subject to import ban. We do not regard the import licensing as being inconsistent with the Agreement on Import Licensing Procedures. Prices are controlled administratively whilst supplies are administered under the Control of Supplies Act 1961. The cost structure and profit margin associated with the product is usually analyzed before a product is subjected to price control.

Canada had commented on differential treatment between services and manufacturing sector. The liberal regime in the Multimedia Super Corridor (MSC) and possible extention to other services sector was also raised.

Answer

The manufacturing sector is relatively more matured and has a longer history. The services sector is still under developed. However, we wish to draw the attention of members that within the services sector one could observe a high level of foreign participation and presences.

With respect to the MSC, there is no immediate plan to extend the liberal regime in the MSC to other services sector. In the future there may be a possibility of review be undertaken.

BASIC TELECOMMUNICATIONS

Japan and EU had asked regarding intention to further improve our existing basic telecommunication commitment and the regulatory reference paper.

Answer

As members will note negotiations had just been completed and the ink has not even dried. As a matter of fact quite a number have yet to sign the relevant Protocol. Malaysia had already signed the Protocol and in fact is looking forward for others, who have not done so to do the same. We are of the view, it is premature to even talk of further commitments on our part in this area. We have made a very good contribution and let us together implement the just concluded agreement.

On the issue of regulatory reference paper, which is an optional set of commitments which falls under Article XVIII of GATS; we wish to mention that in practice Malaysia will be guided by the essential elements contained in the regulatory reference paper.

MARITIME TRANSPORT

Japan and Canada had shown interests on commercial presence, foreign equity participation in shipping agencies and utilization of locally owned ship. Japan had commended Malaysia for the removal of double deduction for Malaysian ship effective 1 January 1997.

Answer

We wish to express our gratitute to Japan for their commendation. With respect to other issues and as members are aware negotiation on maritime transport had to be deferred because of difficulty faced by certain member. We take note of the issues raised by the two delegations and will take it up at the appropriate time when the negotiation on maritime transport resume.

SECURITIES

Japan and Hong Kong had raised question on the following:

- Commercial presence of branch of foreign incorporated security companies.

- Representative office of foreign brokerage to be incorporated under Malaysian law.

- Foreign equity participation for foreign stock-broking companies.

Answer

i) There are no plans currently to allow branches of foreign stockbroking companies to become member companies of the Exchange.

ii) Representatives offices of foreign stockbroking companies licensed as investment advisers are required to be locally incorporated under the Companies Act 1965. All corporations licensed under the Securities Industry Act 1983 to carry out the activities specified therein are required to be incorporated in Malaysia. We do not consider this to be over strict regulation.

iii) Under our present legislative framework, the commitment to allow 49% foreign equity by the year 2000 would not need to be implemented in the legislation.

INTERNATIONAL TOURISM

Japan had asked about foreign equity participation in tourism services and the licencing requirement for tour operator, travel agency and tourist guides.

Answer

Licences for tour operators, travel agency and tourist guides can be obtained from Tourism Malaysia. We do not consider the licencing requirement for the above service providers to be market access restrictions. The licencing requirement is necessary for monitoring to ensure quality services and data collection purposes.

2. On joint venture and foreign equity participation, we wish to inform that we do not have any plan to change the existing policy.

FINANCIAL SERVICES - BANKING

Issues relating to foreign equity, local incorporation of banks, new licence and expatriate specialist was raised by the delegation of Japan.

Answer

All of the 13 foreign bank branches have complied with the legal requirement for local incorporation. The rationale of this requirement is to ensure that the capital of foreign banks is committed in Malaysia in order to support their operations here. The present policy is that there will be no issue of new licences.

Malaysia has made a commitment to allow entry through equity participation only by foreign banks in Malaysian-owned or controlled commercial banks and merchant banks, and the aggregate foreign shareholding shall not exceed 30%. This limit of 30% on foreign equity reflects the National Development Policy of the Government and Malaysia has no intention to raise the limit.

Malaysia views that the existing number of banking institutions (35 commercial banks, 39 finance companies and 12 merchant banks) is adequate to serve the banking needs of the country. The focus of policy is to consolidate the banking industry, and to develop a core of strong domestic banking institutions that would be able to withstand competition and avail of the opportunities to venture into the regional and, perhaps, international markets. In view of this, the present policy is not to issue any new licences.

Malaysia's existing offers on financial services under the GATS indicate that employment of specialists or experts are permitted subject to market test and eligibility criteria. Malaysia has, however, relaxed this limitation in the current round of financial services negotiations to be concluded by 12 December 1997, whereby employment of five specialist or experts for each institution are permitted for areas relating to: trade financing; corporate financing; treasury management; and information technology.

FINANCIAL SERVICES - INSURANCE

Japan and Hong Kong had raised issue relating to foreign equity and new licence.

Answer

Malaysia has made an offer of an aggregate foreign shareholding not exceeding 30% in insurance companies transacting direct insurance business. This offer reflects the National Development Policy of the Government.

However, Malaysia has relaxed this 30% limit to 49% with respect to foreign branches operating in Malaysia if the foreign insurer restructures its equity by 30 June 1998. Subject to the successful outcome of the current financial negotiation, Malaysia intend to further improve aggregate foreign shareholding of not exceeding 51%. This offer to 51%, however, has not been finalised and is, therefore, subject to change. Should the aggregate foreign shareholding of 51% be finally offered, existing foreign shareholders of locally incorporated insurance companies which were the original owners of these companies can also avail themselves to the concession.

No new licences to conduct direct insurance business have been issued to foreign as well as local investors since 1981. The policy was adopted for the purpose of consolidating the insurance industry which is highly fragmented. Since current measures are directed at consolidation of the industry and existing insurers are encouraged to merge to form larger units with broader capital and asset base to remain competitive and financially viable, no new direct insurance licences would be issued in the near future. However, new licences are available for offshore insurance business in the Labuan International Offshore Financial Centre.

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10. In the area of deregulation, Malaysia has reduced substantially government involvement in business and actively promoted private sector initiatives in economic development. To promote efficiency, a major programme of privatization was undertaken in power generation, telecommunication, infrastructure and other government services. This approach is to be continued in the future.

11. The Government will work together with the private sector in promoting a balanced, broad based resilient and internationally competitive economy. This would be achieved through productivity driven growth, skills upgrading, capital deepening and technology investments. In the medium term efforts to achieve further structural transformation of the Malaysian economy will include increasing the contribution of the service sector and the restructuring of the manufacturing sector.

12. The manufacturing sector is expected to continue its role as the engine of the nation's economic growth. The sector is projected to grow by 10.5% in GDP increasing from 27% in 1990 to about 37% by the year 2000. In line with this, manufactured exports are expected to account for 81.8% of total exports by the year 2000 compared to 60.4% in 1990.

13. Malaysia would assume an active and positive role in international fora alongside her regional and bilateral approach to promote liberalization and facilitation of trade, taking into account changes in world trading patterns as well in Malaysia's broadening trade interests.

(1) Economic and Trade Environment

14. The period 1993-96 witnessed the continuation of rapid economic progress which started back in the late 1980s. During the period, real GDP grew at an average annual rate of 8.8 per cent, with the highest growth rate recorded at 9.5 per cent in 1995 before moderating to a more sustainable growth rate of 8.2 per cent at the end of the period. In fact, 1996 marked the ninth consecutive year of rapid growth where the economy enjoyed the longest period of sustained robust growth. With this growth, per capita GNP rose from RM 8,022 (US$2,971) in 1993 to RM 11,234 (US$4,493) in 1996. More significantly, this high growth was achieved with price stability as inflation was successfully contained below 4 per cent throughout the whole period. The low rate of inflation resulted in better purchasing power without increases in costs or lowering of the level of competitiveness.

15. The manufacturing, construction and services sectors contributed increasingly to economic growth while contributions from agriculture and mining declined steadily. Since 1993, the manufacturing sector accounted for about one third of GDP and more than three quarters of merchandise exports. The manufacturing sector's share of 28.8% of GDP in 1992 increased to 34.3% by 1996. At the same time, its base had become broader and more sophisticated. A similar trend was noted for exports of manufactures with the share to GDP in 68.6% in 1992 increasing to 76.8% by 1996.

16. The period saw the increasing role of the private sector as the engine of growth. Private investment grew at 16.6 per cent per annum in real terms, amounting to RM 207.4 billion (US$82.3 billion) in nominal terms, higher than anticipated. This was due to the high inflows of foreign direct investment as well as enhanced domestic investment following the Domestic Investment Initiative (DII) launched in 1993. The accelerated privatization programme also contributed to the growth of private investment as well as improved efficiency and productivity that led to rapid economic growth.

17. After registering a strong growth of 22.4% in 1995, Malaysia's external trade grew by 3.9% to RM 394 billion (US$157.6 billion) in 1996. The slower growth was due to sharp deceleration in both export and import growth during the year. The improvement in the external trade position has enabled the merchandise account of the balance of payments to record a significantly larger surplus

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major markets will be reduced by 35%. Malaysian producers and exporters would have to face stiffer competition in the domestic market in view of her tariff liberalization commitments as well as to meet the increasing competition from emerging economies in the international market.

25. The improved trading rules in areas such as anti-dumping and countervailing measures, subsidies, use of safeguards, rules of origin, pre-shipment inspection, technical barriers to trade, import licensing procedures and SPS will provide a relatively more predictable and transparent global trading environment. Malaysia has initiated actions to modify some of its existing legislations and policies as well as introduce new legislations to confirm to the WTO obligations as required under the Uruguay Round commitments.

26. The measures include:

- phasing out local content measures tied to incentives by 2000
- adjustments to the customs valuation system
- phasing out export subsidies in the manufacturing sector by the year 2003
- ensuring consistency of the Malaysian Countervailing Duty and Anti-Dumping Act 1993 with the WTO agreements
- formulating additional legislation to provide further protection of intellectual property rights such as those relating to layout designs of integrated circuits, industrial design and patent protection for plant varieties.
- drafting a new Act to accommodate all the provisions in the SPS Agreement and other inadequacies in the existing Act. National standards on control, inspection and approval procedures will be developed based on relevant international standards.
- Existing Malaysian standards are being reviewed to align them to international standards.

27. The existing incentive system is being reviewed to ensure incentives are consistent with WTO disciplines as embodied in the TRIMs and Subsidies Agreements.

28. As required under the Uruguay Round agreements, Malaysia has submitted various notifications to the WTO Secretariat. These were undertaken according to the specified deadlines and timeframe.

Tariff Liberalization Initiatives

29. In the implementation of the Uruguay Round market access commitments, tariffs of a total of 3426 items have been reduced thus far. This included tariff reductions on 988 industrial products and 49 agricultural products. Some of these included mainly plastic and plastic articles, chemical products, wood products, paper and paper products, vehicles and accessories, machinery and mechanical appliances, precision instruments and medical equipment. Several agricultural items, experienced accelerated tariff cuts or had their rates reduced much lower than the ceiling bound rates. These included fresh temperate and processed fruits as well as various kinds of food preparations.

30. The tariff reduction exercises undertaken by the Ministry of Finance in October 1994 (Budget 1995) and in August 1995 saw tariffs being reduced on a total of over 3,000 items. This included tariff reductions on the 1,566 industrial items and 751 agricultural items. Of the industrial items, duties on 217 items were reduced at rate faster (acceleration) than that required under the WTO proportionate cuts reduction schedule, 318 items were reduced to their bound rates while 1,031 items were reduced to levels lower than the bound rates (deepening). For agricultural products, 80 items had their tariff rates reduced faster than was required, 147 items were reduced to their bound rates, while another 524 items had their tariff rates reduced lower than the bound rates. On the 12 tariffied agricultural products, the applied rates are currently zero.

31. In the 1996 Budget excise tariffs on a total of 1,047 items were reduced. This included tariff reduction on 998 industrial items and 49 agricultural items. Of the industrial items 33 were reduced at a rate faster (acceleration), 125 items were reduced to their bound rates, while 840 items were reduced to levels lower than the bound rates (deepening). For agricultural products, 12 items had their tariff cuts accelerated. 12 items reached their bound rate level, while another 35 items had their tariff rates lower than bound rates.

32. For the year 1997, 62 items experienced tariff cuts.

Deregulation and Measures on Services

33. As one of the signatories to the GATS and "interim agreement" on financial services, Malaysia is committed to gradual and progressive liberalization of financial services sector. Malaysia's schedule of commitments covers a total of 14 sectors out of the 16 sectors in banking, insurance, securities and other financial services identified under the GATS for liberalization. Malaysia made substantive bindings on a standstill basis. In banking, insurance and the securities industries, the offers in market access binds the Government to maintain current policies affecting foreign participation. Malaysia also made a major improvement through the withdrawal of the MFN exemption filed in December 1993, so that Malaysia's commitments to all foreign services suppliers are on a full MFN basis. In addition, Malaysia improved its offers by binding new entry in Offshore Financial Centre (IOFC), and general reinsurance and charge card business. Entry is also permitted through investment in existing financial institutions subject to an aggregate foreign shareholding limit of 30%. In the case of financial leasing companies and stockbroking companies, aggregate foreign shareholding will be increased to 40% with effect from 1 July 2000.

(a) Banking Sector

34. Over the years, Malaysia has removed many structural barriers that inhibit competition and efficiency without compromising prudential standards. The structural deregulation was important in creating a more "level playing field" among the various groups of banking institutions and in making the sector more liberal and competitive. One of the major reforms undertaken was the introduction of the two-tier regulatory system for the banking institutions, which saw the emergence of strong and well-capitalized institutions which were permitted to undertake a broader range of activities and operate under a more liberal environment. Another reform was the revision in the framework of the base lending rate (BLR) whereby the BLR was computed based on the interbank rate.

(b) Insurance Sector

35. In the insurance sector, Malaysia has liberalized the foreign share holding limit from 30% to 49% for insurance companies that incorporate locally by 30 June 1998. In addition, Malaysia also made a commitment to grant seven new general reinsurance licences.

(c) Capital Market Sector

36. Since the establishment of the Securities Commission in 1993, many developments have taken place in the domestic capital market.

37. Liberalized guidelines on private placement of new shares were introduced in March 1994 and new guidelines for the issue of securities and valuation of domestic public listed companies were introduced in December 1995.

38. Access to the primary market has been broadened substantially with the introduction of call warrants (December 1994), the listing infrastructure project companies (September 1995) and closed-end funds (October 1995) and recently allowing foreign based companies to list (April 1997).

39. Two new exchanges have been launched - the Kuala Lumpur Options and Financial Futures Exchange (KLOFFE) in December 1995 and Malaysian Monetary Exchange (MME) in May 1996. With the establishment of such futures exchanges, foreign service suppliers have the opportunity to hold equity up to 30% in local incorporated futures broking companies.

40. Foreign fund management companies can now establish a commercial presence in Malaysia (August 1995). They must be locally incorporated (and licensed) with either 100% foreign equity or 70% and 30% local equity. The first 10 joint-venture foreign fund management companies approved by the Securities Commission will also be entitled to manage local unit trust funds. Local stock broking companies are also now allowed to establish unit trust companies (September 1995).

41. With the introduction of securities borrowing and lending in December 1995, foreign securities firms can now borrow securities directly from Malaysian counterparts.

Measures on Investment

42. Malaysia continues to maintain a liberal investment regime which is characterised by liberal foreign equity ownership policies. Up to 100% foreign equity is permitted, particularly in export-oriented projects, projects of high-technology and projects with high value added features or products/activities highly prioritized for development including R&D. No sectors are closed to foreign direct investment in the manufacturing sector, although a few sectors are required to be undertaken on a joint-venture basis to enhance Malaysian capabilities. Freedom of ownership has been assured for multimedia or IT projects located in the Multimedia Super Corridor (MSC).

43. There are no legislation specific to foreign investors. Foreign investors are generally granted fair and equitable treatment as accorded to domestic investors and Malaysia does not discriminate between source economies of foreign investment.

44. Restrictions on entry of key managerial and technical personnel for the purpose of investment are minimal. Key or permanent posts are granted to foreign investors upon fulfilment of a set of established criteria. There will be unrestricted employment and entry of foreign knowledge workers in the MSC.

45. The present exchange control regime in Malaysia is very liberal and applies uniformly to transactions with all countries. Investors are free to source capital globally for MSC infrastructure and have the right to borrow funds globally.

46. A highly transparent investment regime is maintained where up-to-date information on investment regulations, policies and incentives are fully accessible through published documents and the electronic media.

47. Malaysia's readiness to conclude investment guarantee agreements (IGAs) with other countries, 54 as of June 1997 (additional 25 since the last TPRM), reflects the commitment to increase investor confidence. The IGAs would ensure protection against expropriation, nationalization, and allow for the free transfer of capital, profits and other fees, as well as to provide for the settlement of investment disputes under the International Convention on the Settlement of Investment Disputes (ICSID).

48. In recognition of the contribution of investment to economic growth and the well being of the people, Malaysia will continually work towards improving regulations on investment, with a view to facilitate and further liberalize the investment regime.

New Measures on Protection and Promotion of Intellectual Property Rights

49. Since the last review, Malaysia has undertaken a concerted exercise to improve existing IPR protection and procedures in accordance with international standards and practices as prescribed by all international conventions and intellectual property. Efforts are also underway to enact new laws and amend existing ones in compliance with the WTO/TRIPS Agreements. These include:

- Amendments of the Trade Marks Act 1976 to include protection for service marks. The amendment is expected to be enforced by the end of 1997.

- Amendment of the Patents Act 1983 to provide for modified substantive examination. it will result in faster grant as examination is based on reports from granted patent (for the same application) from certain countries. The amendment was enforced on 1 August, 1995.

- Amendments of the Copyright Act 1987 in 1996 to provide for the Copyright Tribunal to deal with copyright licensing. The Act was again amended in 1997 to provide adequate protection for the 'contents' that are going to move through the Malaysian Multimedia Super Corridor (MSC) as well as to provide adequate IT protection. The amendment also sought to incorporate most of the provisions of the WIPO Copyright Treaty (WCT) and WIPO Phonogram and Performance Treaty (WPPT) done at Geneva in December, 1996.

50. In conjunction with the Malaysian Multimedia Super Corridor, the Government has come up with a Bill of Guarantees. One of the commitments is to enhance Malaysia's position as a regional leader in intellectual property and cyberlaws.

51. Enactment of the Malaysian Industrial Designs Act. The Act was passed by parliament in 1996 and is expected to be enforced by the end of 1997. The Act complies with the requirement of the TRIPS Agreement.

52. Steps are undertaken to fulfil Malaysia's WTO/TRIPS obligations fully by the year 1999. Enactment of new laws, namely, for the protection of plant varieties, performers' right and lay-out designs of integrated circuits as well as minor amendments to the existing patents and trademark laws are at various stages of drafting.

53. The Intellectual Property Office is working towards full automation of patents and trademark examination and procedures. It is expected to be fully operational by the end of 1997.

Participation in Regional Groupings

54. Malaysia attaches strong importance to regional cooperation and continues to participate actively in various regional groupings, namely ASEAN, APEC, and G-15. Malaysia has maintained that as long as regional trading arrangements are WTO consistent, they can positively, contribute towards multilateralism and strengthen global linkages.

ASEAN

55. Malaysia's priority is to focus on efforts to enhance trade and economic cooperation within ASEAN. In addition to efforts undertaken to strengthen and expand intra ASEAN trade through the CEPT, Malaysia together with other ASEAN members are also actively working towards expanding the fields economic cooperation in the areas of trade in services, intellectual property, transport and communications infrastructure development and industrial cooperation.

56. ASEAN is working on a framework of cooperation to enhancing the capacity and competitiveness of ASEAN Services Industries and a similar arrangement for intellectual property.

57. As of 1997, Malaysia has phased in 8580 tariff lines (92% of total tariff lines) into the Common Effective preferential Tariff (CEPT) Scheme for the ASEAN Free Trade Area. There are 516 tariff lines in the Temporary Exclusion list which will be phased into the CEPT Scheme by 2000. Only 60 tariff lines have been excluded from CEPT Concessions. The average CEPT tariff for Malaysia in 1997 is 4.04% and will gradually decrease to 1.97% in 2003.

58. ASEAN countries, apart from eliminating tariffs and NTBs, are focusing on technical barriers to trade and are committed to achieve greater transparency, align products standards in priority sectors to International Standards. A list of 20 priority product groups for standard harmonization have been identified.

(4) Future Direction and Strategy

59. In line with Malaysia's aspirations to become a developed nation by the year 2020, the focus of development will be on the promotion of a balanced, broad-based, resilient and an internationally competitive economy to provide a strong foundation for the attainment of long-term sustainable growth. This would be achieved through productivity-driven growth, skills upgrading, capital deepening and technology investment.

60. Policy initiatives will focus on accelerating the privatization programme, strengthening the financial and capital markets, encouraging private investment and improving the quality of trained manpower. These efforts are geared towards the expansion of the industrial base and ensuring that the investment climate remains attractive to both private domestic and foreign investors and that manufactured export retain its dominant role and growing trend. These measures are also designed to meet external challenges and to position the country to take advantage of opportunities afforded by the expansion in world trade.

61. The Government will continue to initiate measures to provide a conducive policy framework to facilitate commercial endeavours by the business community both domestic and international. In order to spur competition, Malaysia will progressively liberalize its domestic sector and its trade regime. Domestic industries would be increasingly exposed to international competition in order to be efficient in a competitive rather than a protected environment.

62. Internationally, Malaysia within the context of multilateral trade rules will try to ensure an open trading environment which is predictable. In order to resist protectionist tendencies, Malaysia will keep her markets open and at the same time work with all countries to keep markets open. This will be done on bilateral, regional and multilateral bases.

63. The drive for growing exports will not only focus on traditional markets but also a continual development and search for new markets. These efforts would also be complemented with aggressive marketing strategies, that include joint ventures with strong global links and also the development of local capability in international product promotion, product quality, design and packaging, market research and intelligence.

64. In the context of industrialization, the manufacturing sector will continue its role as the engine of the nation's economic growth. The contribution of the manufacturing sector will reach 37.5% by the year 2000 (38.4% by year 2005) from 33.1% in 1995.

65. Investments in the manufacturing sector will be encouraged to move towards new sources of growth with consequent diversification of products and markets. Industrial deepening will be pursued to achieve greater value added and linkages both horizontal and vertical. Downstream industries will also be encouraged in high-tech and resources-based industries. Efforts will be emphasised to promote the establishment of more small-medium scale industries that not only provide support for industrial expansion but also lead to greater industry linkages.

66. The services sector will also be assigned an important role in supporting the transformation of the economy as the country strives towards becoming an industrialized nation by the year 2020. To contribute effectively to the growth process, the services sector has to be competitive and efficient. Malaysia recognises that liberalization will help promote grater competition, efficiency, productivity and innovation in the sector. Therefore, Malaysia is committed to the process of gradual and progressive liberalization of the sector. Liberalization will be undertaken in accordance with the prevailing domestic fundamentals and the ability of the sector to accommodate changes without negatively impacting on the orderly development of the sector.

WORLD TRADE

ORGANIZATION

RESTRICTED

WT/TPR/S/31

3 November 1997

(97-4766)

TRADE POLICY REVIEW

MALAYSIA

Report by the Secretariat

This report, prepared for the second Trade Policy Review of Malaysia, has been drawn up by the WTO Secretariat on its own responsibility. The Secretariat has, as required by the Agreement Establishing the Trade Policy Review Mechanism (Annex 3 of the Marrakesh Agreement Establishing the World Trade Organization), sought clarification from the Government of Malaysia on its trade policies and practices.

Document WT/TPR/G/31 contains the policy statement submitted by the Government of Malaysia.

ต้นฉบับไม่มีหน้านี้

CONTENTS

CHARTS

ต้นฉบับไม่มีหน้านี้

ต้นฉบับไม่มีหน้านี้

SUMMARY OBSERVATIONS

1. Malaysia has achieved impressive growth and continued its economic transformation since the previous review of its trade policies, under GATT in 1993. These trends are largely attributable to the pursuit of open trade policies and continuing high rates of investment. During the review period, exports and imports of goods and non-factor services averaged 90 and 91 per cent of GDP. Malaysia has cut its import tariffs by almost one half since 1993, reducing protection for most agricultural and manufactured goods. Nevertheless, high levels of tariff protection remain in some agricultural sub-sectors as well as in the automobile industry. Investment averaged 40 per cent of GDP during the period 1992-96; a considerable share came from abroad, especially in manufacturing, where more than half of all firms' equity is now foreign-owned. Whereas foreign direct investment (FDI) policies in manufacturing are generally liberal, and investment in the multi-media and other technologically-advanced service sub-sectors has been fully liberalized, restrictions remain on foreign investors' access to much of the services sector, thus curtailing competition and impairing the potential efficiency of that sector.

2. Like other countries of the sub-region, Malaysia has been hit by the financial crisis originating with Thailand in mid-1997. The underlying strength of the economy has meant that the effects of the crisis have been somewhat less serious for Malaysia, which has indeed contributed to the financial relief package for Thailand. However, questions arise concerning the scope and direction of trade measures taken in the recent Budget.

(1) <u>Recent Economic Performance</u>

3. With real GDP growing at average annual rates of approximately 8.6 per cent, unemployment below 3 per cent, inflation declining to 3 per cent in 1996 and low external debt, Malaysia's macroeconomic performance since the previous TPR has been impressive. Malaysia has also been at pains to ensure that the benefits of growth are shared equitably among different social and ethnic groups.

4. Notwithstanding this outstanding performance, the Malaysian economy faces two major challenges to future growth. First, labour, particularly skilled labour, has become increasingly scarce. In so far as the scarcity results in nominal wage increases above gains in labour productivity, it would erode the competitiveness of Malaysian industry and contribute to inflationary pressures. The lack of skilled labour may also hinder the absorption of new techniques embodied in new capital and thus inhibit growth in total factor productivity (TFP). Whereas in the past the authorities have dealt with the labour shortage by promoting capital-intensive industries through investment incentives and relying on unskilled immigrant labour in agriculture and construction, greater emphasis is now placed on investment in human capital.

5. Secondly, Malaysia's recent growth has largely been based on increases in the volume, rather than the efficient allocation, of capital; hence, total factor productivity growth has undergone a marked slowdown. Despite the external (spill-over) benefits usually associated with FDI, including the acquisition of new technologies, managerial expertise and learning-by-doing, TFP growth averaged 0.9 per cent annually for the period 1991-1996 compared to an annual average of 2.9 per cent in 1987-1990. If the rate of improvement in TFP in the earlier period had been maintained, the same rate of GDP growth could have been accomplished with considerably less investment.

6. A further macroeconomic challenge facing the Malaysian Government is the investment-savings gap and the associated current account deficit. Gross national savings, although averaging 33 per cent of GDP during 1992-1996, fell considerably short of domestic investment; with the budget roughly in balance, the 7 percentage point gap has been largely made up by a net inflow of foreign direct investment (FDI). The counterpart of the gap is a current account deficit also averaging around 7 per cent of GDP, and reaching over 10 per cent in 1995, a level that gave serious concern to the authorities. With tight monetary policy, the deficit was cut to 5.2 per cent in 1996 and is expected to decline further in 1997.

(2) Trade Policy Formulation

7. The Government's declared long-term vision for Malaysia is to become a fully developed nation by 2020. The medium- and short-term objectives of trade and investment policies are published in periodic industrial plans and the annual budget. The authorities do not publish any evaluations of the effectiveness of specific policy instruments, such as tax incentives, in achieving policy objectives or of the relationship between the revenue loss from each measure and the investment that would not have been undertaken in the absence of the incentive, the possible misallocation of resources resulting from the incentive, or the net welfare gains or losses to consumers. Although business has a substantial consultative role in policy-making, consumer groups do not appear to make any formal input. In the absence of any convincing evidence to the contrary, therefore, the cost-effectiveness of Malaysia's active industrial policy might well be questioned.

8. Both as a member of ASEAN and individually, Malaysia regards the WTO as at the core of its external trade policy making. Under the Marrakesh Agreement, Malaysia has reduced its import tariffs by roughly one-half during the period under review; it has made substantial commitments under the GATS Agreement and is introducing new legislation required by the TRIPS Agreement ahead of deadlines. Malaysia has also, by and large, made notifications on time, used the Dispute Settlement Mechanism actively and co-operated fully in preparing this Trade Policy Review. These elements are illustrative of its strong commitment to the WTO mechanisms.

9. At the same time, ASEAN provides both a preferential trading area and a major outward-looking regional forum where Malaysia can coordinate policy with its immediate neighbours. The APEC process, through "open regionalism" and the pursuit of Individual Action Plans, involves further development of policies with regional trading partners. ASEAN and APEC also play important roles in preparing member States for discussion of new topics that may be raised in the WTO.

(3) Trade and Related Structural Policies

10. Trade and trade-related policy instruments are major features of the Malaysian Government's active industrial policy, implemented in close collaboration with the business sector. Policy involves border measures such as tariffs, non-automatic licensing procedures, quantitative restrictions and anti-dumping actions, together with internal measures such as incentives, regulations and preferential government procurement.

(i) Border measures

11. Tariffs have been liberalized substantially since the previous review. The average applied MFN tariff rate has declined from 15.2 per cent in 1993 to 8.1 per cent in 1997, and as part of Malaysia's WTO commitments, the coverage of tariff bindings has increased from under one per cent to almost two thirds of tariff lines. Furthermore, whereas only 13 per cent of tariff lines were exempt from import duty in 1993, over half of all lines now bear duty-free applied rates. There is, however, substantial flexibility for Malaysia to raise tariffs within ceiling bindings. On the other hand, some rates remain well over 100 per cent. The maintenance of some 500 specific, mixed and alternative duties conceals very high ad valorem rates; for example, roughly 100 specific duties involved rates whose average ad valorem equivalent was 145 per cent.

12. In accordance with its commitments under the ASEAN Free Trade Area (AFTA) Agreement, Malaysia has substantially reduced tariffs on imports from its AFTA partners. It is also committed to reducing tariffs on imports of practically all manufactures, including automotive products, to a maximum of 5 per cent by 2003. As AFTA tariffs are reduced ahead of MFN tariffs, imports from ASEAN countries thus receive a substantial margin of preference. However, it appears that many MFN tariffs are also being reduced in parallel with AFTA tariffs, to limit the trade diverting impact of such preferences. It thus seems that Malaysia's AFTA commitments may drive its MFN liberalization, albeit with a time lag, during which ASEAN countries receive preferential access to Malaysia's market.

13. Import licensing is the major non-tariff measure, affecting some 17 per cent of all tariff lines, principally forestry and logging, agricultural and mineral items, and the automobile sector. Most licences appear to be granted automatically or predictably upon fulfilment of certain criteria. Import quotas are applied to completely-built-up motor vehicles; coffee beans and round cabbages are also restricted under import licensing.

14. Although the Malaysian authorities have yet to change their anti-dumping legislation so that it accords fully with WTO rules, only two such measures currently apply. Malaysia's exporters also face anti-dumping and countervailing actions in certain partner markets. To some degree, these are justified by partners as seeking to offset "unfair" assistance received by exporters from the Malaysian Government or a lack of competition in Malaysia's domestic market.

15. Export promotion measures and export levies also play a part in Malaysia's industrial policy. Exports are encouraged by exemptions or drawbacks for import duties and other indirect taxes, as well as internal incentives and government-sponsored trade information initiatives. Apparently, such promotional measures are partly designed to offset disincentives arising from other policies, such as import tariffs levied on inputs used in goods for export and "cascading" sales taxes, which, unlike a VAT, tend to discriminate against exports. At the same time, taxes and other levies as well as licensing arrangements are applied to certain exports, thus tending to discourage the export of the goods affected and reduce their domestic prices. This constitutes an indirect subsidy to domestic users of such goods. The authorities justify some export taxes and levies, including those on logs, on the grounds that they are intended to take into account the environmental damage caused by the production process. However, to the extent that this is the case, production levies would be a more efficient way of correcting the environmental externality than export duties. Thus, although such instruments may serve legitimate objectives, the same objectives may be achieved more efficiently by alternative measures.

(ii) <u>Internal measures</u>

16. A central feature of Malaysia's industrial policy is discouragement of labour-intensive activities and the promotion of capital-intensive processes such as the automation of low-skill industries and the development and acquisition of advanced technologies. Foreign direct investment in such activities is actively encouraged.

17. An array of tax and non-tax incentives exists; some are granted to all sectors, while others are aimed at specific firms or industries. Incentives have also been designed to encourage participation by the Bumiputra community in investments as well as the development of small businesses. The granting of such incentives is administered by the Malaysian Industrial Development Authority (MIDA), the Government's principal "one-stop" agency for the promotion and co-ordination of industrial development. Incentives are, with one notable exception concerning reduced sales taxes on "national" cars, granted on a *non-discriminatory basis to domestically- and foreign-owned enterprises. As a consequence, foreign-owned firms accounted for more than two thirds of the value of investment qualifying for Pioneer Status and the Investment Tax Allowance during the period 1992-1996.*

18. While the Malaysian authorities appeared (prior to the 1998 Budget) to be reviewing the use of incentives with a view to making them more selective, the overall utility of investment incentives may be questioned. These measures may have an adverse effect not just on resource allocation, and thus total factor productivity, but also on the fiscal balance, thereby reducing national savings, widening the savings-investment gap, and exacerbating the current account deficit. Estimates of the annual costs of tax incentives in terms of revenue forgone are not available. However, judging from information provided by the Malaysian authorities, such costs may be substantial; for example, the Reinvestment Allowance alone cost roughly RM 1 billion annually in forgone income tax revenues during 1995-96. Such incentives may also contribute to a "beggar-thy-neighbour" situation in which other countries react by offering incentives of their own, just as the Malaysian Government may have responded to other countries' incentives.

19. The Malaysian Government attaches importance to the protection of intellectual property as a tool of industrial policy. Legislative protection for patents, copyrights and trademarks is in the process of revision to conform with the TRIPS Agreement; although Malaysia has formally invoked the five-year grace period for developing countries under the agreement, this legislation is expected to enter into force by 1998 at the latest.

20. Malaysia is not a party to the Plurilateral Agreement on Government Procurement. In contrast to general regulations, licensing requirements and incentives, Malaysian government procurement expressly favours local suppliers of goods and services through specified preferences and informal local-content policies. In addition, selected state-owned enterprises are required to follow similar practices. Such preferences provide assistance to the favoured firms; but by increasing the cost to the Government and state-owned enterprises of procuring goods and services, they impair economic efficiency. However, despite these preferences, foreign partners have been awarded a large share of government contracts.

21. Through state ownership of enterprises, the Government is involved not just in the procurement of goods, services and inputs, but also in their supply. In order to foster economic efficiency, however, some state-owned firms are allowed greater autonomy, including freedom from public procurement regulations while others have been privatized. Privatization has made a significant contribution to economic growth and public revenue. Foreign investors have been invited to participate in some privatization exercises, while they have also been allowed to invest in Malaysian listed companies up to a maximum of 25 per cent of equity.

22. Malaysia has no competition laws. This absence (particularly coupled with the drive to privatization) may in some circumstances act as an additional form of assistance to domestic producers by sheltering them from domestic and foreign competition. This is the outcome of a situation in which trade and domestic resource allocation are distorted not so much by government action, but rather its inability to take action against anti-competitive private practices. As with border and internal measures, such protection is obtained at the expense both of other domestic producers who, as a consequence, face higher prices for their inputs, and of Malaysian consumers. While freedom to raise prices for certain essential products is limited by price controls, such controls may constitute a further potential distortion to competition.

(4) <u>Trade Policies by Sector</u>

23. Trade and trade-related measures, individually or in combination, tend to affect industries and even firms in the same industry differently, producing "winners" (the net beneficiaries) and relative "losers" (industries or firms that cannot benefit from such measures or are adversely affected by them). In Malaysia, with the exception of a few products, agriculture receives little protection, and benefits from the supply of low-skilled immigrant labour. By contrast, relatively high tariffs, combined with an import quota on imported automobiles and sales tax reduction applicable to the national car, directly favour manufacturers of the latter, not just to the detriment of other domestically-manufactured or imported cars, but also at the expense of other sectors, such as agriculture and other manufacturing industries, that receive lower protection. Likewise, restrictions in service sectors, such as refusal to grant new licences to private providers of telecommunications services, or the prohibition of establishment of new banks or of the expansion of foreign bank branches, reduce competition and efficiency in the domestic market.

24. The ultimate losers from such measures are consumers; moreover, protective measures applied to one sector (particularly inputs like banking or telecommunications) affect others indirectly. On the other hand, tax and non-tax incentives or subsidies accorded to firms producing goods and services in one sector reduce not only the costs of those firms, but also the costs of firms elsewhere for whom those goods and services are inputs. Even a seemingly general measure, such as an investment or R&D incentive, will affect industries and firms differently, depending on their capital and R&D intensities. It would be surprising if the array of measures currently used in Malaysia did not significantly influence the allocation of resources among and within sectors. In the absence of sufficiently large social benefits, the outcome would be less efficient domestic allocation of resources and lower productivity in the economy as a whole.

(5) Prospects

25. To the extent that savings and investment in Malaysia remain close to the high rates experienced during the 1990s, and its openness to trade and attractiveness to FDI are maintained, the underlying outlook for the economy appears healthy, despite the recent disappointing pace of total factor productivity improvement and notwithstanding the recent turbulence in the region. Future productivity and growth would be enhanced by the increased emphasis being placed on development of human capital; and the increased openness of the economy to trade in goods and services resulting from the implementation of the liberalization measures envisaged in the Uruguay Round agreements will foster competition and specialization. Growth and productivity will be further enhanced if, as envisaged, regional liberalization measures under the ASEAN Free Trade Agreement and within APEC are extended to all other WTO Members on an MFN footing.

26. Notwithstanding this optimistic overall economic outlook, Malaysia does face some macroeconomic and structural challenges to the maintenance of its rapid economic growth. Malaysia's pro-active industrial policy, involving large amounts of public investment in infrastructure and the provision of generous incentives to promote private investment in specific sectors may well have led to sub-optimal allocation of the capital stock. If capital were allocated more efficiently, the same rate of output growth could be maintained with a lower rate of investment, bringing the latter more into line with gross national savings.

27. Continuing trade liberalization would obviously contribute to more efficient use of resources: specific measures might include parallel implementation of AFTA and MFN tariff cuts, implementation of a more competitive tendering and bidding process for public infrastructure projects, the curtailment of investment (and other) incentives and the relaxation, if not removal, of restrictions on foreign ownership in service sectors. Many of *these measures would also assist the Government in controlling the fiscal balance and give scope either for across-the-board cuts in tax rates or for higher expenditure in more essential areas, such as the development of human capital, where the social returns are arguably higher. Any improvement in the fiscal balance, together with a narrowing of the gap between investment and savings, would also tend to reduce Malaysia's current account deficit; it would, in addition, alleviate pressure to use border or non-border measures to restrain imports or encourage exports of specific categories of goods and services.*

(6) The 1998 Budget

28. The 1998 Budget was unveiled on 17 October 1997, after the main body of this report was drafted. While noting the strength of economic fundamentals, a major focus was placed on reducing the current account deficit through, inter alia, a package of measures aimed at reducing imports and increasing exports of goods and services. The package included increases in import duties on selected consumer goods, including cars and a number of consumer durables, on construction materials and heavy machinery used in construction; imports of such machinery were also to be subject to MITI's approval, given only if machinery is not available locally. The package also contained income tax exemptions for exporting companies in manufacturing and selected agriculture and services, with the scale of the exemptions directly related to increases in export values and the value-added content of exported goods and services.

29. At the same time, the Government re-emphasised its commitment to deregulation and liberalization, particularly in the financial sector: measures were introduced to extend foreign access to real estate purchases and develop the capital market, and Malaysia's commitment to the WTO financial services negotiations was reaffirmed, with particular reference to liberalization of the insurance and brokerage industries. Other features of the budget were confirmation of the postponement of several public works projects, a cut in the corporate tax rate from 30 to 28 per cent, measures aimed at increasing national savings and measures designed to curb credit. The budget is projected to raise revenue and expenditure by 1.9 per cent and 1.7 per cent, respectively, thereby slightly increasing the fiscal surplus; growth is expected to slow to around 7 per cent in 1997.

30. The Budget has added several new measures to the wide array of incentives available in Malaysia. The two percentage point reduction in the corporate tax rate has, admittedly, slightly reduced the value of some tax incentives, particularly accelerated depreciation allowances, and brings the rate closer to that of Singapore. It would appear, however, that the Malaysian Government is seeking to reduce the current account deficit as much by adopting restrictive trade measures as by directly addressing the fundamental macroeconomic cause of the deficit, namely the gap between investment and savings.

31. The trade control measures contained in the Budget are directed selectively at goods and non-factor services. The deficit in these areas is very small (0.9 per cent of GDP in 1996). The slowing of the economy and the depreciation of the ringgit since the beginning of July 1997 should, in any case, independently tend to discourage imports and encourage exports. Given the underlying strength of Malaysia's economy and the decline already seen in the current account deficit, it is to be hoped that such selective measures will be of short duration.

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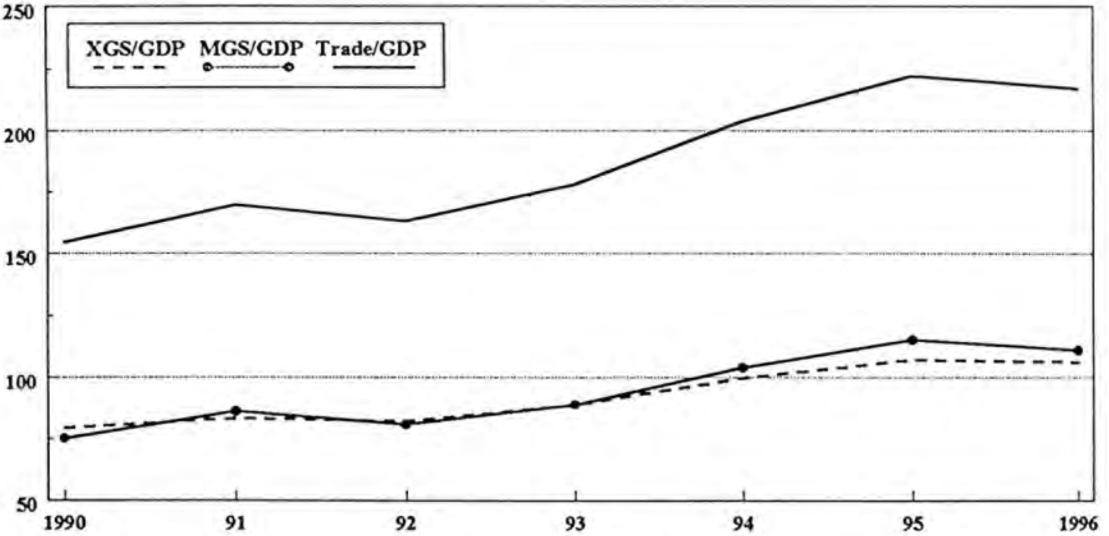
(2) Major Features of the Malaysian Economy and its Recent Performance

3. Since 1992, Malaysia's GDP has grown at an average annual real rate of 8.6 per cent (Table I.2). During the same period, unemployment fell below 3 per cent (Table I.1), while inflation was around 3.5 per cent (Table I.2). This impressive economic performance is largely attributable to sound macroeconomic policies and extremely high investment rates, averaging some 40 per cent of GDP during the period 1992-96. Although also very high at around 33 per cent of GDP, gross national savings have not matched investment; the counterpart of this savings-investment gap has been a persistent current account deficit averaging almost 7 per cent of GDP, which has been financed largely by foreign direct investment (FDI).[4] Malaysia's openness to investment is therefore among the key factors that have paved the way for the country's rapid economic growth. Indeed, past inflows of FDI have been such that foreign ownership of several major sectors, notably manufacturing and certain services is high; for example, over half of all manufacturing firms' equity is foreign-owned.

4. Another important feature of the Malaysian economy that has contributed to its economic success is its openness to trade. Imports and exports of goods and non-factor services each averaged around 88 per cent of GDP during the period 1992-96, rising steadily up to 1995 (Chart I.1). Except in 1996, however, imports have grown faster than exports. The current account deficit grew rapidly up to 1995, becoming a source of concern.

Chart I.1
Trade in goods and non-factor services as shares of GDP, 1990-96
(1978 prices, per cent)



Note: XGS and MGS denote exports (X) and imports (M) of goods and non-factor services. The percentages were computed using data at constant 1978 prices.

Source: Data provided by the Malaysian authorities.

[4]Gross national savings including net transfers from abroad is equal to gross domestic savings plus net factor income and net transfers from abroad.

Table I.2
Economic performance, 1990-96

	1990	1991	1992	1993	1994	1995	1996
				Annual percentage change[a]			
Gross national product	11.3	7.4	7.6	8.7	9.1	9.3	8.4
Gross domestic product	9.7	8.6	7.8	8.3	9.2	9.5	8.2
Real effective exchange rate	-4.5	-2.7	6.9	1.1	-2.9	0.6	4.2
Private consumption	13.1	9.5	3.0	4.6	9.8	9.4	6.0
General government consumption	5.3	12.4	4.0	10.7	9.9	7.3	0.8
Gross domestic investment							
Private investment	24.8	27.7	0.5	19.1	27.9	13.3	7.5
Public investment	17.1	10.1	28.0	8.4	-0.6	8.7	1.3
Exports of goods and non-factor services	17.1	14.1	6.2	17.2	22.5	17.6	7.2
Imports of goods and non-factor services	24.2	24.5	1.2	19.1	27.6	21.2	4.2
Consumer price index	3.1	4.4	4.7	3.6	3.7	3.4	3.5
Interest rates (per cent)							
Deposit rate	7.0	8. 0	7.9	6.5	5.3	6.6	7.2
Lending rate	7.5	9.0	9.5	10.5	8.3	9.2	9.3
Broad money (M)[b,c]	18.1	15.3	19.6	23.5	13.1	22.3	22.7
Currency in circulation[c]	9.5	9.7	9.9	11.5	17.6	9.8	8.9
Demand deposits[c]	17.0	12.8	15.1	54.8	8.1	12.7	23.1
Broad quasi-money[c,d]	19.4	16.3	21.5	16.6	16.2	29.0	21.8
				Per cent of GDP[e]			
Private consumption	52.6	53.8	51.1	49.2	48.1	47.9	46.0
General government consumption	14.0	14.2	13.2	13.1	12.6	12.6	11.3
Gross domestic investment	32.4	35.7	36.5	38.3	40.1	43.0	42.2
Gross national savings	29.1	27.6	31.6	33.0	32.6	33.5	36.6
Government current revenue	25.5	25.7	26.4	25.2	26.0	23.3	23.3
Government current expenditure	28.5	27.5	27.3	25.0	23.7	22.4	22.6
Balance	3.0	-1.8	-0.8	0.2	2.3	0.9	0.7
Total debt	81.9	74.8	65.4	58.0	48.9	41.8	35.9
Domestic debt	60.5	55.6	51.2	46.3	41.1	35.7	31.7
External debt	21.4	19.2	14.2	11.7	7.8	6.1	4.2
Exports of goods and non-factor services	76.4	81.0	77.8	82.0	91.3	95.4	92.0
Imports of goods and non-factor services	74.2	84.8	76.4	82.1	92.9	99.4	91.0
Current account balance	-2.1	-8.8	-3.8	-4.8	-7.8	-10.0	-4.9
Trade balance	0.5	-4.8	1.5	2.3	-1.1	-4.3	-0.9
External debt							
External debt as a percentage of exports of goods and non-factor services	46.9	41.8	37.5	39.2	34.0	33.0	33.0
Debt service ratio as a percentage of exports of goods and non-factor services	7.9	6.6	6.4	6.2	4.9	6.0	8.2

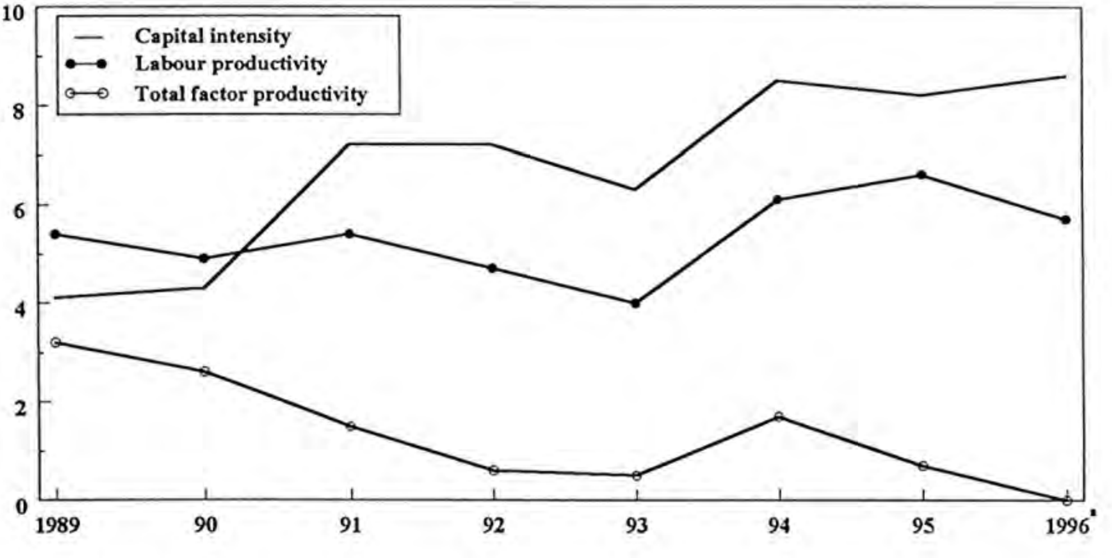
a At 1978 constant prices, except for REER and CPI calculated at 1990 constant prices.
b Defined to include currency in circulation and all private sector deposits with BNM, commercial banks (incluing Bank Islam), finance companies, merchant banks and discount houses; excludes placements among these financial institutions.
c End of period.
d Defined to comprise private sector savings and fixed deposits placed with BNM, commercial banks (incl. Bank Islam), finance companies, merchant banks and discount houses; excludes placements among these financial institutions.
e Current prices.

Source: Data provided by the Malaysian authorities.

5. Malaysia faces two significant challenges to its future growth. First, total factor productivity (TFP) growth declined from an annual average rate of 2.9 per cent during the period 1987-90 to 0.9 per cent during the period 1991-96.[5] Second, labour, particularly skilled labour, has become increasingly scarce. As a result, the Government has placed special emphasis on increasing TFP in order to sustain growth. Overall labour productivity has improved largely as a result of increased capital intensity: that, is, the amount of physical capital per employee (Box I.1).[6] However, it seems that capital accumulation has not improved TFP, despite the spill-overs or external benefits (including the acquisition of technical knowledge, managerial expertise and learning-by-doing) usually associated with FDI, which tend to be reflected in TFP growth (Chart I.2). In addition, while high rates of both public and private investment have sustained the rapid growth of the economy, the combination of large investment by the Government and the widespread use of incentives to promote private investment in specific sectors (Chapter III) may have contributed to a misallocation of capital resources, thus adversely affecting TFP.

Chart I.2
Growth trends of capital intensity, labour productivity and total factor productivity, 1989-96

(Per cent)



a Estimates.

Source: National Productivity Corporation (1996), Productivity Report, Malaysia.

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[5]National Productivity Corporation (1997).

[6]National Productivity Corporation (1997).

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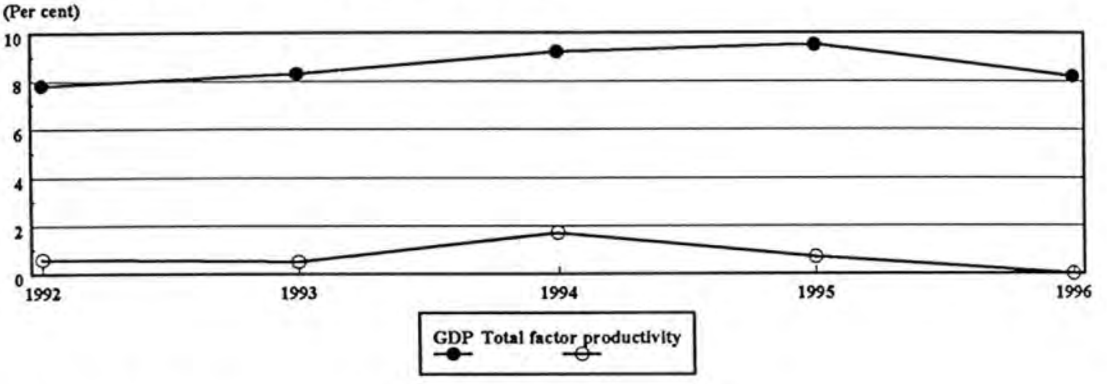
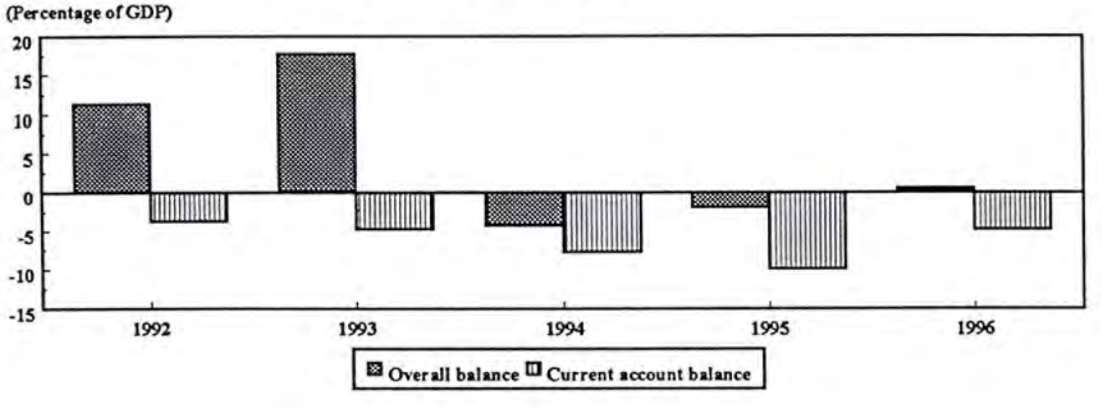
Chart I.3
Selected indicators of macroeconomic development, 1992-96

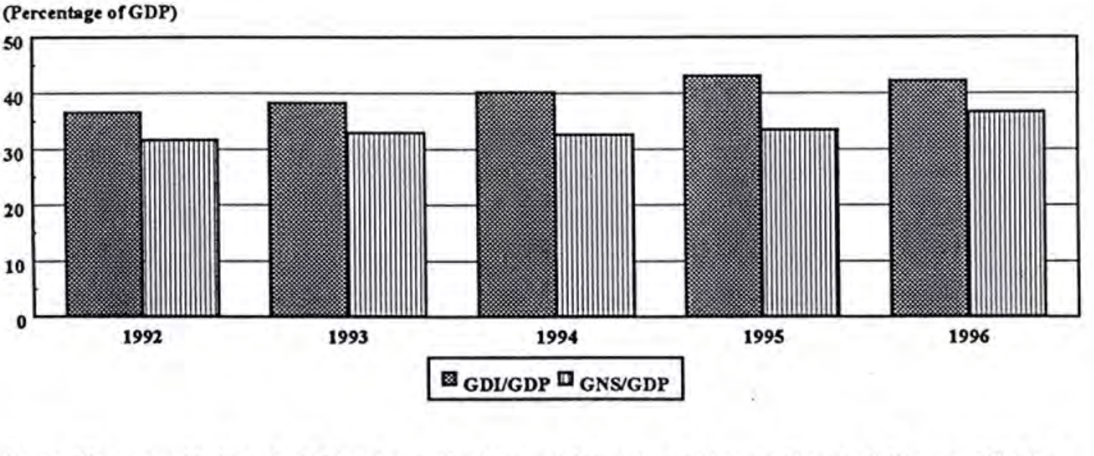
(a) Real GDP and total factor productivity growth



(b) Overall and current account balance of payments



(c) Savings and investment



Source: Data provided by the Malaysian authorities and Ministry of Finance, Economic Report, 1996/97.

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(3) Recent Economic Developments

11. Macroeconomic policy in Malaysia is oriented towards maintaining "sustainable quality" growth with low inflation. Following two years of over 9 per cent real GDP increases, growth slowed during 1996 as a result both of a tightening in monetary policy, designed to reduce the risk of overheating, and of slower export growth compared to 1995. One consequence was a narrowing of the current account deficit from 10 per cent of GDP in 1995 to 4.9 per cent in 1996, as the drop in import demand caused by contractionary monetary policy more than offset the slowdown in exports. However, the rates of expansion in private credit, real estate sales and investment demand remained high. These pressures on capacity may have been eased by the tightening of fiscal policy announced in the 1997 budget.[17] The overall fiscal balance is also expected to improve as a consequence of the Government's decision in August 1997 to postpone several large public investment projects whose priority is seen as relatively low.

(i) Fiscal policy

12. Since 1991 and 1992, when the Government faced a twin deficit problem, prudent fiscal policy has been pursued, and a small surplus was maintained throughout the period 1993-96. Public debt has declined steadily through the 1990s, from 82 per cent of GDP in 1990 to roughly 36 per cent in 1996. The improvement in the current budget balance since 1992 was mainly the consequence of restraints on expenditure, which fell by 4.7 per cent of GDP between 1992 and 1996, to 22.6 per cent in 1996 (Table I.2).[18] During the same period, revenue rose initially to 26 per cent of GDP before declining to 23 per cent in 1996. Up to September 1996, privatization reduced government capital expenditure by RM 96 billion and resulted in the absorption of 98,000 public sector workers by the private sector.[19]

13. The weakening of the fiscal position in 1995-96 (Table I.2) implies that the public sector may have stimulated demand, an undesirable development at a time when the economy is operating at full capacity. The deterioration of the fiscal position is, however, expected to be offset in the medium term by higher private savings, owing (as mentioned above) to the 1 per cent increase, in 1996, of mandatory contributions to the Employee Provident Fund (EPF).

14. A reduction in investment incentives for manufacturing would also reduce budgetary costs; incentives in the form of tax relief are a major feature of Malaysia's industrial policy (Chapter III). Apart from any possible effects on resource allocation and productivity, such incentives have a negative effect on the Government's fiscal position, thereby reducing national savings, widening the savings-investment gap and exacerbating the current account deficit. While estimates of the total annual costs of various tax incentives in terms of revenue forgone were not available, judging from information provided by the Malaysian authorities on a few of these incentives, large amounts of revenue are involved. For example, the Reinvestment Allowance alone cost the Government an average annual amount of roughly RM 1 billion in forgone income tax revenues during the period 1995-96. The

[17] IMF (1997a).

[18] However, improvement in the federal budget was partly offset by weaker budgetary performance at the state and local government levels and by higher spending by non-financial public enterprises (NFPEs) (Ministry of Finance, 1996, p.22).

[19] Government of Malaysia (1996a), p.15.

broadening of the tax base associated with the curtailment of this and other income tax incentives, if not entirely used to improve the fiscal balance, would facilitate a reduction in the statutory corporate tax rate, which, at 30 per cent, is four percentage points higher than in neighbouring Singapore. A broader tax base combined with a lower tax rate would not only be more neutral with respect to investment decisions, thereby contributing to a more efficient overall use of capital, it would also reduce the complexity of the tax system as well as the scope for tax avoidance.

15. Indirect incentives in the form of exemptions or drawbacks are also designed to address the inherent bias of Malaysia's present "cascading" sales and excise taxes against exports. Such exemptions or drawbacks would no longer be necessary if Malaysia adopted a broad-based value-added tax (VAT) that exempts exports in a manner consistent with the GATT. However, the Government considers that at this stage it is not appropriate to introduce a VAT.

16. The Government also extends procurement preferences to local suppliers, with the objective of fostering the development of local industries (Chapter III(4)(v)). Such preferences may tend to increase the cost to the Government (and state-owned enterprises) of procuring goods and services and undertaking public investment. Notwithstanding these preferences, the Government maintains that goods and services in procurement are competitively priced and notes that foreign companies have been awarded a large share of government contracts.

(ii) Monetary policy

17. Bank Negara Malaysia (the Central Bank) maintains strict management of internal liquidity, in the interest of limiting inflationary pressures resulting from speculative capital inflows and vigorous economic expansion. The authorities have sought to control demand primarily through monetary policy.

18. However, the operation of monetary policy has been complicated by short-term capital movements (section (iv) below). During both 1992-93 and 1995-96, there have been substantial capital inflows, induced in the first instance by interest rate differentials between U.S. dollar and ringgit assets and in the second by a strong expansion of credit by the banking system to the private sector. The resulting pressures have been in each case kept under control through sterilization policies and restrictions imposed on the capital account. With money supply growing at an estimated rate of 22.7 per cent, well outpacing output growth[20], Bank Negara Malaysia had to intervene to ensure price stability and a sustainable pace of economic growth.[21]

19. Malaysia has been successful in controlling inflation, both through its monetary and fiscal policies and through selective direct intervention to monitor and control prices.[22] The anti-inflation campaign also included the abolition of import duties on essential items.[23] Financial sources of inflation have

[20]Ministry of Finance (1996), p. 37. Money supply is defined as currency in circulation, demand deposits and broad quasi-money (Table I.2).

[21]In the early 90s monetary policy was tightened in an effort to control inflation. This took place at a time when monetary conditions in the United States were easing, hence the interest differential.

[22]Price controls apply, *inter alia*, to rice and other staples, since food price inflation has been a major concern.

[23]The anti-inflation campaign involved reduction of tariffs, increased imports of basic commodities, increased supply of low-cost housing, and administrative action to prevent excessive markups by retailers of basic food items and other necessities.

been kept under control, but increasing demands on national resources have resulted in serious inflationary pressures in the real economy. In particular, while the relatively low costs of skilled and unskilled labour have constituted an important inducement to firms to locate their operations in Malaysia, nominal wages have risen faster than labour productivity because of the growing labour shortage.[24] The Government is concerned about the inflationary implications of this trend. To this end, a productivity-linked wage system was agreed upon in 1996; this required extensive collaboration between employers and unions. Measures to improve productivity growth have also become a priority.[25]

(iii) Exchange rate policy

20. The nominal value of the ringgit is determined by demand and supply in the foreign exchange market. Bank Negara Malaysia intervenes to maintain orderly market conditions and to avoid excessive fluctuation in the value of the ringgit; commercial banks are free to determine and quote exchange rates. The external value of the currency is monitored against an (undisclosed) basket of currencies weighted in terms of Malaysia's major trading partners and the currencies of settlement.[26]

21. The real effective exchange rate of the ringgit fluctuated considerably throughout the period 1992-96 (Table I.2). These variations, including appreciations in 1992-93 and 1995-96, and a fall in 1994, reflect both the underlying strength of Malaysia's economy and, as noted, the impact of short-term financial flows.

(iv) Balance of payments

22. Malaysia ran a current account deficit every year in the period 1992-96, reaching 10 per cent of GDP in 1995. Thereafter, slower import growth, as a consequence of moderation in the expansion of investment spending and imports of manufactured inputs, brought about a decline in the current account deficit.[27]

23. Deficits in the current account have been financed largely by long-term capital inflows, with external government indebtedness playing a relatively minor role; the Government's indebtedness to foreigners amounted to little more than 4 per cent of GDP in 1996. The current account deficit is nevertheless of some concern to the Malaysian authorities. While partly the outcome of demand pressures, some elements are structural in nature. The two largest categories of net payments are: investment income, mainly from foreign direct investment (FDI), and services associated with merchandise trade (insurance and freight). The large and growing remittance of profits to overseas equity holders is the inevitable consequence of Malaysia's past success in attracting FDI in order to foster its rapid industrialization.[28] Moreover, the supply of shipping services and freight insurance has not kept up with growth in trade, thereby causing a widening gap in the services account. Development of trade-

[24]National Productivity Corporation (1997), p. 41.

[25]National Productivity Corporation (1997), p. 48.

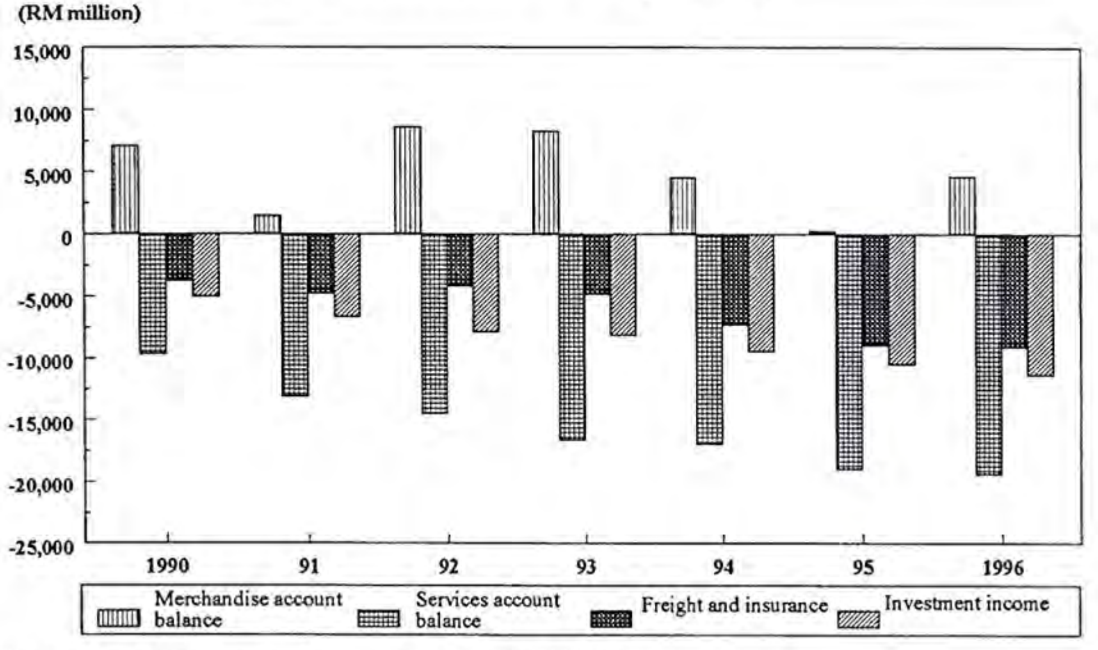
[26]IMF(1997b), p. 527.

[27]Ministry of Finance (1996).

[28]The size of these net remittances is such that Malaysia's GNP is 95 per cent of GDP. Rising remittances from Malaysian outward investment may reduce the net size of the deficit.

and transportation-related services, as well as other services (e.g. tourism) is being encouraged, to reduce the services account deficit.[29] (Chart I.5)

Chart I.5
Merchandise and services account balance, 1990-96



Source: Ministry of Finance, Economic Report, 1996/97, Malaysia.

24. Further difficulties are caused by the high import content of many of the fastest growing export industries. Production of manufactured goods is heavily dependent on imported parts, with the import content of manufactured goods averaging more than one third of their value in 1996.[30] The authorities are therefore promoting the substitution of domestic for foreign intermediate goods, in an attempt to increase the domestic content of exports.[31] For instance, duties of 5-20 per cent were imposed on heavy equipment in 1997 to reduce imports.[32] Unfortunately, reliance on direct restraints on imports to reduce the current account deficit is an inefficient and ultimately costly solution. Moreover, its impact on the current account is likely to be limited unless accompanied by an underlying decrease in domestic demand by means of tighter fiscal policy.

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[29]Government of Malaysia (1996a).

[30]Imports of intermediate goods amounted to 58 per cent of GDP, while imports capital goods accounted for 41 per cent of Malaysia's gross capital formation in 1995 (Ministry of Finance, 1996, p.29).

[31]Government of Malaysia (1995), p.27; and Government of Malaysia (1996a), p. 26.

[32]Reuters, 19 August 1997.

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within one year. However, a rising current account deficit in 1995, together with a market perception of excess demand, were reflected in speculative pressure against the ringgit at the end of 1995 and the beginning of 1996. Thus, monetary policy was tightened in 1996, allowing interest rates to rise, and the ringgit to appreciate, leading to a new inflow of short-term funds which reached some 4.8 per cent of GDP in 1996. More recently, the ringgit has been adversely affected by market turbulence in the region. Despite the central bank's intervention, the currency depreciated significantly and some controls on swap transactions were imposed in August 1997.

27. Malaysia has become an attractive market for overseas investors, as it offers profitable investment opportunities, sound economic fundamentals and political stability. FDI has played an important role for the country's development in terms of providing capital resources and facilitating the transfer of technology. FDI is closely associated with the rapid expansion of export-oriented manufacturing, particularly of electronics and electrical equipment. This sector has become the major recipient of FDI in Malaysia, showing a significant reallocation of FDI since 1992 (Chart I.7). During 1992-96, FDI in electric machinery and apparatus increased from 5.4 to 54.2 per cent; while investment in coal, petroleum products and nuclear fuel, the major recipient of FDI in 1992, decreased from 66.0 per cent to 3.7 per cent. FDI into Malaysia, despite some fluctuations, remained high during the period under review. The decrease in foreign direct investment as a share of (rapidly growing) GDP during 1992-95 appears to be the result of competition from other countries in the region, and the perceived lack of highly skilled labour in Malaysia and thus its high price (Chart I.6).[37] However, in 1996 FDI increased to RM 17.0 billion. The origin of FDI has also varied since 1992, with Singapore and Japan becoming more important investors; while investments from France and Australia seem currently to be negligible.

28. Malaysia's gross outward investment has grown from RM 1.3 billion in 1992 to RM 6.8 billion in 1996 (Chart I.8). This development may be partly the consequence of steps taken by the Malaysian Industrial Development Authority (MIDA) on behalf of the Government to encourage the relocation of low-productivity labour-intensive industries to countries where unskilled labour is relatively cheap.[38] Nevertheless, Malaysia's outward investment to developed countries has also increased since 1992. In the past, the MIDA was mainly concerned with attracting FDI. Thus, most applications were approved, provided investors complied with the given guidelines for local and Bumiputera ownership set out by the New Economic Policy (NEP). Given the present scarcity of labour and the emphasis on high technology, the MIDA has recently become more selective, requiring higher levels of domestic content in new product lines and higher productivity. For instance, the MIDA does not grant approval for labour-intensive projects unless certain conditions are met.[39]

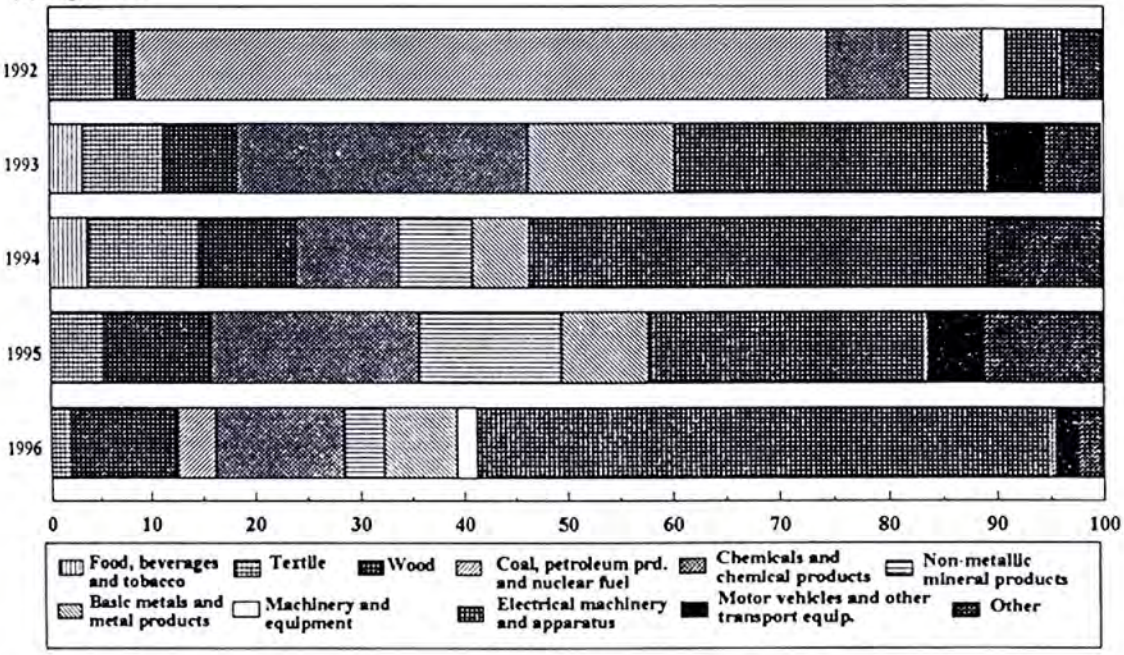
[37] The Economist, 16 August 1997 and Financial Times, 20 August 1997.

[38] EIU (1996), p.33.

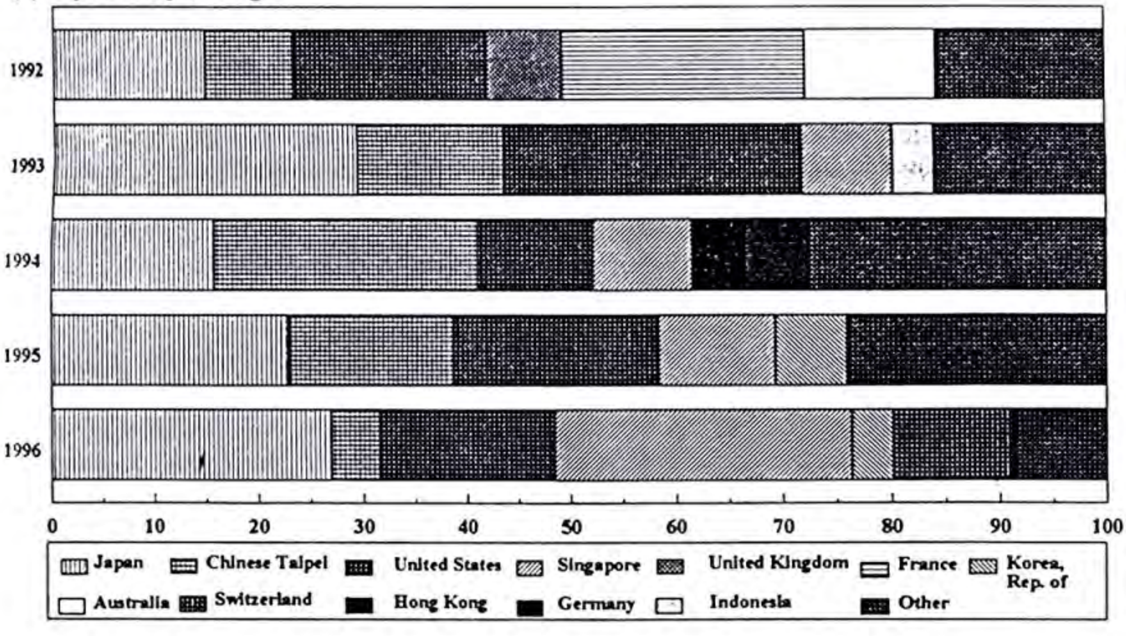
[39] EIU (1996), p.20.

Chart I.7
Inward foreign direct investment in manufacturing, 1992-96
(Per cent)

(a) By sector

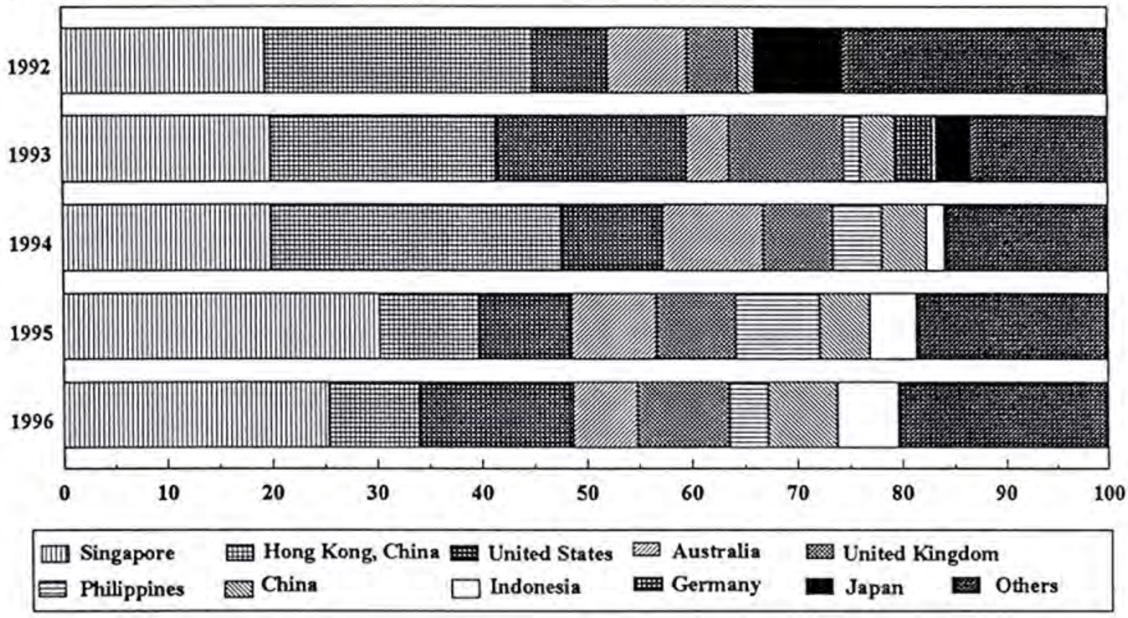


(b) By country of origin



Source: Data provided by the Malaysian authorities and UNCTAD, FDI/TNC database.

Chart I.8
Outward direct investment by destination, 1992-96
(Per cent)



Source: Data provided by the Malaysian authorities.

(4) Composition and Direction of Trade

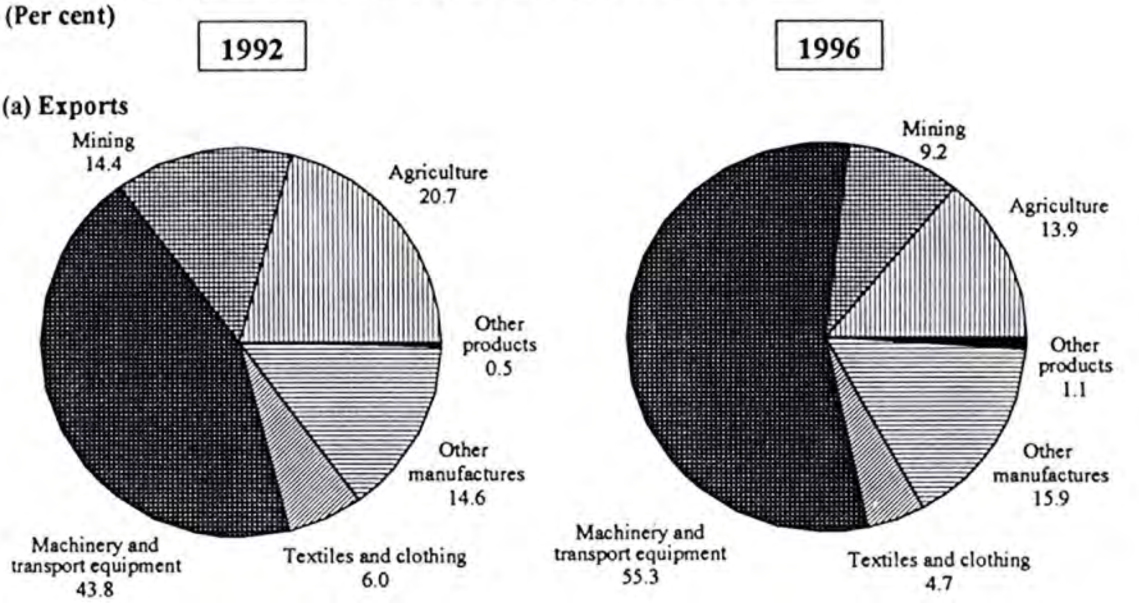
29. International trade has always been a key feature of Malaysia's economic development strategy. In the past, the country depended mainly on the export of raw materials (notably tin, rubber, palm oil and wood). With industrialization, however, trade has become even more important, given the emphasis in the Government's industrial policy on export-oriented manufacturing activities based on imported intermediate inputs and FDI. Many of the fastest growing production lines, particularly in the electronics sector, were set up on the basis of low local content. Between 1992 and 1996, exports and imports of goods and non-factor services together grew from some 154 to around 183 per cent (Table I.2).

30. Since 1993, imports have grown more rapidly than exports, reflecting rapid growth in domestic consumption of goods and services as well as high export growth. In 1996, however, both import and export growth slowed considerably to rates of 4.2 and 7.2 per cent, respectively; imports, because of contractionary fiscal and monetary policies, and exports owing to the erosion of Malaysian industries' external competitiveness, weaker import demand from other advanced economies and from within the East Asian region, and the slowdown in world activity in electronics.

Chart I.9
Product composition of Malaysia's trade, 1992 and 1996

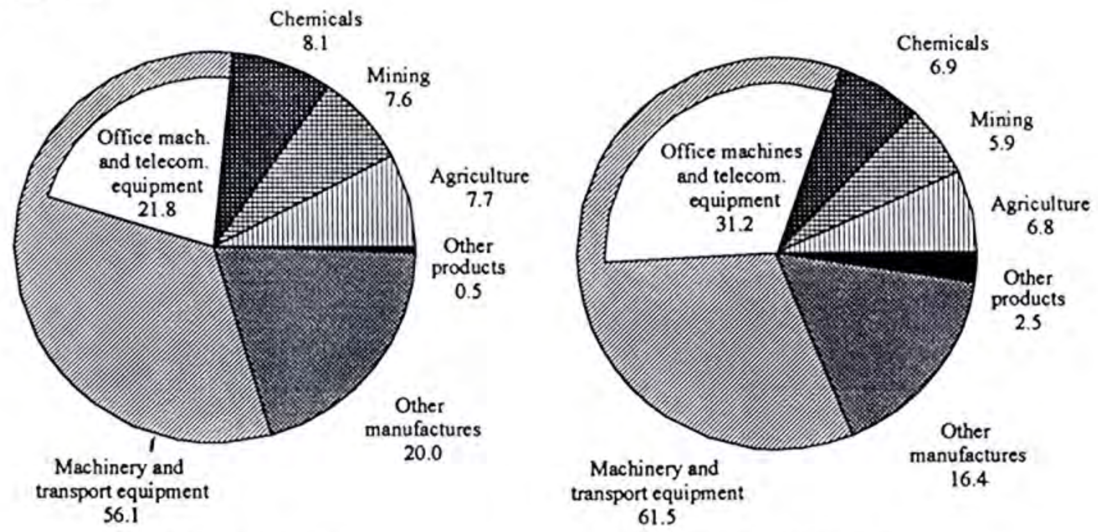
(Per cent)

(a) Exports



Total US$40.8 billion **Total US$78.2 billion**

(b) Imports



Total US$39.1 billion **Total US$76.1 billion**

Source: UNSTAT, Comtrade Database (SITC Rev.1).

(i) Composition of merchandise trade

31. The restructuring of the Malaysian economy is evident from the changing composition of Malaysia's trade, particularly exports. During the period under review, exports of manufactured goods have taken the lead, while mining and agricultural goods have become less important (Chart I.9). The share of manufactures in total exports increased from 64 per cent in 1992 to 76 per cent in 1996. Machinery and transport equipment (involving principally office machines and telecommunications equipment) alone accounted for 55 per cent of total exports in 1996 (Table AI.1). During the same period, exports of mineral products suffered a marked decline, from 14 per cent to 9 per cent. Likewise exports of agricultural products dropped from 21 to 14 per cent.

32. Manufactures also amount to roughly 85 per cent of total imports. Within the category "machinery and transport equipment", whose share has risen from 56 to 61.5 per cent of the total, electronic items have also shown the most rapid rise, reflecting the changing pattern of Malaysia's industrialization.

(ii) Direction of merchandise trade

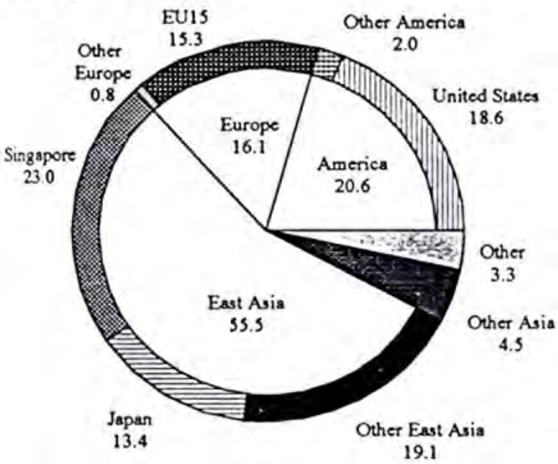
33. During the period 1992-95, there was no substantial change in the origin of Malaysian imports, while some change can be seen in the destinations of exports (Tables AI.3 and AI.4). The main destinations for exports remained Singapore (with an unknown volume of transit trade) followed by the United States (whose share decreased) and Japan. The share of other East Asian destinations (principally Hong Kong, China) rose during the period (Table AI.3). The main suppliers of imports in 1996 were the East Asian countries, especially Japan, followed by the United States (Chart I.10). Japan was an especially important supplier of intermediate electronics inputs to Malaysia. It is noteworthy that the importance of trade with ASEAN countries relative to Malaysia's other partners has declined slightly since 1992, increasing only in 1996. APEC's share in trade remained relatively unchanged.

Chart I.10
Merchandise trade by main origin and destination, 1992 and 1996

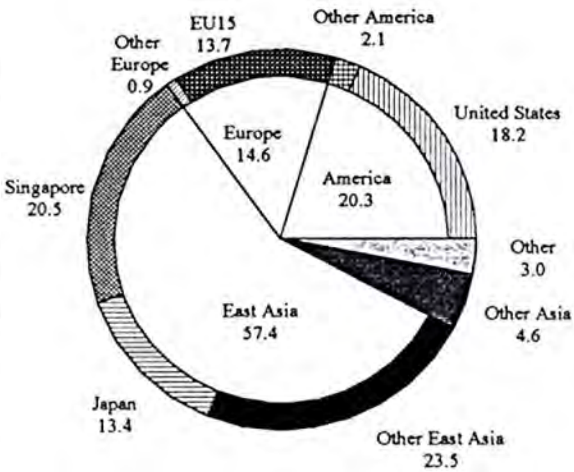
(Per cent)

1992 | 1996

(a) Exports

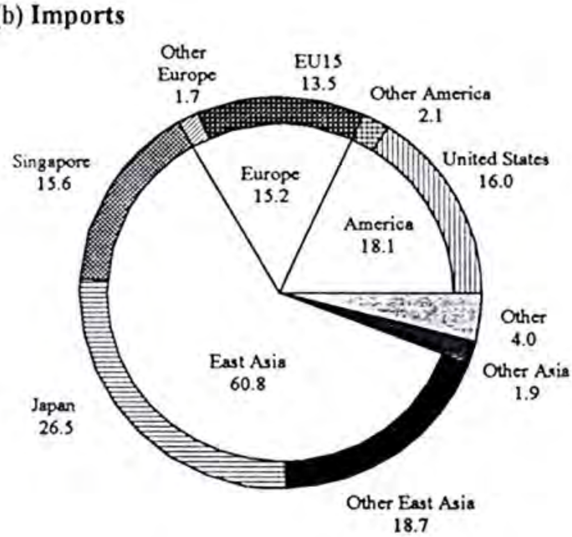


Total US$40.8 billion

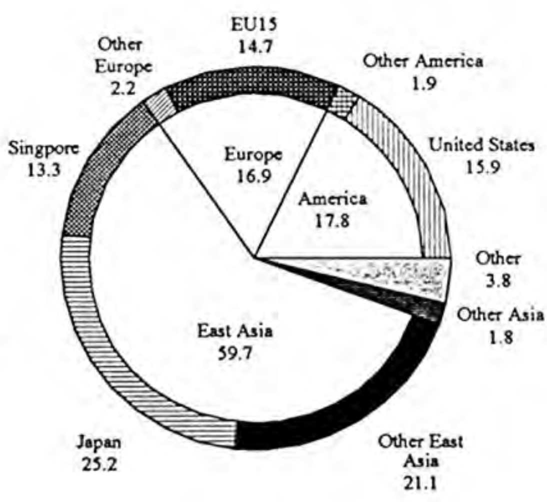


Total US$78.2 billion

(b) Imports



Total US$39.1 billion



Total US$76.1 billion

Source: UNSTAT, Comtrade database (SITC Rev.1).

II. INSTITUTIONAL DIMENSIONS OF TRADE POLICY MAKING

(1) Overview

1. While retaining its constitutional authority for external trade policy, the Federal Parliament has delegated the administration of trade and trade-related policy instruments to the Executive Branch of Government. The Government has considerable discretionary authority in the implementation of Acts of Parliament dealing with trade and investment instruments.

2. Policy objectives of the Government are published in Malaysia's long- and medium-term plans, which are formulated in the Prime Minister's Department following consultations with other Ministries, advisory bodies and the private sector. Annual policy objectives are outlined in the budget and tabled in Parliament by the Minister of Finance. Although the realization of policy objectives is monitored on a regular basis by the Prime Minister's Department and the Ministries concerned, the contribution of specific trade and trade-related policy instruments to the achievement of these objectives is not reported in the long- and medium-term plans.

3. In view of the fact that the WTO Agreements and related commitments cover Malaysia's largest trading partners, these Agreements play a pivotal role in the formulation of trade and trade-related policies. Nevertheless, regional arrangements, notably those involving the Association of South East Asian Nations (ASEAN) and the APEC forum, are also important.[1] Indeed, Malaysia coordinates its policies on WTO matters with other ASEAN members. At the same time, however, it endeavours to ensure that its participation in regional trade arrangements is consistent with the main principles underlying the WTO Agreements. This includes not only notifying the WTO of ASEAN trade preferences under the Enabling Clause,[2] but, more importantly, implementing some of the tariff cuts agreed with its ASEAN partners on an MFN basis (Chapter III(2)(ii)). In addition to regional arrangements, Malaysia has concluded several types of bilateral agreements usually in areas beyond the purview of existing WTO rules. Such agreements include investment guarantee agreements, which, among other things, protect investors from expropriation without adequate compensation, and tax treaties, which provide relief for international double taxation.

[1]ASEAN's founding members were Indonesia, Malaysia, the Philippines, Singapore, and Thailand; Brunei Darussalam joined as the sixth member in 1984, Viet Nam joined as the seventh in July 1995. Laos and Myanmar joined in July 1997, while the process of admitting Cambodia continues. Malaysia holds the rotating Chair of the ASEAN Economic Ministers' Meeting during 1997. The APEC forum encompasses Australia, Brunei, Canada, Chile, China, Chinese Taipei, Hong Kong China, Indonesia, Japan, Republic of Korea, Malaysia, Mexico, New Zealand, Papua New Guinea, the Philippines, Singapore, Thailand, and the United States. Canada will host the APEC meeting in 1997, Malaysia will do so in 1998.

[2]GATT documents L/7111, 30 October 1992; L/7111/Add.1, 16 July 1993; L/7307, 29 October 1993; L/7491, 27 June 1994; L/7546, 2 November 1994; L/7546/Add.1, 3 November 1994; and WT/COM/TD/3, 11 August 1995 (Table AII.2).

(2) Internal Trade Policy making

(i) Institutional structure

4. Malaysia, a former British colony, became independent in 1957.[3] It is a federation of 13 States and two federal territories, Labuan and Kuala Lumpur.[4] Malaysia is a parliamentary democracy and is ruled as a constitutional monarchy.[5] Islam is the official religion, but the multi-racial population practices various religions, generally according to its ethnic origins. The main ethnic groups of the 1995 total population of 18 million are indigenous Malay "Bumiputra" (57.6 per cent), Chinese (26.2 per cent), Indian (7.3 per cent), other Malaysian citizens (5.8 per cent) and non-Malaysian citizens (6.3 per cent).

5. Legislative authority is divided between the Federation and the States. The Federal Parliament is competent to enact laws on issues enumerated in the Federal List (List I), while the States have exclusive authority on subjects included in the States' List (List II). Matters falling under the joint competence of both Federal and State authorities are specified in List III. Any matters not enumerated in any of the lists are the prerogative of the States. Trade policy issues, including commerce, industry, finance, industry, shipping, navigation and fisheries, communications and transport, and federal works and power, are in the Federal List. By contrast, all issues related to land use, including mining and forestry, are within the competence of the States.[6]

6. Federal legislative authority rests with the bicameral Parliament, which consists of the Dewan Negara (Senate) and the Dewan Rakyat (House of Representatives). The Senate comprises 69 members, 26 of whom are elected by the Legislative Assemblies of the 13 States, two from the Federal Territory of Kuala Lumpur and one from the Federal Territory of Labuan; the remaining members are nominated by the King from among distinguished citizens.[7] The House of Representatives contains 193 seats. Representatives are directly elected and hold office for five years, although the House may be dissolved earlier by the King upon the advice of the Prime Minister.

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[3]The eleven States of Malaya became independent on 31 August 1957. The Federation of Malaysia was established on 16 September 1963, through a union of the independent States of Malaya, Singapore and the former British colonies of Sarawak and Sabah. Singapore left the Federation in 1965.

[4]The 13 States are Johor Darul Takzim, Kedah Darul Aman, Kelantan Darul Naim, Melaka, Negeri Sembilan Darul Khusus, Pahang Darul Makmur, Perak Darul Ridzuan, Perlis Indera Kayangan, Pulau Pinang, Sabah, Sarawak, Selangor Darul Ehsan and Terengganu Darul Iman.

[5]The King is elected to the throne for a five-year term by, and from among, the hereditary rulers of the nine States in the Federation that have Sultans at their head. The King normally acts upon the advice of the Government, headed by the Prime Minister. On his own authority he may perform certain functions such as withholding consent to a request for the dissolution of Parliament, or convening a meeting of the Conference of Rulers concerned with the privileges, honours and positions of the rulers. He also appoints members of the Cabinet, judges of the Supreme and of the High Courts and other state dignitaries.

[6]Land use in the Federal Territories of Kuala Lumpur and Labuan falls under the prerogative of the Federal Parliament.

[7]Distinguished citizens are persons who, in the opinion of the King, have rendered distinguished public service or have achieved distinction in the professions, commerce, industry, agriculture, cultural activities or social service, or are representative of racial minorities or are capable of representing the interests of aborigines.

7. While most bills may originate in either the House of Representatives or the Senate, those involving taxation (including customs duties) or expenditure must stem from the House of Representatives. However, those that have passed the House of Representatives must be considered by the Senate, although they become law (upon the King's assent) irrespective of whether they are approved by the Senate. Subsidiary legislation (e.g. regulations, orders, rules, proclamations and notifications) may be made under any Act, Enactment or Ordinance.[8] By virtue of their authority, Parliament and the State Assemblies may confer their legislative power, mainly in matters of detail that require flexibility, to a person or body. The execution of most trade policy instruments is delegated to various Ministers and statutory authorities (Table AII.1). Subsidiary legislation can be amended or revoked by the authority that has made it.

8. The Cabinet of Ministers of the Malaysian Federation, headed by the Prime Minister, formulates trade and investment policy objectives and measures, initiates legislation and exercises executive functions. The annual budget, which is tabled in Parliament by the Minister of Finance, assesses economic performance during the previous year and presents the Government's legislative agenda related to budget and finance. The Ministries involved in the implementation of Malaysia's merchandise trade policies have not changed since the 1993 Review. The Ministry of International Trade and Industry (MITI) is the central authority charged with the planning and implementation of Malaysia's international trade and industrial policies, while the Ministry of Finance is the final arbiter in the Executive Branch on taxes, including tariffs, and various investment incentives. In addition to MITI, the Ministries of Agriculture and Health are the main bodies involved in import licensing (Chapter III(2)(iii)). Market access conditions for trade in services are generally administered by specific ministries and statutory bodies. Intellectual property rights are under the purview of the Ministry of Domestic Trade and Consumer Affairs (Table II.1).

9. A number of inter-ministerial committees cover specific policy areas. The National Committee on Multilateral Trade Issues under the Ministry of International Trade and Industry advises the Government on its obligations under, and on implementation of, the WTO Agreements (Chapter III(4)).[9] The Foreign Investment Committee (FIC) is a high-level inter-agency committee with representatives from the key economic ministries and agencies.[10] The Committee's policy-making activities focus on areas that are not covered by the Industrial Coordination Act 1975 (Chapter III(4)(ii)), or the Banking and Financial Act (Chapter IV(4)(ii)). The role of the FIC, under its Guidelines established in 1974, is to regulate the acquisition of assets of 15 per cent or more of the voting power in Malaysian

[8]Acts enacted by the Malaysian Federation between 1946 and 1957 are called Ordinances. Laws made by State Legislative Assemblies are called Enactments, except in Sarawak where laws are called Ordinances.

[9]The National Committee on Multilateral Trade Issues has assumed some of the functions previously performed by the Coordinating Committee on Trade and Investment Policy. The Coordinating Committee was an inter-Ministerial committee of senior officials chaired by the Secretary-General of the Ministry of Trade and Industry (GATT, 1993 p. 33). The Coordinating Committee discussed those issues and developments overseas having an impact on Malaysia's foreign trade and investment promotion and formulated appropriate strategies and policy responses. The Coordinating Committee has not met since 1993.

[10]The Foreign Investment Committee is chaired by the Director-General of the Economic Planning Unit in the Prime Minister's Department. Other members of the Committee are the Secretary-General of the Ministry of Finance, the Governor of the Central Bank, the Secretary-General of the Ministry of International Trade and Industry, the Chairman of the Malaysian Industrial Development Authority, Director-General of the Implementation and Coordination Unit, the Secretary-General of the Ministry of Domestic Trade and Consumer Affairs, the Secretary-General of the Ministry of Entrepreneurial Development, and the Registrar of Companies.

companies, control and take-over of companies by foreign interests, and mergers and other acquisitions of assets exceeding RM 5 million, whether by Malaysian or foreign interests.

Table II.1
Main trade-related functions of selected ministries and government agencies/statutory authorities, 1997

Ministry, agency, committee	Trade-related functions
Ministry of International Trade and Industry	Planning and implementation of foreign trade and industrial policies
Ministry of Foreign Affairs	Promotion of Malaysia's interests abroad, including the interest of Malaysians travelling or residing overseas
Economic Planning Unit, Prime Minister's Department	Formulation of strategies and programmes for development planning, privatization policy and monitoring the realization of the New Development Policy
Ministry of Finance	Formulation of monetary and fiscal policy, implementation of the budget including import and export tariffs, prohibitions and licensing
Central Bank of Malaysia	Implementation of monetary policy under the Ministry of Finance; banking and insurance supervision, including exchange control policy
Securities Commission	Monitoring and regulation of developments in the securities market
Ministry of Domestic Trade and Consumer Affairs	Facilitation of domestic trade, protection of consumers and formulation and implementation of policies for the protection of intellectual property rights
Malaysian Industrial Development Authority (MIDA)	Implementation and promotion of investment policies
Ministry of Agriculture	Formulation and implementation of agricultural (except forestry and tree crops) and fishery policies
Ministry of Primary Industries	Formulation and implementation of Malaysia's primary sector policies (forestry, tree crops, rubber, mining) including research and development, production, processing, marketing, and deliberation of international commodities issues
Ministry of Energy, Telecommunications and Post	Formulation and implementation of energy, telecommunications and post policies. The Ministry is also responsible for the formulation of a "convergence" law dealing with telecommunications, audiovisual and computer services.
Ministry of Transport	Formulation and implementation of road, maritime and air transport policies
Ministry of Culture Arts and Tourism	Formulation of tourism policies, implementation of these policies is shared with the Malaysia Tourism Promotion Board.

Source: Information provided by the Malaysian authorities.

10. Although a variety of ministries is involved in the formulation of policies towards foreign investment, all investment policies relating to manufacturing projects are implemented by the Malaysian Industrial Development Authority (MIDA). MIDA serves as a one-stop investment approval agency for practically all domestic and foreign-owned investments in the manufacturing sector[11]; and it is responsible for the granting of a broad range of incentives (Chapter III(4)). MIDA can also propose to grant tariff protection to what are considered to be "deserving infant industries". However, the Ministry of Finance remains the final arbiter on these measures.

[11]Only some small-scale investments are excluded (Chapter III(4)(ii)).

11. Malaysia has no formal competition policy.[12] Nevertheless, the abuse of dominant market position is addressed by a number of other policy instruments, such as price controls for some products administered by the Ministry of Domestic Trade and Consumer Affairs, and maximum prices for telecommunications services administered by the Ministry of Energy, Telecommunications and Post (Chapter III(4)).

12. As in many other WTO Members, statutes provide a margin of discretion to the Executive Branch of Government. The Malaysian authorities have implemented trade policy statutes with a concern for the trade-off between economic growth and distribution of income and assets. Such concerns may be specified in the implementing regulations, while in other cases they are taken into account in the implementation of policies and regulations on the basis of general principles formulated in the development plans (Annex II.1). The discretion of the Government in implementing trade policy statutes is, in principle, limited by the right of appeal to the judicial system. In practice, however, the decisions of the relevant Ministers are, according to the authorities, invariably final.[13]

(ii) Trade policy objectives

13. In view of Malaysia's racial and cultural diversity, the overriding developmental policy objective of the Malaysian Government has been economic growth balanced with social equity, elimination of poverty and restructuring of society. A deliberate policy of the Government with emphasis on manufacturing based export-led growth, driven by the private sector resulted in the rapid expansion of export-oriented manufacturing activities. Two other major policy objectives are acceleration of total factor productivity growth, and a reduction of the balance-of-payments deficit. Trade and investment policies are designed with these objectives in mind (Annex II.1).

14. Various tax and non-tax incentives are offered to companies whose activities are thought to contribute to the realization of the Government's objectives. Incentives are offered upon application, to companies that fulfil the criteria established. In some instances, however, companies may choose to forgo such incentives if that enables them to secure a relaxation of certain requirements normally attached to certain activities. Some such relaxation may be possible where the Government feels that those requirements could be unduly detrimental to economic growth. The Prime Minister has reportedly suggested that preferences for Bumiputra may be relaxed, given full employment in the Malaysian economy and the need to promote optimal use of resources, domestic and foreign.[14]

(iii) Advisory and review processes

15. The private business sector, as well as semi-independent research institutes such as the Malaysian Institute of Economic Research (MIER), various universities and the Institute of Strategic and

[12]A draft competition legislation has been prepared. It is under revision by the Ministry of Domestic Trade and Consumer Affairs following comments from government agencies, the private sector and non-government organizations.

[13]Discretion is conferred on the Minister to act justifiably and in good faith in carrying out the purpose of the Act. The administrative decision of a Minister may be brought before the Court through the use of prerogative writs e.g. mandamus, certiorari, and injunction. The courts may review administrative decisions in a supervisory capacity, i.e. their role is restricted to seeing that the decision-maker acts within and according to law. Thus far, there have not been any appealed cases on any trade policy statutes.

[14]Financial Times, 23 May 1997 "Mahathir hints ethnic rules may be eased".

International Studies (ISIS) Malaysia are invited to contribute to the preparation of policy initiatives. Most ministries have also developed sector-specific consultation procedures (Chapter IV). The Ministry of Domestic Trade and Consumer Affairs has established a number of semi-public and public sector advisory and review bodies dealing with protection for intellectual property rights (Chapter III(4)). Consultation between the public and private sectors facilitates the formulation of import, export and investment policies, and fosters high-level government support for trade policy promotion of foreign investment in Malaysia, and investment abroad by Malaysian companies.

(a) Economy-wide consultation and review bodies

16. The Malaysian Business Council (MBC) was established in 1991 to facilitate the process of consultation between policy makers, civil servants, and corporate leaders. The terms of reference of the MBC include examination of domestic and international economic and business developments; discussion of different issues and problems; examination and development of practical options and strategies; providing feedback on policy issues and developments with regard to industrialization; removal of misunderstandings and roadblocks to cooperation between public and private sectors; and generation of consensus on national economic strategies.

17. As in other countries, producers are organized in various Chambers of Commerce. The National Chamber of Commerce and Industry of Malaysia is a federation of the Associated Chinese Chambers of Commerce and Industry of Malaysia, the Malay Chambers of Commerce and Industry of Malaysia and the Malaysian Associated Indian Chambers of Commerce and Industry of Malaysia. In addition manufacturers are represented by the Federation of Malaysian Manufacturers. The Malaysian International Chamber of Commerce and Industry represents the various international Chambers of Commerce in Malaysia. The Chambers of Commerce and Industry express their interests and opinions regarding various policies and policy options in submissions to the Government. Representatives of the Chambers of Commerce pointed out that Malaysia's import liberalization ahead of its WTO commitments forced Malaysian companies to improve their efficiency to maintain market share. More detailed comments are made in memoranda of the Federation of Malaysian Manufacturers to the annual Dialogue with the Ministry of International Trade and Industry (Chapter IV(3)).

18. By contrast, Malaysia does not appear to have a strong organization representing consumer interests. Although consumer interests are protected through price controls and labelling requirements for some products, there is no law preventing domestic producers from otherwise taking advantage of a dominant position on the domestic market through collusive behaviour. In the absence of a specific competition policy, liberalization of imports of goods and services is the main instrument to counter such collusion. However, consumer interests do not appear to be represented in decisions regarding the imposition of trade barriers.

19. Both the ISIS Malaysia and MIER are non-profit institutions established under the Companies Act. The two Institutes serve as bridges between the Government, the private sector and universities. They are partly funded by the Government, private sector contributions and paid consultancy activities. ISIS's role is to conduct objective and independent policy research in the areas of defence, security and foreign affairs, national and international economic affairs, policies for national building, science, technology and industry. MIER conducts independent, problem-oriented research on economic and financial issues and provides advice on macroeconomic management, development and future economic perspectives. Research assessing the impact of various policy measures used by the Government appears to be conducted primarily in response to specific requests from the Malaysian authorities.

(b) Topic-specific consultation and review bodies

20. Various consultation and review bodies exist under the purview of Ministries with sector-specific responsibilities. The large number of committees and consultation procedures facilitates close links between the public and the private sector. In some cases, such a consultative process allows for the efficient, non-discriminatory development of standards (Chapter III(4)(iv)). On the other hand, trade policies developed in consultation with the private sector have in some cases benefited selected Malaysian companies, as in the case of Proton, Malaysia's "national car" producer, developed under a deliberate policy-driven strategy of enhancing indigenous capabilities and industrialization (Chapter IV(3)(iii)).

21. The specialized nature of many of the consultation committees at the sectoral ministry level has also allowed these committees to develop strong international linkages. Such links are complementary to Malaysia's formal external policy making in the WTO as well as to regional and bilateral arrangements.

(3) External Trade Policy making

22. Like most other WTO members, Malaysia formulates trade policies not just on a multilateral basis, but also on both regional and bilateral bases. While the WTO Agreements are central to the formulation of trade policies, Malaysia also participates actively in regional groupings such as ASEAN and other regional arrangements including APEC. At the same time, however, Malaysia attempts to ensure that its adherence to such arrangements is consistent with the main principles underlying WTO Agreements. The Malaysian Government also regards ASEAN and other groupings as a means of formulating concerted responses by like-minded countries to trade policy discussions and disputes within the WTO and new issues (such as investment, environmental and labour standards) raised by other WTO Members.[15] By contrast, bilateral arrangements are intended primarily to address those measures impeding access to foreign markets that are felt to be particularly important to the two parties concerned but fall beyond the scope of existing multilateral or regional agreements.

23. The growing trend towards regional (and bilateral) arrangements begs the question as to whether such arrangements are indeed consistent with the principles that underlie the WTO Agreements and, in particular, the balance between trade (and investment) creation and diversion. It would appear that, at least as far as Malaysia's participation in ASEAN is concerned, the diversionary effects have not outweighed the trade creation effects between ASEAN and non-ASEAN members. This may be partly due to the fact that, since 1993, tariff preferences granted within the ASEAN Free Trade Area (AFTA) are formulated as rates of duty instead of a preferential margin in relation to MFN tariffs.[16] Recent cuts in MFN rates, allowable under ASEAN procedures have thus substantially reduced the differences between these and AFTA tariffs.[17]

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[15]Government of Malaysia (1996a), p. 8.

[16]Under the ASEAN Preferential Trading Agreement concluded in 1977 and valid until the end of 1992, tariff preferences were expressed as a preferential margin of 25-50 per cent below MFN tariffs. (GATT (1991), pp. 74-76).

[17]The Common External Preferential Tariff (CEPT) Agreement allows member States to reduce their tariffs to 0-5 per cent on an MFN basis while enjoying concessions from other ASEAN member States (ASEAN Secretariat (1993), p. 8).

24. The Malaysian authorities emphasize that Malaysia has always supported open regionalism and often voiced concern over inward-looking and discriminatory regional trading blocks. They also maintain that regional groupings should be the building blocks of multilateralism.

(i) Multilateral arrangements

(a) WTO

25. Malaysia ratified the WTO Agreements on 6 September 1994 and became a founding member of the WTO on 1 January 1995. Since then it has become a party to the Interim Agreement on Financial Services reached in 1995, the Information Technology Agreement, and the 1997 Agreement on Telecommunications Services. It does not subscribe to any of the four plurilateral WTO Agreements.[18] Malaysia's WTO Schedule XXXIX extends its tariff bindings from less than 1 per cent to 65 per cent of all tariff lines (Chapter III(2)), of which roughly two thirds pertain to manufactured goods. It has also made extensive commitments under the GATS (Chapter IV(4)). As a developing country, however, Malaysia has invoked its rights to delay the implementation of the Customs Valuation Agreement and the TRIPS Agreement.[19] It has notified a number of measures under the TRIMs Agreement (Chapter III(2)). Selected notifications, as circulated to WTO members on 30 June 1997, are listed in Table AII.2.

26. Malaysia was a party to the first dispute raised under the WTO provisions when Singapore requested consultations concerning the prohibition of imports of polyethylene and polypropylene in January 1995.[20] The outcome was a mutually agreed solution with Malaysia converting the relevant non-automatic licensing requirement to automatic licensing (Chapter III(2)(iii)). On 28 February 1996, Malaysia joined the consultations requested by Hong Kong concerning the restrictions on imports of textile and clothing products administered by Turkey. Although the consultation period has expired, no panel has been requested. Malaysia had also requested consultations and the establishment of a panel concerning a U.S. import prohibition of certain shrimp and shrimp products.[21] A panel was established on 25 February 1997 and its procedures were ongoing as at 30 September 1997 (Table AII.3).

27. The Malaysian authorities considered the Singapore Ministerial Meeting in December 1996 basically as a review forum to evaluate the progress or otherwise of implementation of the various Uruguay Round Agreements. In Malaysia's statement in Singapore, the Minister of International Trade and Industry emphasized that service sectors should be liberalized to a degree commensurate with the level of economic development. Malaysia rejected any link between labour standards and trade actions. The Minister stated that work in the WTO on multilateral investment rules, as well as competition policies and laws, could be supported provided it did not lead to a negotiating process. Further, she

[18]The Agreement on Trade in Civil Aircraft, the Agreement on Government Procurement, the International Dairy Agreement and the International Bovine Meat Agreement.

[19]WTO documents WT/Let/1, 27 June 1995; revision 1, 2 March 1995 and revision 2, 22 May 1995.

[20]WTO (1996), p. 101.

[21]WTO (1997), pp. 94-95.

mentioned that the WTO had the responsibility to assist the least developed countries so that they could also benefit from the work programme of the Organization.[22]

(b) Other multilateral arrangements

28. Malaysia became a party to the Convention on the Settlement of Investment Disputes between States and Nationals of other States (Washington Convention) on 8 August 1966 and enacted the Convention on the Settlement of Investment Disputes Act 1966 (Act 392) (Rev. 1989) to give it effect. It therefore recognizes the International Centre for the Settlement of Investment Disputes (ICSID) as the administrative body to provide the facilities for conciliation and arbitration of investment disputes. Under the Convention, parties to a dispute apply the Conciliation Rules or Arbitration Rules, unless otherwise agreed.

(ii) Regional arrangements

29. Malaysia participates in the Association of South-East Asian Nations (ASEAN), the Asia-Pacific Economic Cooperation (APEC) forum and the East Asian Economic Caucus (EAEC) as well as in several other groupings with prominent trade objectives.[23] The EAEC functions as a consultative group within APEC. Malaysia also participates in the second round of negotiations on the Global System of Trade Preferences (GSTP), and has submitted an offer covering tariff reduction on 15 tariff lines to these negotiations (Chapter III(2)(ii)).

(a) Developments in ASEAN

30. Malaysia is one of the founding members of the Association of South-East Asian Nations (ASEAN) formed in 1967. Within ASEAN, Malaysia participates in initiatives applied to all member States, cross-border initiatives with selected trading partners or groups of trading partners (the growth triangles or regions), and initiatives dealing with relations between ASEAN and non-Member countries.[24] The People's Democratic Republic of Laos and Myanmar became members of ASEAN on 23 July 1997 and have participated in all ASEAN activities since then. On accession to ASEAN, Cambodia is expected to do likewise.

Recent initiatives applicable to all ASEAN countries

31. In January 1992 the ASEAN countries agreed to establish the ASEAN Free Trade Area (AFTA) to promote trade and investment in the region. In January 1993 the Common Effective Preferential Tariff (CEPT) emerged as the mechanism for implementation. Member States agreed to the effective tariff reductions on products originating from ASEAN member States over 15 years.

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[22]Statement by the Honourable Dato' Sero Rafidah Aziz, Minister of International Trade and Industry, WTO Document WT/MIN(96)/ST/64, 11 December 1996.

[23]The Organization of Islamic Countries, the Commonwealth, the Non-Aligned Movement, and Group of 15.

[24]ASEAN's dialogue partners are Australia, Canada, the European Union, India, Japan, the Republic of Korea, New Zealand and the United States. In addition the trade ministers from ASEAN and the Closer Economic Relations (CER) Agreement between Australia and New Zealand, agreed to meet annually since their first joint meeting in September 1995, (Lloyd, 1996, pp. 178-193).

32. The 1995 ASEAN Summit formalized new initiatives that would accelerate the completion of AFTA by 2003, instead of 2008, and expand ASEAN economic cooperation to the fields of services and intellectual property.[25] The AFTA product coverage was also expanded to include unprocessed agricultural products. In addition, it is envisaged that all products in the Temporary Exclusion List (TEL) will be transferred to the Inclusion List (IL) in five equal annual instalments of 20 per cent, with the first instalment in January 1996 and the last in 2000.[26] Although the CEPT Agreement calls for the elimination of non-tariff barriers within five years after engagement of concessions, the eight AFTA Council Members decided that Members should aim to eliminate these barriers no later than 2003.[27]

33. The Framework Agreement on Services focuses on seven priority areas: financial services, tourism, telecommunications, construction services, business services, air services and maritime services. It was expected that the first package of commitments covering tourism, and maritime and air transport services would be concluded by the 29th ASEAN Economic Ministers Meeting in October 1997. The new arrangement is expected to start in 1998.

34. The Framework Agreement on Intellectual Property, signed in 1995, enhances ASEAN administration, legislation and enforcement of intellectual property rights and explores the possibility of setting up ASEAN patent and trademark systems (Chapter III(4)(iii)).

35. Following the phasing out of the ASEAN Industrial Joint Venture (AIJV) and the Brand-to-Brand Complementation Schemes (BBC), ASEAN has introduced a new scheme called the ASEAN Industrial Cooperation Scheme (AICO) effective from 1 November 1996. The new arrangement is a cooperative arrangement consisting of a minimum of two participating companies from different ASEAN countries. The output of the participating companies will enjoy a preferential tariff rate in the range of 0-5 per cent. Participating companies are required to be incorporated in an ASEAN member, have a minimum national equity stake of 30 per cent, and undertake resource sharing/pooling and/or industrial cooperation activities.[28]

Cross-border initiatives

36. Malaysia is located at the geographical centre of the ASEAN grouping of countries, sharing land borders with Brunei Darussalaam, Indonesia, and Thailand, and linked to Singapore by causeway. During 1994 and 1995 it accounted for around a quarter of all intra-ASEAN trade, second only to Singapore which accounted for almost half of intra-ASEAN trade.[29] Malaysia is engaged in three ASEAN initiatives to facilitate cross-border trade and investment flows; the Indonesia-Malaysia-Singapore Growth

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[25]Viet Nam joined ASEAN in 1995 and was granted a ten-year transition period starting 1 January 1996. Upon joining the Association, Laos and Myanmar also received a ten-year transition period starting 1 January 1998.

[26]The TEL contains products exempted from the extension of tariff preferences under the CEPT scheme; the IL currently covers about 85 per cent of the value of intra-ASEAN trade.

[27]ASEAN Secretariat (1995) pp. 21-22.

[28]Equity waiver criteria for Malaysia are available for participating companies with linkages to small and medium-sized enterprises, companies involved in high technology, especially in new and emerging technologies, and research and development companies.

[29]Ministry of International Trade and Industry (1996b), p. 129.

Triangle (IMS-GT); the Indonesia-Malaysia-Thailand Growth Triangle and the Brunei-Indonesia-Malaysia-Philippines-East ASEAN Growth Area (BIMP-EAGA). All three are intended to capitalize on the geographical proximity and complementary strengths of contiguous sub-regions within ASEAN with a view to increasing cross-border trade and investment flows. By building on natural sub-regional synergies, it is hoped that the pace of intra-ASEAN economic cooperation and integration can be accelerated and its scope expanded. While a number of projects are already underway in the IMT-GT, a development strategy is being formulated for the BIMP-EAGA under the supervision of the Asian Development Bank.[30]

37. On 17 December 1994, Indonesia, Malaysia and Singapore signed a Memorandum of Understanding (MOU) to formalize the cooperation framework between Singapore, Indonesia's Riau Province, the Malaysian State of Johor and any other area which might be designated by the Parties. Since then, the member areas have been expanded to include six other provinces in Indonesia (West Sumatra, South Sumatry, Bengkulu, Jambi, Lampung and West Kalimantan) and three more Malaysian States (Melaka, Negeri Sembilan and Patang). The MOU provides a framework for bilateral and trilateral co-operation in the development, expansion and integration of various sectors including trade, transport and communications, tourism, shipping, agriculture, forestry, industrial infrastructure and manufacturing. The three countries also agreed to encourage human resource development and to facilitate and promote the expeditious and smooth flow of goods and services, investments and people within the IMS-GT. However, the IMS-GT is private-sector led and market-driven. The roles of the three countries involved are to support, encourage and facilitate bilateral and trilateral private-sector collaboration efforts.[31]

(b) Asia-Pacific Economic Cooperation (APEC) Forum

38. The Bogor Declaration (November 1994) committed the Asia-Pacific Economic Cooperation (APEC) to implement free and open trade and investment in the region, while affording flexibility to member economies to implement their commitments to trade liberalization. It was agreed that the pace of implementation would take into account the differing levels of economic development among APEC economies, with the industrialized economies achieving the goal of free and open trade and investment no later than 2010, and developing economies no later than 2020.[32] The Declaration articulated the three main pillars of work within the APEC fora: trade facilitation, trade liberalization and economic and technical cooperation.[33]

39. The APEC Osaka summit meeting in November 1995 resulted in the adoption of an Action Agenda setting out the framework for future APEC activities together with a set of principles and specific actions to implement the Bogor Declaration. The Osaka meeting also resulted in the announcement of specific "down-payments" of initial actions including measures that further liberalize and facilitate foreign trade and investment. The Osaka Initial Actions focused on steps to harmonize customs forms, adopt common product-safety standards, deregulate, reduce tariffs and eliminate other specific trade

[30]Ministry of International Trade and Industry (1996b), p. 143.

[31]WTO (1996), p. 25.

[32]WTO(1995), p. 24.

[33]WTO (1996), p. 24.

impediments.[34] The meeting further identified ten general principles to guide trade and investment facilitation and liberalization within APEC: comprehensiveness, WTO-consistency, comparability, non-discrimination, transparency, standstill, simultaneous start, continuous process with differential time tables, flexibility, and cooperation.

40. The Manila Action Plan for APEC (MAPA) 1996 comprises Individual Action Plans (IAPs), Collective Action Plans (CAPs) and joint activities in various APEC fora. The action plans are based on the ten principles set out in the Osaka Action Agenda and the goals formulated in the Bogor Declaration. Observers note progress in defining Bogor goals in tariff reductions to specific targets, though the definition of targets and time schedules for the removal of non-tariff barriers are less clear. Regarding services, the same observers note a commitment to collective APEC action to support WTO negotiations on professional services and telecommunications and to adopt, within the Bogor time-frame, a set of principles for the development of open markets for energy services and telecommunications.[35] Malaysia's Individual Action Plan focused on the process of its continued trade liberalization and the implementation of its WTO commitments.

(c) Other regional groupings

41. In 1993, the ASEAN Ministers operationalized the East Asia Economic Caucus as a loose consultative group within the APEC forum. The Malaysian authorities consider the People's Republic of China, Japan and the Republic of Korea as prospective member countries of the Caucus.[36] Further, Malaysia is a also member of the Organization of the Islamic Conference (OIC),[37] the Global System of Trade Preferences (GSTP), the Commonwealth, the Non-Aligned Movement, and the Group of 15.

(iii) Bilateral trade and investment arrangements, by trading partner

42. Malaysia has signed 47 bilateral trade agreements, 54 bilateral investment guarantee agreements, 27 bilateral payments agreements and 48 Avoidance of Double Taxation Agreements (Tables AII.4, AII.5, AII.6 and AII.7). The Arbitration Act 1952 provides for resolution of disputes.[38] In addition, Malaysia receives trade preferences on a bilateral basis from a number of trading partners under the GSP.[39] Export restrictions administered under the WTO Agreement on Textiles and Clothing as well as SPS import restrictions in selected markets are also administered on a bilateral basis. Trade preferences administered under bilateral trade agreements with Australia and New Zealand are expected to be phased out by 1 January 1998 (Chapter III(2)(ii)).

[34]APEC Economic Leaders' Meeting (1995).

[35]Pacific Economic Cooperation Council (PECC), Philippines Institute for Development Studies (PIDS) and the Asia Foundation (1996), p. 11.

[36]Government of Malaysia (1996b), pp. 664-665.

[37]The OIC established the Islamic Corporation for Insurance of Investment and Export Credit (ICIEC) in July 1995, so as to provide the impetus to increasing intra-OIC trade. Further, the OIC agreed to the establishment of a mutual recognition arrangement on standards for products from member States (Ministry of International Trade and Industry Malaysia (1996b), p. 118).

[38]APEC (1996), p. 9.

[39]As of 30 September 1997, Malaysia received GSP preferences from Australia, Canada, Czech Republic, the European Union, Hungary, Japan, New Zealand, Norway, Poland, Russia, Slovakia, and Switzerland.

43. Malaysia's large number of bilateral trade, investment, payment and tax agreements are a reflection of a very active bilateral trade policy, which is complemented by public-sector support for Malaysian companies investing abroad. Although recent initiatives have contributed to rapidly growing trade and investment relations with, among others, China and South Africa, relations with the European Union, the United States and Japan are still the most significant. The EU, US and Japan are all dialogue partners of ASEAN.

(a) European Union

44. Malaysia has investment guarantee agreements with most individual EU member States (namely Austria, Belgium, Denmark, Finland, France, Germany, Italy, Luxembourg, Netherlands, Spain, Sweden, and the United Kingdom). Further, Malaysia has a bilateral trade agreement with Germany. No bilateral payments arrangements/agreements exist with any EU member State. With the United Kingdom (as with the United States), Malaysia is party to a reciprocal arrangement for the protection of sound recordings, broadcasts and published editions through the Copyright (Application to Other Countries) Regulation 1990 (Chapter III(4)(iii)).

45. The main trade issues that have arisen between the European Union and Malaysia concern the use of anti-dumping measures by the European Union against Malaysian exports, and preferential access of Malaysian exports to the European market under the GSP Scheme. As of 1 February 1997, there were six EU anti-dumping measures and investigations outstanding and one ongoing against Malaysian exports. By contrast, Malaysia had taken one anti-dumping measure against European exports (Chapter III(2)(iv)). Malaysia had also expressed concern that "The intention of the EU to link the GSP scheme to conditionalities such as labour standards and environment, from 1 January 1998 is contrary to the principles of non-discrimination and non-reciprocity that underpin the GSP".[40] Furthermore, the Malaysian authorities are concerned that "local authorities in a number of EU member states, including Belgium, Germany, the Netherlands and the United Kingdom, continue to restrict the use of tropical timber for construction purposes".[41]

(b) United States

46. A bilateral investment guarantee agreement between Malaysia and the United States, dating back to 1959, was revised in 1965 (Table AII.5). There is a limited agreement to avoid international double taxation (Table AII.7). A bilateral agreement concerning the transboundary movement of hazardous wastes from Malaysia to the United States was signed on 10 March 1996.[42] In the area of intellectual property rights, there is a reciprocal arrangement for the protection of sound recordings, broadcasts and published editions administered through Malaysia's Copyright (Application to Other Countries) Regulation 1990 (Chapter III(4)(iii)). In Malaysia, over one third of all patents registered during 1986-96, and over 20 per cent of trade marks registered during 1992-96, are owned by U.S. firms, the largest foreign country of ownership of such intellectual property rights (Chapter III(4)(iii)).

47. The United States has one countervailing duty measure outstanding against exports of extruded rubber thread from Malaysia. Furthermore, Malaysia is also party to an ongoing dispute with the

[40] Ministry of International Trade and Industry (1996b), p. 108.

[41] Ministry of International Trade and Industry (1996b), p. 108.

[42] The Bureau of National Affairs (1996) International Environmental Reporter, July, pp. 59-60.

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Annex AII.1 Planning in the Executive Branch

Malaysia maintains both long-term development plans, setting broad objectives for the more distant future, and medium- and short-term plans that tend to be more specific in both objectives and policy instruments. The Malaysian authorities have indicated their long-term, 25-year, objectives in "Vision 2020". The Vision envisages Malaysia as a united, developed nation by the year 2020 with a competitive, dynamic, robust and resilient economy. At the same time, however, great emphasis is placed on sustainable development, and on the evolution of an economically just and equitable, democratic, liberal, caring, moral and ethical society.[43] To ensure Malaysia's future competitiveness in global markets, the Government seeks to encourage productivity improvement through a strategic shift to capital- and technology-intensive production processes; to reduce its role in the economy through the continuing privatization of publicly-owned companies and assets; and to maintain healthy fiscal and monetary management.

The Second Outline Perspective Plan (OPP2) (1991-2000), follows the first OPP (1971-1990) in which the New Economic Policy (NEP) was formulated. Under the NEP, various preferences were enacted to favour selected segments of society, particularly the indigenous Bumiputra population, with the view of reducing economic inequality among ethnic groups, thus promoting racial harmony. Such preferences were modified during the Second Outline Perspective Plan (OPP2) under the National Development Policy (NDP), moving towards more general economic and social objectives.[44] Under the NDP, preferences for indigenous Malaysians are targeted at "Bumiputra with potential, commitment and good track records" and "groups within the Bumiputra community who are new in business and do not have the necessary track record".[45] A range of tax and non-tax incentives is also provided to the business sector, irrespective of ethnicity; the expansion of public amenities and social services in rural and urban areas alike is available to all residents.

The Seventh Malaysia Plan (SMP) covers the centre period of the National Agricultural Policy[46] and the second half of the OPP2. The National Agricultural Policy stresses the role of market forces and research and development in the agricultural sector (Chapter IV(2)). The SMP stresses the acceleration of total factor productivity growth as a major policy objective (Chapter I(1)). Total factor productivity growth is to be fostered by large-scale production, labour-saving techniques including automation, enhancement of labour quality, efficient management and expansion of infrastructure; the development of high-value-added activities is encouraged including, in the farm sector, horticulture and aquaculture; integration with the global economy is to be promoted through trade and investment and greater backward and forward linkages of the external sector. Price stability and the current account

[43]Government of Malaysia (1996c), The Way Forward - Vision 2020, Kuala Lumpur, posted on the Internet.

[44]"While the NDP maintains the basic strategies of the NEP, its new dimensions will be to: (a) shift the focus of the anti-poverty strategy towards eradication of hard-core poverty while at the same time reducing relative poverty; (b) focus on employment and the rapid development of an active Bumiputra Commercial and Industrial Community (BCIC) as a more effective strategy to increase the meaningful participation of Bumiputra in the modern sectors of the economy; (c) rely more on the private sector to be involved in the restructuring objective by creating greater opportunities for its growth; and (d) focus on human resource development as a fundamental requirement for achieving the objectives of growth and distribution." (Government of Malaysia, 1991, p. 4).

[45]Government of Malaysia (1991), p. 17.

[46]The National Agricultural Policy (1992-2010) stresses the role of market forces in agricultural development in this context imports have been liberalized to reduce inflationary pressures.

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III. TRADE POLICIES AND PRACTICES BY MEASURE

(1) Overview

1. Trade and trade-related policy instruments are major features of the Malaysian Government's pro-active industrial policy. These instruments may be used at the border, as in the case of tariffs, quantitative restrictions, non-automatic licensing procedures and anti-dumping actions. Alternatively, they may be applied internally, through incentives, standards, laws and regulations as well as preferential government procurement practices. All these measures can entail elements of direct or indirect government assistance to domestic producers of goods and services, or to investors. Tariffs and non-tariff border measures provide assistance by tending to raise prices of competing imports, thereby protecting domestic producers from foreign competitors. While some internal measures, including preferential government procurement practices used to further social or economic objectives, also enable domestic or other favoured suppliers to charge higher prices, others, such as those in the form of incentives, permit domestic producers to charge lower prices, while maintaining profitability. Again, internal measures shelter domestic producers from foreign competitors. Consequently, both border and internal measures constitute potential distortions to competition.

2. Border measures directly affecting imported goods have been liberalized substantially since the first review of Malaysia's trade policies in 1993 (Table III.1). As part of Malaysia's WTO commitments under the Uruguay Round, the coverage of tariff bindings increased from under 1 per cent to almost two thirds of tariff lines. At the same time, the average applied MFN tariff rate has declined from 15.2 per cent in 1993 to 10.2 per cent (8.1 per cent if *ad valorem* equivalents of specific and mixed duties are excluded) in 1997.[1] Furthermore, whereas only 13 per cent of tariff lines were exempt from import duty in 1993, more than half of all lines are currently duty free. While potential and actual tariff protection has declined overall, tariff dispersion has widened substantially as duties on raw materials and intermediate imports have fallen faster than those on fully processed products, thus possibly accentuating distortions to domestic resource allocation (section (2)(ii)).

3. Import licensing affects less than a quarter of tariff lines, except in the wood sector; licences are generally granted within three days, according to the authorities (section (2)(iii)). Since the entry into force of an anti-dumping and countervailing law in 1993, just two anti-dumping cases have been investigated resulting in countermeasures (section (2)(iv)). Malaysia does not have any laws, regulations or administrative procedures relating to safeguard measures[2].

4. Export promotion measures and export levies are also an integral part of Malaysia's industrial policy. Exports are encouraged by, among other things, exemptions/drawbacks for both import duties and other indirect taxes, incentives, and government-sponsored trade information initiatives (section (3)). Such promotional measures are designed to create export awareness; however, they also help to offset export disincentives arising from measures such as import duties on inputs used in goods for export and "cascading" sales taxes, which, unlike a VAT, tend to discriminate against exports. At the same time, taxes and licensing arrangements are applied to certain exports, thus tending to discourage the export of the goods affected and reducing their domestic prices (section (3)(ii)). Although this constitutes

[1]The average for 1993 does not include estimates of the *ad valorem* equivalents (AVEs) of either specific, mixed or alternative duties. The 1997 figures include such estimates for 315 of the 523 tariff lines subject to these duties.

[2]WTO document G/SG/1/MYS/1, 17 November 1995; and Table AII.3.

an indirect subsidy to domestic users of such goods, the aim, according to the authorities, is to assist the development of downstream industries which provide value-added content.[3]

5. Non-border measures may also involve elements of government assistance; like tariff and non-tariff border measures, which directly affect imports and exports, they can have a significant impact on trade in goods. Non-border measures are particularly important obstacles to the cross-border provision of services, however. While services may be embodied in goods, the provision of services is more likely to require producers of services to be located close to consumers. Consequently, restrictions on foreign direct investment (FDI) tend to impede the establishment of foreign firms providing these services.

6. Among the main non-border, or internal, measures used to influence trade in goods and services are regulations and licensing requirements, which are designed to encourage or discourage certain types of activity (section (4)(i)), and incentives, mainly in the form of tax relief, which are aimed at encouraging, *inter alia*, investment and technological progress (section (4)(ii)). These measures appear to apply to domestic and foreign investors alike. The Malaysian authorities are reviewing the use of incentives with a view to making them more selective by, among other things, encouraging automation in labour-intensive industries (to alleviate the shortage of low-skilled labour), training of employees and technological development.

7. In line with its commitments under the TRIPS Agreement, and given its desire to encourage the inflow of capital, particularly in the form of intellectual property, the Malaysian Government provides protection for patents, copyrights and trademarks. New legislation covering industrial designs is due to come into force, and new or amended Acts are to be introduced in other fields of intellectual property (section (4)(iii)).

8. Trade in goods and services may be affected not just by government policies designed to influence private behaviour, but also by the Government undertaking certain activities itself (section (4)(v)). Procurement practices seemingly favour domestic suppliers of goods and services; Malaysia is not a party to the WTO's Plurilateral Agreement on Government Procurement. The Government also affects procurement and supply of goods and services through state ownership of enterprises.

9. Notwithstanding the privatization of many state-owned enterprises in recent years, and the resulting diminished role of the Government in business decisions, the absence of competition laws (section (4)(vi)) may lead to distortion of trade and production patterns through inability to act against anti-competitive practices. As a consequence, higher prices may prevail, including for inputs. While freedom to raise prices for certain essential products is somewhat limited by the existence of price controls, these controls constitute a further potential distortion to competition in markets that could otherwise be competitive.

10. Malaysia's exporters too face tariff and non-tariff border measures applied by its trade partners. Some of these measures, notably anti-dumping and countervailing actions, arise from allegations that some forms of government assistance, particularly subsidies/incentives or a lack of competition in Malaysia's domestic market, confer an "unfair" advantage on Malaysia's exporters, enabling them to sell their products abroad at unduly low prices (possibly as a consequence of cross-subsidization).

[3]Although the main rationale behind export duties/taxes is to encourage down-stream processing, some export taxes and levies, including those on logs, also appear to be justified on the grounds that they take into account the social costs associated with the environmental damage caused by the production/harvesting of specific products, such as trees. However, as the environment damage is the consequence of the production of the timber rather than its export, production levies would be a more efficient way of correcting the environmental externality than export duties.

Table III.1
Structure of Malaysia's MFN and AFTA tariffs, selected years
(Per cent of total number of tariff lines unless otherwise indicated)

Indicator	MFN tariffs				AFTA tariffs[a]	
	Excluding estimates of AVEs for specific duties			Including AVE estimates for some specific duties[b]		
	1988	1993[c]	1997	1997	1997	2003
Tariffs:						
Number of tariff lines[d]	12,183	11,875	10,372	10,372	10,372	10,372
Bound tariff lines	0.8	0.8	65.4[f]	65.4[f]	n.a.	n.a.
Duty-free tariff lines	10.3	13.4	57.6	57.6	59.1	59.2
Specific and mixed tariffs	22.2	12.0	5.0	5.0	4.8	2.2
Tariffs with no *ad valorem* equivalent (AVE)	7.4	5.9	1.5	0.5	0.5	0.5
Simple average applied rate (per cent)	17.5	15.2	8.1	10.2	6.9	3.5
Tariff range (per cent)	0-207.5	0-140.0	0-200	0-1772	0-1772	0-1772
Import-weighted average[g] (per cent)	15.5	11.9	9.9	12.1	9.2	3.5
Domestic tariff peaks[h] (per cent)	0.8	2.2	15.8	2.4	7.2	0.9
International tariff peaks[i] (per cent)	51.3	49.1	25.9	27.1	11.6	0.8
Overall standard deviation (percentage points)	16.0	13.1	13.9	41.5	33.9	31.6
Non-tariff barriers:						
Percentage of tariff lines subject to non-automatic licensing (1995)[j]	...	...	17.0	17.0	...	...

n.a. Not applicable.

... Not available.

a No AVEs are calculated directly for AFTA rates expressed as specific, mixed or alternative duties. However, some products on the General Exclusion List were expressed as a margin of preference over specific MFN duties for which AVEs were available. For these products as well as for "sensitive" and "highly sensitive" unprocessed raw materials which are not yet included in the AFTA schedules, AVE estimates were included.
b Estimates of *ad valorem* equivalents of 96 specific duties, 157 mixed duties and 62 alternative duties were provided by the Malaysian authorities to the WTO Secretariat (Section (2)(ii)(a)).
c Tariff averages exclude a small number of lines with rates above 105 per cent.
d Excluding HS Chapters 98 and 99.
e AFTA preferences are analyzed on the basis of the MFN tariff schedule and therefore contain by definition the same number of tariff lines; in practice, a slightly different classification is used to administer tariff preferences (Customs Duties Order (Common Effective Preferential Tariff) 1995 and Customs Duties Order (Common Effective Preferential Tariff)(Amendment) 1997 follow a different classification as compared to Customs Duties Order 1996 as amended by Customs Duties (Amendment) (No.3) Order 1996).
f According to the 1995 Harmonized System of tariff classification. The change to the 1996 Harmonized System classification on balance aggregated some bound lines, while some unbound lines were split. As a result, under the 1996 HS tariff classification 58.9 lines are bound. The actual imports for which tariff lines are bound remain generally unchanged.
g Using APEC 1995 import weights, excluding Brunei and the Philippines, while 1994 data are used for Australia.
h Tariffs higher than three times the simple average.
i Tariffs above 15 per cent.
j Based on the 1995 tariff nomenclature. Since 1995, import licensing for some cigarettes and ephedrine have been added while such licensing for diamond and diamond jewellery has been abolished.

Source: Calculated by the WTO Secretariat and UNCTAD from data provided by the Malaysian authorities to the WTO Secretariat; and Comtrade data.

(2) Measures Directly Affecting Imports

(i) Registration, customs valuation and procedures

11. Foreign trade as such is not subject to a specific permit or registration requirement in Malaysia. However, importers (and exporters) of certain products that are subject to import and export licensing are required to register with the licence issuing agency (Table III.2). The authorities state that these requirements are merely used for monitoring purposes.

Table III.2
Import and export registration requirements in Malaysia, 1997

Product	Activity	Requirement
Palm oil, palm kernel, palm kernel cake, palm fatty acid and palm oil planting material.	Import and export	Under the Palm Oil Industry (Licensing) Regulations, 1979 the applicant for the import and export of these products must forward two supporting letters from the suppliers as well as the buyers in the application to the Palm Oil Registration and Licensing Authority (PORLA). An annual fee of RM 100 is payable for the licence.
Natural rubber	Export	Under the Rubber Shipping and Packing Control Act 1949, exporters are required to be registered with the Malaysian Rubber Exchange and Licensing Board (MRELB). An annual fee of RM 200 is payable for such registration. Further, under the Rubber Export Registration Act 1966, the exported rubber is to be covered by a certificate issued by the MRELB.
Pepper	Export	Under the Pepper Marketing Regulations 1971 an annual licence is required to buy and store for the purpose of sale more than 650 kg. of pepper. The annual licence fee is RM 10. In addition exports are subject to preshipment inspection which involves a grading test. The costs of the grading tests are one Ringgit per hundred kg.
Pineapple	Export	Under the Pineapple Industry Act 1957 (revised 1990) exporters are required to register with the Pineapple Board.
Timber	Export	Exports are required to be registered with the Malaysian Timber Industry Board.

Source: Information provided by the Malaysian authorities.

12. Malaysia uses the Brussels Definition of Value to define customs value.[4] As a developing country, it has invoked the right to delay the implementation of the WTO Agreement on the Implementation of Article VII of GATT 1994 (Customs Valuation) for a period of five years (Table AII.2). Nonetheless, ASEAN members decided in 1995 at the Seventh AFTA Council Meeting in Brunei Darussalam to aim to accelerate the timetable for implementation of the WTO Agreement in this regard to 1997.[5]

13. Exporters and importers may submit and claim their merchandise themselves or appoint an agent to act on their behalf. In accordance with Section 90 of the Customs Act 1967 such agents must be approved by the Customs Department. All applications must be made in writing to the respective Director of Customs of the State where such activity is intended with relevant documents such as

[4]Section 2 of the Customs Act defines the relevant price "...which an importer would give for the goods on a purchase in the open market if the goods were delivered to him at the place of payment of duty and if freight, insurance, commission and all other costs, charges and expenses (except any customs duties) incidental to the purchase and delivery at such place had been paid."

[5]ASEAN Secretariat (1995) p. 22.

incorporation of company, etc. Applications from non-citizens to act as agents need prior approval from the Foreign Investment Committee before any consideration by the Customs Department; however, those with a share allocation of less than RM 50,000.00 are exempted.

14. A survey by the Central Bank of Malaysia found the level of satisfaction with the Customs Department the lowest of all public services provided. The main point of concern cited was slow clearance of goods. Whereas clearance in Singapore takes on average a day, 42 per cent of respondents claimed that it took two days or more in Malaysia (Table III.3). Other complaints raised were too much bureaucratic red tape, inconsistency in coding classification by the Customs Department and a shortage of experienced officers.[6]

Table III.3
Clearance time by the Customs Department

Clearance time	Less than 4 hours	4-8 hours	8-24 hours	2-3 days	More than 3 days
Percentage of respondents	19	18	21	30	12

Source: Bank Negara Malaysia (1997), Survey of Manufacturing Companies 1996, Economics Department, Kuala Lumpur (mimeo), p. 65.

(ii) Tariffs

15. The customs tariff is the main border instrument influencing import flows. Malaysia does not use tariff quotas or variable import levies. MFN treatment is offered to all countries (including those that are not WTO Members), while ASEAN countries receive tariff preferences.[7] Almost two thirds of Malaysia's import tariffs are bound in its WTO schedule as compared to less than 1 per cent prior to the conclusion of the Uruguay Round (Table III.1). Judging from the simple average of applied MFN tariff rates (excluding *ad valorem* equivalents of specific rates and specific components of mixed and alternative duties), overall average nominal tariff protection dropped from 15.2 per cent to 8.1 per cent.[8]

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[6]Bank Negara Malaysia (1997), p. xii.

[7]A limited number of tariff preferences for imports from Australia and New Zealand still exist but are expected to be phased out as of 1 January 1998 (section (c)).

[8]Although the drop is much less marked according to the import-weighted tariff average, the latter can be a misleading indicator of overall tariff protection. While the simple (unweighted) arithmetic average of the tariff rates is not entirely a satisfactory indicator of tariff protection either, because it takes no account of the relative importance of various imported products, a major drawback of using either a country's own import-weighted tariff average involves the fact that it tends to assign a small weight to the highly protected products, with no weight at all being given to a prohibitive tariff, thus tending to underestimate the degree of protection. In addition, use of variable import weights can result in spurious movements in weighted averages over time as the weights themselves would tend to be inversely related to a country's tariff rates.

As a pragmatic compromise, therefore, constant import-share-weighted averages are used to remove the possibility of spurious movements in weighted averages. Moreover, instead of Malaysia's own import weights, the shares of overall APEC import values in 1995 are used to mitigate the downward bias inherent in Malaysia's own import weights (APEC 1995 data are used excluding Brunei and the Philippines while 1994 data are used for Australia). Needless to say, it is unlikely that the composition of Malaysia's imports in the absence of tariffs (or NTBs) would resemble the average for APEC (which also reflects trade distortions). Furthermore, although use of APEC import weights to some extent avoids the downward bias inherent in Malaysia's own import weights, some bias remains in so far as the levels and structure of APEC countries' tariffs are similar. Thus, even weighted

(continued...)

(a) Forms of tariffs

16. The Malaysian customs tariff nomenclature is based on the Harmonized System (HS). Following a substantial revision of its HS nomenclature in 1996, and minor revisions as of 1 January 1997, the tariff schedule contains 10,372 lines at the 9-digit level.[9] *Ad valorem* rates are the most common, with 95.0 per cent of all lines currently subject to such duties compared to 88 per cent in 1993. The present schedule includes 149 specific, 244 mixed and 127 alternative duties as compared to, respectively, 222 specific and 1,166 mixed and alternative duties in 1993.[10] Current estimates of *ad valorem* equivalents (AVEs) for some of these duties were provided by the Malaysian authorities to the WTO Secretariat. The simple average of the AVEs for 96 specific duties was 145.5 per cent; that for 157 mixed duties 67.1 per cent and that for 62 alternative duties 45.1 per cent. These duties were thus well above the average of all *ad valorem* duties, which was 8.1 per cent in 1997. Specific, mixed and alternative duties are still important features of Malaysia's tariff schedule, particularly as far as certain agricultural products, prepared food beverages and tobacco are concerned (Box III.1). However, the Malaysian authorities have indicated that they are taking steps to replace specific duties with *ad valorem* duties.

Box III.1: The impact of specific duties compared to *ad valorem* duties

In general a variety of tariff forms exist. The major forms are:

Ad valorem tariff:	calculated as a percentage of the value of goods cleared through customs.
Specific duty:	expressed as a fixed monetary amount per physical unit or per unit of weight of an imported product.
Mixed duty:	contains elements of both *ad valorem* and specific duties.
Alternative duty:	involves either an *ad valorem* or a specific duty.
Tariff quota:	tariff rate applicable to a quota of imports, with a higher rate charged on imports in excess of the quota; the quota and tariff may be defined in terms of quantity or value.

Specific and mixed duties are intrinsically more opaque than *ad valorem* tariffs, and may conceal high *ad valorem* equivalents (AVEs). In addition, imports of cheaper products are taxed relatively more heavily by specific duties, thereby encouraging domestic firms to produce less expensive goods for which the level of protection against imports is greater and biasing the import structure in favour of more expensive goods (which may or may not be of higher quality). Specific duties also counteract the relative price effects of exchange rate changes. In so far as increased international competition results in declining prices for traded goods, the use of specific duties will tend to increase real tariff protection in the future. On the other hand, specific duties are relatively simple to administer and avoid problems relating to customs valuation. They may also reduce pressure to resort to anti-dumping or countervailing (AD/CV) measures for protection both because cheaper goods are taxed more heavily and because the revenue raised is unaffected by drops in prices for whatever reason.

[8](...continued)
tariff averages based on overall APEC imports, which are also reported in Table III.1, need to be interpreted cautiously.

[9]As published in His Majesty's Government Gazette, 11 January 1996, and amended on 25 October 1996. The 1996 changes were notified to the WTO in October 1996 as a concordance between the proposed HS tariff items and existing HS tariff items listed in its Schedule XXXIX. Furthermore, since the inception of the Common External Preferential Tariffs in January 1992, ASEAN countries are also harmonizing tariff lines and consolidating several tariff lines in the process. Malaysia will implement a simplified ASEAN Harmonized Tariff Nomenclature consisting of about 7,000-8,000 tariff lines by the year 2000.

[10]The 1993 Trade Policy Review noted that Malaysia was in the process of converting specific duties to *ad valorem* duties (GATT, 1993), p. 58.

17. While Malaysia does not currently apply any tariff quotas, it has included such measures in its WTO Schedule XXXIX for selected agricultural products for which quantitative restrictions were tariffied in accordance with the WTO Agreement on Agriculture (Table AIII.2).

(b) Tariff levels and dispersion

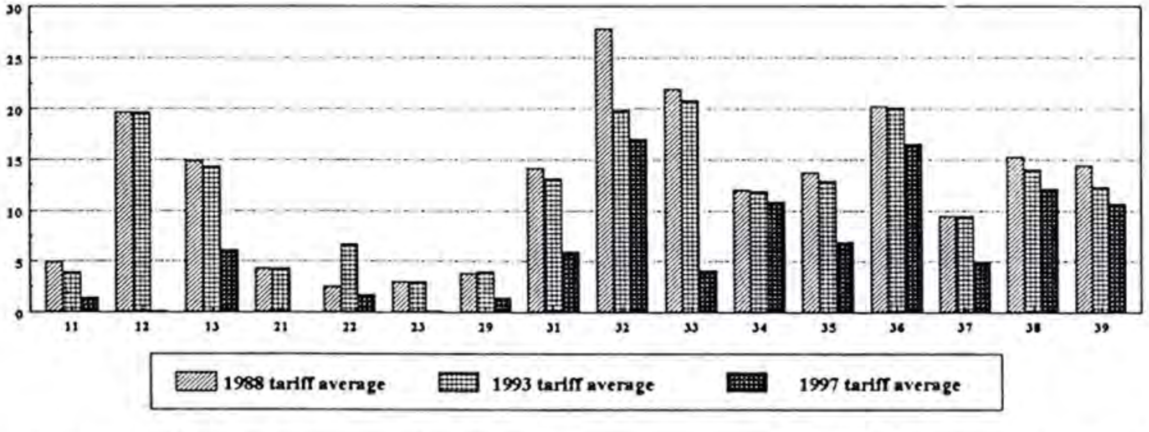
18. Judging from the proportion of duty-free tariff lines, tariff protection in Malaysia has declined markedly since 1993. Whereas only 13 per cent of tariff lines were exempt from duty in 1993, now more than half of all tariff lines are duty free. Furthermore, the number of tariff lines has been reduced substantially, thereby reducing the scope for variation in tariff rates as well as the complexity of Malaysia's tariff schedule (Table III.1).

Tariff dispersion

19. Textiles, clothing, leather products, and non-metallic mineral products are the product groups currently most protected by *ad valorem* tariffs (Chart III.1)). If *ad valorem* equivalents of specific, mixed and alternative duties are included, tariffs for food, beverages and tobacco products are also well above average (Table AIII.1). By contrast, among the least protected products are chemicals and chemical products, mineral products, wood and wood products, precious stones and precision instruments.

Chart III.1
Average MFN tariffs by ISIC group, 1988, 1993 and 1997[a]

(Per cent)



11 Agriculture and hunting
12 Forestry and logging
13 Fishing
21 Coal mining
22 Crude petroleum and natural gas
23 Metal ore mining
29 Other mining
31 Manufacture of food, beverages and tobacco
32 Textile, clothing and leather industries
33 Wood and wood products
34 Paper and paper products
35 Chemicals, rubber and plastic
36 Non-metallic mineral products
37 Basic metals
38 Fabricated metals, machinery
39 Other products

a Excluding estimates of AVEs for specific components of mixed and alternative duties.

Source: WTO Secretariat calculations based on data provided by the Malaysian authorities.

20. The overall standard deviation (SD) indicates little change in the dispersion of tariff rates between 1993 and 1997. By contrast, as a proportion of all tariffs, "domestic tariff peaks" (that is, those tariffs exceeding three times the simple overall average rate) increased sevenfold during the same period

(Table III.1). Although the proportion of tariffs exceeding 15 per cent has nearly halved since 1993, such "international tariff peaks" still account for more than one quarter of all tariffs. The magnitudes of these indicators of tariff dispersion suggest that potentially high degrees of distortion still remain within many broad sub-groups of similar, and thus highly substitutable, products. As far as Malaysia is concerned, a lower level of tariff protection has not necessarily resulted in a less distorting tariff schedule.

Tariff escalation

21. The simple average of applied MFN tariffs (taking into account those specific duties for which estimates of AVEs were available), is currently more than double that on semi-finished goods, as tariffs on the latter declined faster than those on fully processed products. This is a considerably larger discrepancy than in 1993 (Table III.4). Likewise, average tariffs on semi-finished manufactured goods are more than double those on raw materials (including agricultural products). Such tariff escalation means, generally, that the level of effective protection in Malaysia increases as goods undergo further processing. Tariff escalation will continue, albeit at a somewhat lower level, as tariff preferences under the Asean Free Trade Area (AFTA) Agreement are phased in. Once AFTA tariffs are fully implemented in 2003 (for all products other than items included on the permanent exclusion list and "sensitive" unprocessed agricultural products), tariffs for semi-processed products will be lower than those for raw materials. This suggests that sectors producing semi-processed products might be subject to negative effective rates of protection by that time.

Table III.4
Simple MFN and AFTA tariff averages by stage of processing, selected years

Indicator	MFN tariffs				AFTA tariffs[a]	
	Excluding estimates of AVEs for specific duties			Including AVE estimates for some specific duties[b]		
	1988	1993	1997	1997	1997	2003
Raw materials	14.6	14.3	1.0	2.8	2.0	1.8
Agricultural products	16.9	16.5	0.6	2.9	2.1	2.0
Mining products	3.6	3.8	1.0	1.0	0.3	0.2
Manufactured products	5.9	5.8	3.2	3.2	2.1	0.9
Semi-processed products	18.3	15.3	7.0	7.4	4.9	1.9
Fully processed products	18.1	15.4	11.9	15.4	10.4	5.3

a No AVEs are calculated for AFTA rates expressed as specific, mixed or alternative duties. However, some products on the General Exclusion List were expressed as a margin of preference over specific MFN duties for which AVEs were available. For these products as well as for "sensitive" and "highly sensitive" unprocessed raw materials which are not yet included in the AFTA schedules, estimates for AVEs were included.

b Estimates of *ad valorem* equivalents of 96 specific duties, 157 mixed duties and 62 alternative duties were provided by the Malaysian authorities to the WTO Secretariat (section (2)(ii)(a)).

Source: Calculated by the WTO Secretariat from data provided by the Malaysian authorities and from Comtrade data.

Tariff reform

22. Import and export duties are reviewed annually as changes are proposed in the federal budget.[11] In the implementation of the Uruguay Round market access commitments, tariffs on 36 tariff lines were reduced in the 1996 budget.[12] The same budget also contained several hundreds of unilateral tariff reductions. The 1997 budget included 64 import duty and one export duty reductions and 26 import duty increases.[13]

23. Malaysia has bound almost two thirds of its tariff lines in its WTO Schedule. Bindings are most widespread for agriculture, food, and textile and clothing products. Applied rates are generally well below bound rates, thus giving Malaysia significant freedom to unilaterally increase its import tariffs (Chart III.2). For 1997 tariffs, 5,628 tariff bindings could be directly compared to applied rates as both were expressed as *ad valorem* tariffs. In the case of these rates, the average bound rate was 15.8 per cent as compared to an average applied rate of 9.6 per cent. For agriculture, for which 872 tariffs were expressed as *ad valorem* duties (in Malaysia's WTO Schedule and in its applied rates), the average bound rate was 12.8 per cent as compared to an average applied rate of 4.5 per cent. Comparable bound and applied tariff rates for industrial products were on average 16.4 per cent and 10.5 per cent, respectively. At this stage, applied rates for only 98 tariff lines currently exceed final bound rates agreed under the Uruguay Round.

24. Malaysia has agreed to further tariff cuts as part of the Information Technology Agreement (ITA) (Chapter II(3)). Applied tariffs on the 237 tariff lines of Malaysia's tariff schedule subject to the Agreement already declined from 11.1 per cent in 1988, to 7.6 per cent in 1993 and 4.4 per cent in 1997. Under the ITA, average bound tariff rates will come down from 7.5 per cent in 1997 to 2.2 per cent in 2000, 1.1 per cent in 2003 and zero in 2005.[14] In the context of its participation in the ongoing GSTP Negotiations, Malaysia submitted in April 1997 a package involving 15 tariff lines to the Second Round of GSTP Negotiations.

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[11]The main rules and principles of the customs system are laid down in the Customs Act, 1967. Customs matters are managed by Customs and Excise Department, headed by the Chief Officer of Customs. According to Article 11 of the Customs Act, the Minister of Finance, by order published in the Official Gazette, has the authority to "fix customs duties to be levied on any goods imported or exported from Malaysia". Such ministerial orders are subject to confirmation by Parliament.

[12]The small number of tariff lines to be reduced in this budget reflects the previous unilateral tariff reductions. According to the authorities, tariffs on a total of 3,426 items were reduced under the implementation of the Uruguay Round market access agreements.

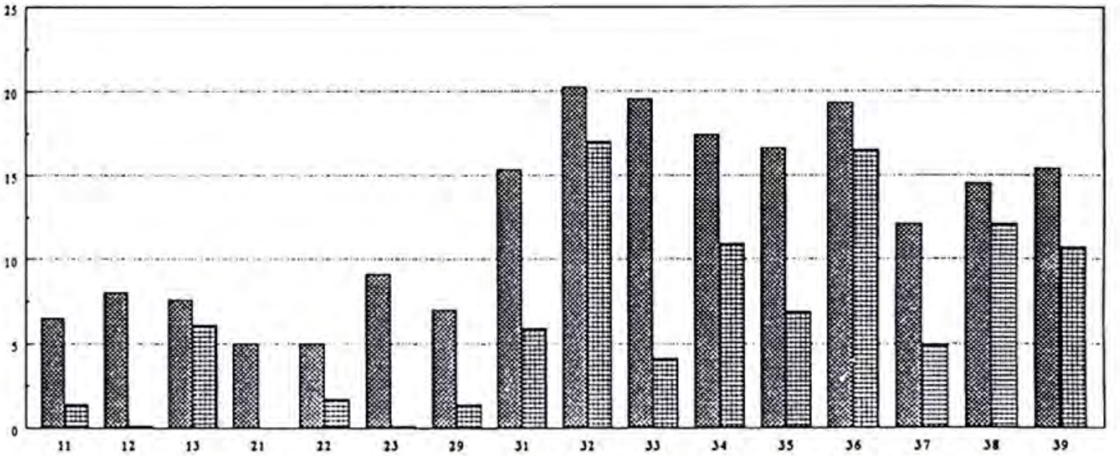
[13]Government of Malaysia (1996).

[14]Calculated from Malaysia's tariff schedules and WTO (1997).

Chart III.2
Average MFN and bound tariffs, by ISIC group, 1997

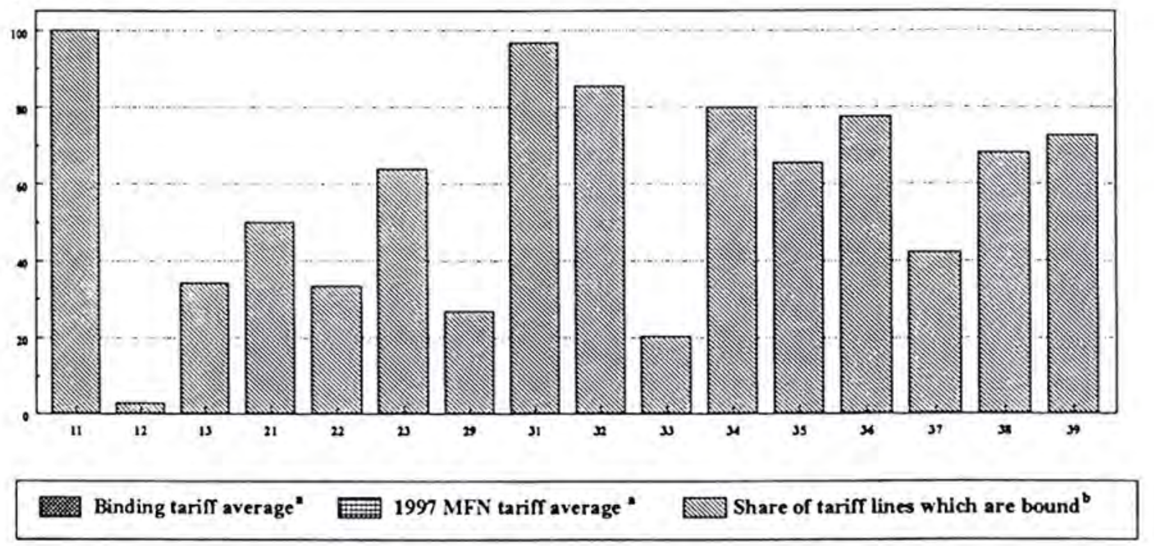
Average MFN tariff, by ISIC group, 1997

(Per cent)



Share of tariff lines that are bound, by ISIC group, 1997

(Per cent)



11 Agriculture and hunting
12 Forestry and logging
13 Fishing
21 Coal mining
22 Crude petroleum and natural gas
23 Metal ore mining
29 Other mining
31 Manufacture of food, beverages and tobacco
32 Textile, clothing and leather industries
33 Wood and wood products
34 Paper and paper products
35 Chemicals, rubber and plastic
36 Non-metallic mineral products
37 Basic metals
38 Fabricated metals, machinery
39 Other products

a Lines which are expressed as ad-valorem duties in both Malaysia's WTO Schedule and in its applied tariffs.

b Including lines for which bindings are expressed as specific, mixed or alternative duties.

Source: WTO Secretariat calculations based on data provided by the Malaysian authorities.

25. Tariff protection for "deserving infant industries" may also originate from applications by existing and potential manufacturers to the Malaysian Industrial Development Authority (MIDA) (Chapter II(2)(i)).[15] A Special Advisory Committee on Tariffs (SACT) within the MIDA then evaluates the application and forwards its recommendations to the Minister of Finance and the Minister of International Trade and Industry for their approval.[16] Changes to the tariff structure are gazetted and take effect from a specified date. Following this procedure, import tariffs have been increased on six items since 1 January 1993 (Table III.5)

Table III.5
Products granted tariff protection upon recommendation by the Special Advisory Committee on Tariffs, 1993-96

Year	Product	Rate of import duty
1993	Corrugated medium, testliner/kraftliner paper	20 per cent in 1994, reduced to 15 per cent in 1996.
1993	Polypropylene multifilament yarn	15 per cent under a newly created tariff code 5402.69.100.
1993	PVC floor covering	30 per cent *ad valorem* or RM1.00 per metre effective 6 May 1993.
1993	High density polyethylene resin (HDPE) and low density resin (LDPE)	30 per cent effective 9 December 1993.
1994	Titanium dioxide pigments	15 per cent effective 22 December 1994.
1994	Buffer tyres	30 per cent or RM2.50 per kg. effective 22 February 1994.

Source: Data provided by the Malaysian authorities.

(c) Tariff preferences

26. Malaysia grants tariff preferences to imports from ASEAN, as part of the ASEAN Free Trade Area (AFTA) Agreement, as well as to Australia and New Zealand, under bilateral agreements signed in 1958 and 1961, respectively. Preferences under AFTA are being gradually phased in, while preferences for imports from Australia and New Zealand are being phased out (Chapter II(3)(iii)).[17]

27. Over time, the number of tariff lines subject to AFTA preferences will be increased and the tariffs applied to these lines reduced. The simple average of AFTA tariff in 1997 was calculated by

[15]Malaysian Industrial Development Authority (1996), p. 17.

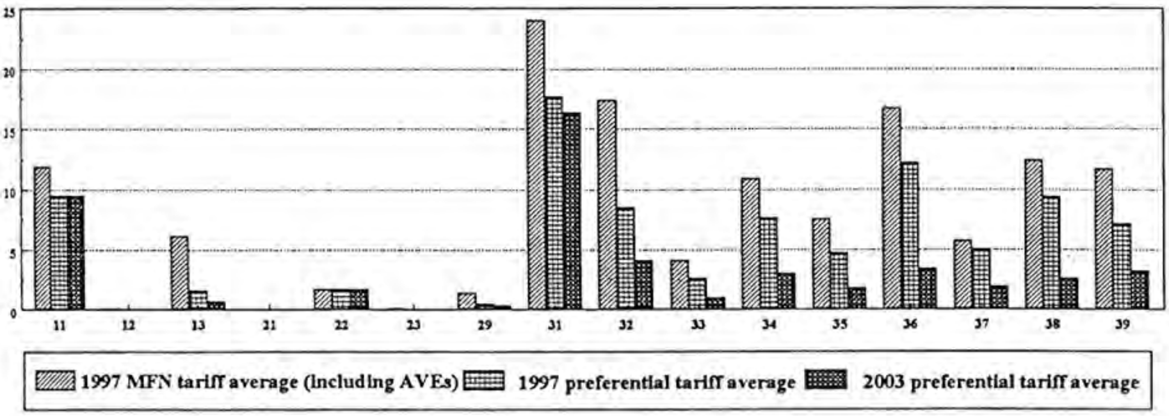
[16]The SACT originated from the Advisory Board, established under the Tariff Advisory Board Act, 1963. The Board was dissolved in 1970 and its functions were transferred to MIDA. The SACT function is now provided under the MIDA (Incorporation) Act, 1965.

[17]AFTA tariffs are expected to affect almost all Malaysia's trade with its ASEAN partners (products covered by Malaysia's notification under Article IX, permanent exclusions, of the ASEAN Agreement on the Common Effective Preferential Tariff (CEPT) Scheme include sugar, beverages, spirits, vinegar, arms and ammunitions). Intra-ASEAN trade accounted in 1995 for 27.2 per cent of Malaysia's exports and 17.4 per cent of its imports (Chapter I(4)). The Bilateral Trade Agreement with Australia was renegotiated in 1996 and preferential tariff treatment accorded by both parties will be phased out by 1 January 1998. The Bilateral Trade Agreement with New Zealand is under review and preferential tariff treatment is expected to be phased out effectively 1 January 1998 (Chapter II(3)(iii)).

the Secretariat as 6.9 per cent, as compared the average applied MFN tariff of 10.2 per cent.[18] Tariff preferences are particularly important for plastics, rubber, leather, straw, paper, cotton, textiles, clothing and metal products (Chart III.3 and Table AIII.1). By 2003, all AFTA tariffs will be reduced to between zero and 5 per cent, except for those products contained in the permanent exclusion list and "sensitive" unprocessed agricultural products. In the case of the latter, it is envisaged that AFTA tariffs will decline to between zero and 5 per cent by 2010. The beginning of the phase-in of these reductions is between 2001 and 2003. MFN rates will apply until such time as these products are phased in to the CEPT.

Chart III.3
Average preferential tariffs by ISIC group, 1997 and 2003[a]

(Per cent)



11 Agriculture and hunting
12 Forestry and logging
13 Fishing
21 Coal mining
22 Crude petroleum and natural gas
23 Metal ore mining
29 Other mining
31 Manufacture of food, beverages and tobacco
32 Textile, clothing and leather industries
33 Wood and wood products
34 Paper and paper products
35 Chemicals, rubber and plastic
36 Non-metallic mineral products
37 Basic metals
38 Fabricated metals, machinery
39 Other products

a Including estimates of AVEs for specific components of mixed and alternative duties.

Source: WTO Secretariat calculations based on data provided by the Malaysian authorities.

28. If MFN tariffs remain unchanged and AFTA tariffs do indeed come down by 2003 as envisaged, the average difference between MFN and AFTA tariffs will double from 3.3 to almost 6.7 percentage points (Table III.1). It would be surprising if such an increase in the average margin of preference did not result in significant diversion of trade from Malaysia's non-AFTA trading partners to AFTA members, some of whose exporters are less efficient than those of non-members. On the other hand, if Malaysia were to extend lower AFTA tariffs to non-members on a MFN basis, the outcome would obviously be a considerable drop in its import tariffs over the next six years without any such trade diversion as far as Malaysia is concerned. The authorities note that intra-ASEAN trade is likely to

[18]According to the authorities, the average Malaysian AFTA tariff for 1997 is 4.04 per cent and will be reduced to 2.58 per cent in 2000 and 1.97 per cent in 2003. (For sensitive agricultural products, the last year for phasing in is 2010 and the final rates are 0-5 per cent.) The WTO Secretariat's estimates are based on the 9-digit HS nomenclature used for Malaysia's MFN Schedule and includes MFN tariffs (on their *ad valorem* equivalents in the case of specific, mixed or alternative duties) for lines which are as yet not covered by an AFTA reduction schedule. Therefore, MFN duties are used for some lines which are covered by Malaysia's commitment to reduce tariffs to a maximum of 5 per cent by 2003.

remain below 30 per cent of total trade as 56.26 per cent of Malaysia's AFTA commitments are set at MFN levels. They expect the level of trade diversion to be insignificant as Malaysia will continue to rely on non-ASEAN sources for imports.

29. Products are regarded to be of ASEAN origin if at least 40 per cent of their contents originate in one or more of the ASEAN member states. ASEAN member countries have agreed that "substantial transformation" may be used as an additional criterion in determining product origin for ASEAN textile and clothing products.[19] The objective of the change in the rules of origin is to increase intra-ASEAN trade in textiles and textile products as well as to make ASEAN textile products more competitive in the global market.[20] Products produced under the ASEAN Industrial Complementation (AICO) scheme will receive the "final 2003" CEPT rate ranging from zero to 5 per cent immediately upon approval of the arrangement (Chapter II(3)(ii)(a)).

(d) Tariff concessions

30. Under Article 14 of the Customs Act, the Minister of Finance may exempt any class of goods or persons from the payment of a customs duty or any prescribed fee or charge. A partial exemption is granted upon request for import duties in excess of 3 per cent on raw materials and components imported for the manufacture of consumer goods for the domestic markets, provided that these goods are used directly in the manufacturing process and are not produced locally or substitutable for locally produced goods.[21] A full exemption of import duties may be considered for raw materials and components which are used to manufacture a good whose importation is duty free. Furthermore, imports of all multi-media equipment for use in the Multi-media Super Corridor are duty free.

31. Exemptions from payment of customs duty are also granted for imported machinery and equipment that is directly used in the manufacturing process for the start of a new factory or the expansion of an existing one, provided no such machinery or equipment is produced in Malaysia. Effective 26 October 1996, import duty and sales tax exemptions on spare parts and consumable products used in the manufacturing sector were withdrawn, except for spare parts which are imported within one year of the date of commissioning of a plant for new/expansion/diversification projects. Applications for such exemptions are reviewed by MIDA, which assesses the merits of the project (section (4)(ii)).[22] During 1993-96, MIDA received 8,755 applications for exemption of import duties for machinery and equipment, for which a total of RM 1.45 billion in duty exemptions was approved. During the same period, a total of 10,516 applications for duty concessions for raw materials and components were received; no estimates of forgone tax revenue were available for these duty concessions.

32. Federal and State Government Departments are exempted from paying customs duties (and taxes) on imported items, other than passenger cars, provided that these items are for the sole purpose

[19]WTO (1995), p. 42.

[20]Ministry of Finance (1996), p. 52.

[21]Imports of such goods with tariffs less than three per cent are generally not considered for duty exemption although such a concession may be granted if the goods are imported by a "Bumiputra" company.

[22]Bank Negara Malaysia (1997a), p. xiii.

of government use, cannot be sold or written off except with the relevant authority concerned[23], and procurement is made under the budgetary means of the department concerned (section (4)(v)). Claims for exemption must be made through the Customs authority at the point of entry into Malaysia.

(e) Tariff revenue

33. In 1995 and 1996, import duties collected amounted to RM 5.6 billion and RM 6.2 billion, respectively.[24] Collected import duties on completely built-up cars increased particularly rapidly from RM 520 million in 1995 to RM 838 million in 1996 (Table AIII.3). Revenue from import duties contributes a stable 11.5 per cent of federal revenue (Chapter I).[25] However, protection of domestic manufacturers and, to a lesser extent, agricultural producers rather than revenue collection, appears to be the main motivation for the imposition of import duties (Chapter IV(2) and (3)). Protection through import tariffs is, in any case, preferable to quantitative restrictions, as the associated "rents" accrue to the government budget instead of to private agents.

(iii) Import prohibitions and import licensing

34. Goods whose entry into Malaysia is prohibited or subject to licensing are listed in the Customs Act 1967, Customs (Prohibition of Imports) Order 1988 (Table AIII.4). Products subject to discretionary import licensing include: agricultural products other than fish; chemical and photographic supplies; transport equipment; electric machinery; mineral products, precious stones and metals; and manufactured articles n.e.s.[26] Import prohibitions and licensing are used to restrict or monitor entry into Malaysia of goods, on national security, environmental and social grounds, or to enforce quantitative restrictions (QRs).

(a) Outstanding prohibitions and licensing requirements

35. Goods subject to absolute import prohibitions are listed in the First Schedule of the Customs Prohibition of Imports Order 1988. The lists include, *inter alia*, items prohibited on religious and environmental grounds.[27] Imports of certain publications are also prohibited.[28] Conditionally prohibited

[23]The approval of the Federal Minister of Finance is given in the case of federal property and the Chief Minister in the case of state property. Where and when necessary, such powers have been delegated.

[24]In 1996 collected import duties represented 4 per cent of merchandise imports. Duty exemptions for imports which are used in export processing (section (3)(iv)). The large quantities and values of imports for export processing significantly reduce the ratio of collected import duties over merchandise imports.

[25]Import duties were budgeted to be 11.3 per cent of Federal revenue in 1997, as compared to 11.4 per cent in 1993 and 11.7 per cent in 1996 (Government of Malaysia (1992, 1995 and 1996a)). The share of import duties to total indirect taxation is expected to decline further from 29.6 per cent in 1995 to 23.7 per cent in 2000. The declining share is partly due to lower tariffs as a result of the AFTA Agreement as well as other international agreements. (Govdrnment of Malaysia (1996b), p. 195).

[26]APEC (1996), p. B1.

[27]Prohibited goods are: articles bearing the imprint or reproduction of any currency note, bank note or coin; emblems and devices for which there might be a reasonable presumption that they will be used in a manner prejudicial to or incompatible with peace, welfare or good order in Malaysia; indecent or obscene articles; cloth bearing the imprint or reproduction of any verses of the Koran; daggers and flick knives; certain broadcast (continued...)

imports are listed in the Second, Third and Fourth Schedules of the Customs Order 1988. Those in the Third Schedule are aimed at "affording protection of a temporary nature to local manufacturers". In this case, import licences are issued by the Ministry of International Trade and Industry (MITI). By contrast, those goods listed in the Second Schedule are prohibited on security and environmental grounds, except if an import licence has been issued by the relevant authority involved in the administration of security or environmental measures; products listed in the Fourth Schedule require additional approval to allow importation, such as a health permit or security approval and inspection (Table AIII.4). As noted in Malaysia's 1993 Review, it is not clear why some of the items included in the Fourth Schedule are not included in the Third.[29] For example, milk and milk products are in general included in the Fourth Schedule (to be licensed by the Director General of Veterinary Services), while some tariff lines containing liquid milk (0401.10.900; 0401.20.900; and 0401.30.190) are listed in the Third Schedule (to be licensed by the Ministry of International Trade and Industry).

36. Around 17.0 per cent of Malaysia's tariff lines are currently subject to import licensing (Table III.1). The product coverage of import licensing has remained unchanged since the 1993 Review. Licensing requirements were most pervasive in the cases of forestry and logging, agricultural and mining products, transportation equipment, notably automobiles, and negligible or non-existent for several broad categories of products (Chart III.4).

37. Import licensing requirements are used both as substitutes for, and complements for, tariffs in Malaysia. For instance, whereas licensing requirements are especially pervasive for forestry and logging, tariffs on these products are relatively low (Chart III.4). By contrast, import licensing and tariffs overlap to provide high degrees of protection for certain sectors, such as transportation equipment, notably automobiles.[30] However, declines in tariff levels do not appear to have been accompanied by increases in the coverage of import licensing.

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[27](...continued)
receivers; certain liquors containing lead; sodium arsenite; all genus of Piranha fish; turtle eggs; cocoa pods, rambutan, pulasan, longan and namam fruits produced in the Philippines and Indonesia; pens, pencils and other articles resembling syringes; certain poisonous chemicals; and all goods originating from Haiti. (Customs Act 1967, Customs (Prohibition of Imports) order 1988 (P.U.(A)408/1987), First Schedule).

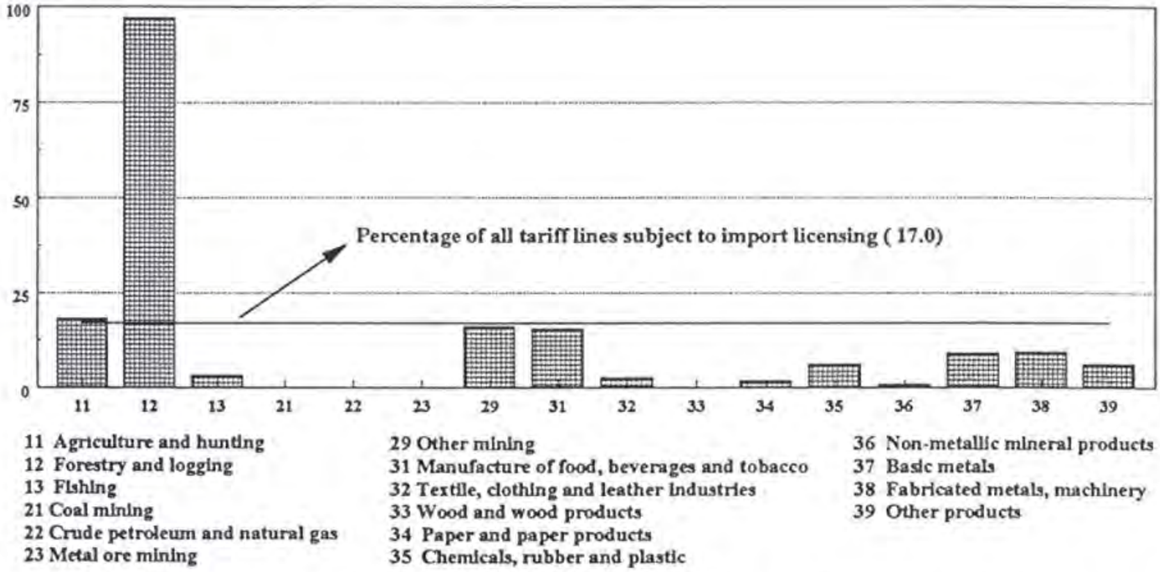
[28]The Printing Presses and Publications Act 1984 allows the Minister of Home Affairs to refuse the importation into Malaysia or withhold delivery or return to sender thereof outside Malaysia of any publication. According to the authorities this Act has only been invoked in clear-cut cases which are prejudicial to morality and has, in any event, not been invoked since 1 January 1993, other than to ban imports of publications from Singapore which do not have a publication permit for sales in Malaysia. Publications delivered through the Internet do not require a publications permit.

[29]GATT (1993), p. 85.

[30]The use of a tariff in addition to a quantitative restriction enables the Government to obtain some of the quota rent that would otherwise accrue to foreign exporters or domestic importers of the goods concerned.

Chart III. 4
Import licensing, by ISIC group, 1995

(Per cent)



Note: Based on the 1995 tariff nomenclature. Since 1995 import licensing for some cigarettes and ephedrine have been added while such licensing for diamonds and diamond jewellery sets has been abolished.

Source: WTO Secretariat calculations based on data provided by UNCTAD.

(b) Allocation of import licences

Automatic and non-automatic licences

38. Import licences are enforced by the Customs Department, but allocated by a variety of other Ministries and Agencies "automatically" or "non-automatically" depending on the licence (Table AIII.4). A substantial share of import licences allocated by the Ministry of International Trade and Industry are "automatic"; automatic licensing is implemented for monitoring and data collection purposes. However, import licences required for billets of iron and steel, bars and rods, non-electric cables and other items are classified as "non-automatic". "Automatic" licences allocated by the Ministry of International Trade and Industry are normally granted within three days to applicants who fulfil the published requirements. All applications for non-automatic licensing are approved, provided they conform with criteria set by the authorities. These relate mainly to compliance with public safety, environmental considerations, quarantine standards, sanitary and phytosanitary (SPS) regulations and human safety.

39. Import licences for telecommunications equipment are administered by Jabatan Telekom Malaysia (JTM), a regulatory authority. The Customer's Charter of JTM notes that all import licences will be processed within four days and the applications for type approval will be processed within 45 days (Chapter IV(4)(iii)).[31]

[31]Jabatan Telekom Malaysia (1996), p. 7.

Eligibility for licences

40. Limits exist on imports of round cabbages and coffee beans.[32] The average quantity of round cabbages for which licences are issued is 2,500 tonnes (Table III.6). For coffee beans, the figure depends on the production capacity of domestic manufacturing and processing companies (Chapter IV(2)).[33]

Table III.6
Allocation of import licences for products subject to tariff quota

Product	Allocation to importers	Period for which licences are valid
Products for which the country allocation is subject to an import protocol based on SPS measures: - Live chicken, eggs, meat and products; - Milk and milk products; - Swine and swine meat	Department of Veterinary Services under the Ministry of Agriculture	One month effective from the date issued
Cabbage (round)	Access to quota is given to importers with Approved Permits issued by the Federal Agricultural Marketing Authority (FAMA). The selection and award of the Approved Permits is by a special committee under the Ministry of Agriculture Malaysia	One month from the date of issue
Coffee not roasted	Access to quota is given to importers with Approved Permits issued by FAMA. An applicant for an Approved Permit must own a coffee powder factory and must be involved in coffee powder manufacturing	For three months dependent on the amount processed in the preceding three months
Wheat	Imports are subject to import licences issued by the Ministry of International Trade and Industry	Three months effective from the date of issue
Sugar	Imports are subject to import licences issued by the Ministry of International Trade and Industry	Three months effective from the date of issue
Unmanufactured tobacco, tobacco refuse	Ministry of Primary Industries	

Source: WTO document G/AG/N/MYS/1, 1 June 1995.

41. Importation of raw sugar is also subject to quotas, with import licences being granted only to sugar millers and refiners. There are two long-term contracts for the importation of raw sugar negotiated by MITI on behalf of the Malaysian private sector: a contract with Fiji covering the period 1995-97, which allows for the importation of 90,000 tonnes per annum, and a contract with Australia covering the same period for importation of 300,000 tonnes per annum. These contracts, cover approximately 40 per cent of domestic sugar consumption.

42. Import licences for completely knocked-down (CKD) motor vehicles are allocated only to motor vehicle assemblers. Licences for imports of completely built-up (CBU) units are mainly allocated to franchise holders (Chapter IV(3)(iii)).

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[32]The authorities indicate that a licensing procedure is implemented to enable Malaysia to administer its WTO minimum market access obligations.

[33]Prior to the implementation of Malaysia's WTO commitments, phytosanitary certificates were not issued for chicken (whole and in parts), pork, liquid milk, ducks and hens eggs. The denial of phytosanitary certificates had the effect of an import prohibition. Malaysia's WTO Schedule XXXIX includes tariff quotas for these products. However, applied tariffs are substantially lower than in-quota tariffs listed in the Schedule (section (2)(iii)).

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authorities informed the Committees that they are in the process of reviewing the legislation and regulations to ensure conformity with WTO requirements; in the interim, Malaysia is applying the relevant WTO provisions administratively.[38] As of September 1997, however, no amendments to the current legislation have been tabled in Parliament and no revisions to the implementing regulations have been published or notified to the WTO (Table AII.2).

46. Further, pending this domestic review, anti-dumping investigations are being conducted on the basis of the current legislation. In a final determination on 16 March 1996, Malaysia imposed anti-dumping duties on imports of PVC floor covering in rolls imported from the Republic of Korea and Thailand. At the same time, a petition concerning allegedly dumped imports of the same products from Singapore was rejected. In a preliminary determination on 19 November 1996, anti-dumping duties were imposed on self-copy paper imported from the European Union and Indonesia. The measures on PVC floor covering rolls were based on constructed values, while those on self-copy paper were based on the home-market value (Table III.7).

Table III.7
Anti-dumping and countervailing investigations and measures taken by Malaysia, 1 January 1990-31 December 1996

Country of origin	Product	Initiation date	Provisional measures date and dumping margin	Definitive duty date and dumping margin	Trade volume	Dumped imports as % of domestic consumption	Share of exports of the country of origin investigated	Basis of determination
Thailand	PVC floor covering	22.06.95	10.09.95 191%	16.03.96 58-114%	1.7 m. kg.	9.8%	38.5%	Constructed value, facts available
Korea, Rep. of	PVC floor covering	22.06.95	19.09.95 38%	16.03.96 69%	0.9 m. kg.	5.4%	20.2%	Constructed value, facts available
Singapore	PVC floor covering	22.06.95	Negative determination	NFD	0.03 m. kg.	0.1%	...	Constructed value, facts available
European Union	Self-copy paper	22.08.96	19.11.96 9-26%	NFDY	5,530 mt	15.0%	49.0% 4 firms	Home market value and facts available
Indonesia	Self-copy paper	22.08.96	19.11.96 23-39%	NFDY	867 mt	2.0%	35.0% 1 firm	Home market value and facts available

... Not available.

NFD No final determination will be made.
NFDY The final determination has not yet been made.

Source: WTO documents G/ADP/N/16/MYS, 22 October 1996 and Suppl. 1, 29 October 1996; and G/ADP/N/22/MYS, 10 June 1997.

47. Notwithstanding the fact that anti-dumping duties have been imposed in only two instances, their impact may be far-reaching. Even if anti-dumping and countervailing measures legislation is,

[38] The WTO Agreements do not have any legal status in Malaysia nor do they enjoy any force of law *per se* (Chapter II(2)). In order for the Agreements to be enforceable, Parliament has to promulgate implementing legislation, to such an extent that they will not contradict any of the provisions of the WTO Agreements. In the event of any inconsistencies that may arise between the provision of WTO Agreements and domestic legislation, the provisions of the domestic legislation will prevail. (Malaysia's response to a question from Hong Kong, WTO document documents G/ADP/W/304 and G/SCM/W/312, 18 March 1996).

as claimed by the authorities, administered in a manner compatible with WTO rules, the mere threat of such countermeasures may well have a "chilling effect" on some exporters, who react by raising their supplies and/or curtailing supplies. Moreover, an increasing number of companies may fulfil the requirements of the injury test if and when the growth rate slows down from its recent performance of 8 to 9 per cent per year. Furthermore, two of the four outstanding duties, and three of five conducted investigations, are directed at Malaysia's AFTA partners who receive tariff preferences in Malaysia (Chapter III(2)(ii)).

(v) Other measures

(a) State trading

48. The only state-trading enterprise within the meaning of Article XVII:4(a) of GATT 1994, the National Paddy and Rice Board, was corporatized on 7 July 1994. Following this corporatization, the Board was dissolved and all its regulatory functions and activities were transferred to the Ministry of Agriculture. Its commercial activities, on the other hand, were taken over by the *Padiberas Nasional Berhad* (BERNAS), a new company registered under the Companies Act 1965.[39] BERNAS was then partly privatized in 1995 through a sale of equity. The commercial activities of BERNAS include paddy procurement, rice-milling and rice-trading. BERNAS operates strictly as a business concern except for the arrangement to carry out certain non-commercial activities on behalf of the Government, namely the management of the national rice stockpile, the disbursement of the paddy subsidy payments and the procurement of paddy from farmers. In consideration of its agreement to perform the above non-commercial activities on behalf of the Government, BERNAS has been given the exclusive right to import rice into Malaysia for a period of 15 years following the signing of the agreement in 1996 (Chapter IV(2)).

(b) Local-content requirements and the vendor programme

49. Under Article 5.1 of the WTO Agreement on Trade-Related Investment Measures, Malaysia notified the Committee on Trade-Related Investment Measures on 31 March 1995 that "Malaysia has no local content laws or regulations. However, the Government encourages the use of local materials in the manufacturing sector and the use of local content is taken into account in the granting of investment incentives provided by the Government".[40] In particular, there is a local-content programme for motor vehicles which is encouraged through administrative measures (Chapter IV(3)(iii)(b)).

50. The Malaysian authorities' intent is to promote the establishment of backward linkages with a view to developing supporting and ancillary industries and thus strengthen the manufacturing sector. This is addressed through the Industrial Linkage Programme (ILP) under the Small and Medium Industrial Development Corporation (SMIDEC) and the Vendor Development Programmes under the Ministry of Entrepreneur Development (MED). The objective of the programmes is to develop Malaysian small and medium-sized enterprises (SMEs) as manufacturers and suppliers of components required by large industries and multinational corporations. Although these programmes do not require the use of local materials and services, they nevertheless promote the use of such intermediate inputs through financial, technical and other related assistance.

[39]The corporatization of the National Paddy and Rice Board was carried out under the country's privatization programme with the objective of reducing the Government's involvement in commercial activities (section (4)(iii)).

[40]WTO document G/TRIMS/N/1/MYS/1, 12 April 1995.

51. The ILP is a cluster-based industrial development programme in tandem with the Second Industrial Master Plan (IMP). The ILP serves two important objectives, i.e. deepening and diversifying the country's industrial base towards high value-added activities and reducing the country's dependence on imports of intermediate products and inputs, thus, improving the balance-of-payment position. To be eligible to participate in the ILP, the linkage companies must be incorporated under the Companies Act 1965, with paid-up capital of not less than RM 250,000, and at least 70 per cent of the equity must be Malaysian of which 60 per cent must be directly held by the linkage companies. The Vendor Programme is targeted at the development of backward linkages in selected sectors.[41] Qualifying conditions are, among others, registration under the Companies Act and with the Vendor Unit of the MED, having paid-up capital of between RM 100,000 and RM 2.5 million, a minimum equity shareholding by Malaysians of 70 per cent, and having skilled workers with relevant experience.[42] In 1997, 75 companies participated in the programme in 14 sectors.[43] In the context of their privatization, former state-owned companies have been required to undertake vendor programmes to facilitate backward linkages to other Malaysian companies (Table III.8).

Table III.8
Vendor programmes undertaken by selected privatized companies, 1991-95

Company	Contract value (RM million)	Programme
Perusahaan Otomobil Nasional Berhad	569.06	Component Scheme Promotion
Telekom Malaysia Berhad	452.62	Entrepreneurs Development Programme Credible Supplier[a]
Tenaga Nasional Berhad	337.11	Entrepreneurs Development Programme Umbrella Scheme Credible Contractor[b] Strategic Joint-venture
Indah Water Konsortium Sdn. Berhad	6.27	Construction of Treatment Plant and Pumping Station Sewerage System and Pumping Station Network

a Credible supplier refers to the outsourcing of components to suppliers which have a sound track record.
b Credible contractor refers to contractors engaged in carrying out works/services, such as the construction of sub-stations.

Source: Government of Malaysia (1996), Seventh Development Plan, Kuala Lumpur, p. 211.

(3) Measures Directly Affecting Exports

(i) Registration, customs valuation and conversion of export receipt requirements

52. Exporters of palm oil, palm kernel, palm fatty acid, palm oil planting material, natural rubber, pepper, pineapple and timber are subject to an export registration requirement (Table III.2). Export

[41] The automotive sector, electrical and electronics, plastics, rubber-based, wood-based, telecommunications, film-production, ceramics, shipbuilding and export in general.

[42] Other requirements include being "receptive to advisory, guidance and consultancy services" as well as having 3-5 years projections on cashflows, asset acquisitions, technology upgrading and management.

[43] The sectors are electrical and electronics, furniture (wood), automotive, telecommunication, building equipment, shipbuilding and repair, film production, ceramics, engineering, trade and export, motorcycles, food, textiles, and services.

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is subject to export licensing, but no such licences are issued in view of a "shortage" of sand for the construction business. Exports of refined white sugar, wheat flour, rice, bread, chicken, steel bars, ordinary Portland cement, and petroleum products are used to enforce domestic price controls on these products (section III(4)(vi)).

(iii) Export duties and other levies[47]

56. Out of 10,372 tariff lines, 324 are subject to export duties, of which 17 are specific and 307 are *ad valorem*.[48] Specific export duties on selected palm oil products are levied at rates that vary directly with the value per tonne of the exported products (Table III.9). The overall average of the *ad valorem* export duties is 7.8 per cent. Products subject to export duties include selected agricultural, fishery and resource based products (Box III.2). The Minister of Finance temporarily exempted processed palm oil from export duties from 1 November 1996 to 31 October 1997. Seventy-five tariff lines are subject to both import and export duties. Of these, two lines were subject to specific import duties and *ad valorem* export duties.[49] Four tariff lines covering palm oil products are subject to 5 per cent *ad valorem* import duties and specific export duties (Chapter IV(2)(iii)). The remaining 69 tariff lines are subject to an average import duty of 13.8 per cent and an average export duty of 5.4 per cent. Products subject to both import and export duties include selected fish products, birds' eggs, avocados and tropical fruits.

Table III.9
Export duties on Malaysian palm oil, 1997

Per unit value	Export duty
On the first RM 650.00 per tonne	Nil
On the next RM 50.00 per tonne	10 per cent
On the next RM 50.00 per tonne	15 per cent
On the next RM 50.00 per tonne	20 per cent
On the next RM 50.00 per tonne	25 per cent
On the balance	30 per cent

Note: As applied to tariff lines 1511.10.000, 1511.90.990, 1516.20.130, 1516.20.149, 1517.90.524, 1517.90.529, 1518.00.231 and 1518.00.239.

Source: Government of Malaysia (1996), 'Appendix "E" Palm Oil', His Majesty's Government Gazette, Vol. 40, No. 1, p. 769.

[47]Insofar as import duties are levied on raw materials and intermediate inputs used in the production of goods subject to export duties, those exported goods are taxed twice.

[48]As published in His Majesty's Government Gazette, 11 January 1996 and amended on 25 October 1996. The tariff lines with specific export duties are 060290100 (RM 0.30 each); 060290200 (RM 0.15 each); 060290300 (RM 2.19 per metre); 120799100 (RM 82.67 per tonne); 120999190 (RM 22.05 per kg.); 140120100 (RM 2,700.00 per tonne); 140120910 (RM 1,000.00 per tonne); 140120920 (RM 1,000.00 per tonne); 140120990 (RM 2,700.00 per tonne); 151110000 (Table III.7); 151190990 (Table III.7); 151620130 (Table III.7); 151620149 (Table III.7); 151790524 (Table III.7); 151790529 (Table III.7); 151800231 (Table III.7); and 151800239 (Table III.7).

[49]Tariff line 7204.50.000 (remelting scrap ingots) is subject to an import tariff of 5 per cent and RM 49.21 per tonne as well as an export duty of 10 per cent. Tariff line 0805.90.000 (citrus fruit, fresh or dried other than mandarins, lemons or grapefruit) is subject to an import duty of 5 per cent and RM 648 per tonne as well as an export duty of 5 per cent.

Box III.2: The incidence of export taxes

The extent to which incidence of an export tax falls on the domestic producer or the foreign consumer depends on the demand conditions facing the product in the world market. If a country is "small" in the sense that the international demand for the country's exports of the taxed good is perfectly elastic, the country has no market power and is a price taker in the world market. Consequently, reduced export volumes as a result of the tax will not affect the world price - the country represents such a small share of world supply that it cannot influence international prices. In this case, domestic producers of the taxed export must bear the full incidence of the tax since they are unable to pass the tax forward onto foreign consumers through higher world prices.

On the other hand, if the world demand for the export is highly inelastic, the country may be able to influence its terms of trade and be to some extent a price setter on the world market. If such a "large" country is a sufficiently dominant supplier in world terms, reducing its export volume by taxation could raise world prices so much that export receipts increase rather than decrease. In this case, the domestic producers of the taxed export do not bear the full incidence of the tax since they are able to pass a share of the tax forward onto foreign consumers through higher world prices.

Although essentially an empirical question, the experience of countries that have tried export taxes indicates that terms of trade gains are difficult to capture. This is especially so in the longer term, when the world demand for exports is likely to be elastic due to greater product and country substitution. Thus, efforts to extract greater export returns through taxing exports often fail and run the risk, in practice, of severely penalising the exporting industry, as well as the economy in general, by encouraging inefficient domestic processing of the taxed commodity.

57. Rubber produced in Malaysia is subject to a cess of RM 3.84 per kg. to finance research and development by the Malaysian Rubber Research and Development Board and a cess of RM 9.92 per kg. to finance rubber replanting activities. Both cesses are collected at the point of export by the Customs Department. Exports of timber, veneer and timber products are subject to export levies and cesses which vary by product and between Peninsular Malaysia, Sabah and Sarawak.

Revenue

58. Revenue from export duties increased from RM 843 million in 1995 to RM 1,058 million in 1996. The bulk of this was derived from crude petroleum, revenue on which increased from RM 743 million to RM 1,013 million. From 1995 to 1996, revenue from processed palm oil dropped from RM 66 million to RM 6.4 million as export duties on these products were suspended. In contrast to import duties (section (2)(iii)(e)), the contribution of export duties to the federal revenues has declined substantially from 3.4 per cent of total revenue budgeted for 1993 to 1.6 per cent in 1996 and 1.7 per cent budgeted for 1997. In the absence of the increase in export duties on crude petroleum, total export duties would have declined to 1.2 per cent of federal revenues in 1997.[50] Although revenue considerations are important in sectors such as crude petroleum, export taxes are mainly used to promote down-stream industrial activities.

59. As of 1996, export cesses were more important from a revenue perspective than regular non-crude petroleum export duties. A total of RM 105.7 million was collected in 1996, mainly from a rubber replanting cess and a rubber research cess.

[50]Government of Malaysia (1992, 1995 and 1996a).

(iv) Duty and tax concessions

(a) Duty drawback for exports

60. A drawback is provided for import duty paid on raw materials and packaging of finished goods as well as waste or refuse resulting from the manufacture of such goods which are subsequently exported.[51] The amounts refunded were RM 91 million in 1993, RM 71.5 million in 1994, RM 99.0 million in 1995 and RM 157 million in 1996. The main beneficiaries are foreign-owned export-oriented companies producing, electronics, electrical products and textiles and clothing.

(b) Export-processing zones

61. Amendments to the Free Zones Act 1990 were made in 1993 and 1995 to incorporate several terms used in the Customs Act 1967. Several new areas were designated as free zones for commercial activity. Amendments made in 1996 were mainly to exclude retail trade from zones designated for commercial activity, except with the approval of the Minister. Factories located in zones designated for manufacturing activity need such approval to acquire goods used directly in the manufacture of other goods meant for retail trade or other activity. Imported goods meant for the principal customs area may undergo processing, repacking etc. in the zones and need no longer be in their original packings. Administrative procedures covering licensed manufacturing warehouses were amended, *inter alia*, to cover farming out and subcontracting. The Act and implementing regulations do not exempt companies located in the zones from environmental or any other standards applicable to economic activity outside the zones. As of 31 December 1996, there were 14 Free Industrial Zones, 8 Commercial Zones, and 1,887 Licensed Manufacturing Warehouses. Production in the zones has a higher import content (57 per cent) than that outside the zones (34 per cent).[52] This high import content appears to be the result of the concentration of electronics firms (52 per cent of total firms in the free zones) which tend to obtain most of their inputs from affiliated or parent companies outside Malaysia.[53] Since 1990, the share of exports from export processing zones in total merchandise exports has gradually increased from 21 per cent to roughly 27 per cent (Table III.10).

Table III.10
Exports from EPZs, 1990-96
(RM billion and per cent)

	1990	1991	1992	1993	1994	1995	1996
Exports from EPZs (RM billion)	16.3	19.9	21.7	25.7	32.3	45.8	50.0
Exports from EPZs as a share of total merchandise exports (per cent)	21.0	21.6	21.5	21.7	21.7	25.5	26.7

Source: Data provided by the Malaysian authorities and Ministry of Finance (1996), Economic Report 1996/97, Kuala Lumpur.

[51]Section 99 of the Customs Act, Section 19 of the Excise Act and Section 29 of the Sales Tax Act. Further drawback of duty paid on goods imported and subsequently exported, subject to certain conditions, is provided (Section 93 of the Customs Act and Section 29 of the Sales Tax Act) as is a drawback of duty paid on goods which have suffered damage or deterioration and destroyed (Section 95 of the Customs Act) and selected other cases, for example, drawback on duty/deposits paid by tourists on personal items when leaving the country or trade samples imported by commercial travellers is available (Section 96 of the Customs Act).

[52]Import content is measured as the value imports of raw materials and intermediate inputs as a share of the value of output (Bank Negara Malaysia, 1997a, p. 30).

[53]Bank Negara Malaysia (1997a), p. 32.

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69. As regards indirect assistance, all companies resident in Malaysia are eligible for a double deduction for income tax purposes of expenses incurred in the promotion of exports.[62] The Ministry of Finance is the final authority responsible for this measure, while the Inland Revenue Board is responsible for the administration and processing of the applications. According to the authorities, the incentive, which is regarded as an indirect subsidy, has no distorting effect on trade.[63]

70. Under the GSP (Chapter II(3)(iii)), Malaysia's exports also enjoy privileged access to several of its major markets, notably the EU, Norway, Switzerland, Australia, Canada, Japan, New Zealand, Bulgaria, the Czech Republic, Slovakia, Hungary, Poland and the Russian Federation. The United States "graduated" Malaysia from its GSP programme as of 1 January 1997 (Chapter II(3)(iii)).[64] Malaysian exports under GSP represented approximately 12.5 per cent of the total.[65] In 1996, machinery and transport equipment as well as electrical and electronic products were the main product groups benefiting from GSP preferences in major export markets (Table AIII.7).

71. Malaysia's authorities are aware that its trading partners have taken anti-dumping and countervailing actions against Malaysia's exports. The largest number of anti-dumping measures has been taken by the European Union. Countervailing measures have been taken by Brazil and the United States. Processed agricultural products, such as rubber thread, and a range of manufactured products have been targeted (Table III.11).

72. Income earned abroad and remitted to Malaysia by resident companies is exempt from income tax, in line with accepted international practice.[66] Income from Malaysia's investment abroad increased from RM 1.3 billion in 1992 to RM 6.6 billion in 1996.[67] While the Malaysian Government apparently encourages overseas investment in order to overcome market access barriers and utilize Malaysia's raw materials, parts and/or components, to supply inputs required by Malaysia's industry and to contribute to South-South Cooperation, the Secretariat was unable to identify any specific incentives in this regard.

[62]This facility is offered under Section 41 of the Promotion of Investments Act 1986 and Income Tax (Promotion of Exports) Rules 1986, made under Section 41(3) of the same Act. Qualifying expenditure includes overseas advertising; supply of free samples abroad; export market research; preparation of tenders for the supply of goods overseas; exhibits and/or participation in trade or industrial exhibitions held outside Malaysia; supply of technical information abroad; public relation services to promote exports; fares in respect of travel overseas; accommodation and subsistence expenses incurred during overseas travel, subject to RM 200 per day; and cost of maintaining sales offices overseas for the promotion of exports. (WTO document G/SCM/N/3/MYS, 12 July 1995).

[63]WTO document G/SCM/Q2/MYS/9, 27 January 1997.

[64]WTO (1997).

[65]Ministry of International Trade and Industry (1996b), p. 36.

[66]The exemption does not apply to business income from banking, insurance, and sea and air transport.

[67]Bank Negara Malaysia (1997), p. 226.

Table III.11
Anti-dumping and countervailing duty actions taken against Malaysian exports

Importing country	Subject merchandise	Case type (AD/CVD)	Range of duties (%)
European Union	Colour television receivers	AD	2.3-23.4
European Union	Microwave ovens	AD	29.0
European Union	Bicycles	AD	23.1-39.4
European Union	Microdisks 3.5"	AD	12.8-46.4
European Union	Polyester textured yarn	AD	16.4-32.5
European Union	Ring binders	AD	10.5
United States	Extruded rubber thread	AD and CVD	1.9-10.7 (AD) 3.3 (CVD)
Singapore	Steel reinforcement bars and rods	AD	S$54 per tonne
Brazil	Desiccated coconut	CVD	196.5
Brazil	Extruded rubber thread	CVD	15.9
New Zealand	Lead acid battery	AD	15.0
Australia	Edible vegetable oil	AD	A$0.08-A$2.20 per bottle

Source: Information provided by the Malaysian authorities.

(4) Internal Measures

(i) Registration and licensing of companies and professionals

73. All companies, domestic and foreign alike, seeking to establish themselves in Malaysia must apply to the Registrar of Companies for registration. Furthermore, in accordance with the Industrial Co-ordination Act 1975 (ICA), both domestic and foreign manufacturing companies are required to obtain a manufacturing licence, unless shareholders' funds of less than RM 2.5 million or fewer than 75 full-time employees are involved. If the project entails a capital-labour ratio of less than RM 55,000, such a licence may be denied unless value-added exceeds 30 per cent, or the Managerial, Technical and Supervisory (MTS) Index is more than 15 per cent, or the project involves activities or products listed as promoted activities and products of high technology, or the project is located in a designated less-developed region.

74. Licence applications for investment in the manufacturing, agriculture and mining sectors are submitted to the Malaysian Industrial Development Authority (MIDA) for evaluation by the relevant industrial division. An evaluation report is prepared, and then tabled during the weekly meeting of the Government Action Committee on Industries. Recommendations are made to the Licensing Officer at the Ministry of International Trade and Industry (MITI). The maximum period necessary to obtain a licence is four to six weeks. All manufacturing companies licensed under the ICA also require approval from the Licensing Officer for any technology transfer agreement concluded with a foreign company or partner (section (4)(iii)).

75. The licensing process is designed to ensure that investments are "consistent with the national and social objectives of the country". Except in special circumstances, licensing is also used to promote a minimum of 30 per cent Bumiputra participation in, and ownership of, manufacturing companies (Chapter II, Annex II.1).[68] The Licensing Officer may prescribe conditions which he/she deems to

[68]Where companies are partly foreign-owned, the balance of equity must be taken up by Bumiputra Malaysians if the foreign share is 70 per cent or more. If the foreign equity share is less than 70 per cent, a minimum of 30 per cent equity must be reserved for Bumiputra Malaysians. In the event that the equity reserved for Bumiputra (continued...)

be expedient and necessary, such as, equity structure and employment structure as well as distributorship and quality standards. Applicants for manufacturing licences can appeal a refusal to issue a licence to the Minister of International Trade and Industry within 45 days from the date on which the decision was communicated.

76. No manufacturing sector is closed to foreign investment. Nevertheless, there are guidelines for foreign equity participation in the manufacturing sector, which are often tied to export performance. These guidelines are enforced through the licensing process. For example, projects may be fully foreign-owned if they involve exportation of more than 80 per cent of output. The extraction or mining and processing of mineral ores is also eligible for 100 per cent foreign ownership, depending on the level of investment, technology applied and availability of local expertise. These guidelines do not apply to manufacturing companies with shareholders' funds of less than RM 2.5 million or less than 75 full-time employees, which are not subject to any manufacturing licensing requirement. Foreign equity ownership is restricted to as little as 30 per cent, where less than 20 per cent of production is exported.[69] Foreign equity ownership of up to 100 per cent may be allowed for projects involving the manufacture of high technology products or priority products for the domestic market as determined by the Government from time to time.

77. Similarly, services companies require licences from the respective Ministries or agencies responsible for the sector (Table II.1) prior to their establishment. The specific conditions attached to establishment vary by sector, but generally involve a limit of 30 per cent foreign ownership as listed in the horizontal commitments made in Malaysia's GATS Schedule. Exceptions to this maximum share of foreign ownership are made for export-oriented investments, as, for example, in the cases of regional headquarters, the offshore banking sector on the island of Labuan, and investments in the Multi-media Super Corridor (Box III.3).

78. A condition which is particularly important for the establishment of services companies, is the employment of foreign professionals. In some sectors, such as financial services (Chapter IV(4)(ii)), the number of foreign professionals that foreign-owned companies are allowed to employ is stipulated by the regulating authorities; in the manufacturing sector, the number is mainly based on the amount of paid-up capital. Regarding employment by Malaysian companies or employment in export-oriented services, the Malaysian Government adopts a liberal policy on the employment of expatriates and foreign professionals[70], although these expatriates and professionals are required to apply for the relevant work

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[68](...continued)
Malaysians is not taken up, MITI will allocate part of the balance to non-Bumiputra Malaysians. For joint-venture projects with foreigners initiated by non-Bumiputra Malaysians where 70 per cent or more of the equity is held by foreigners, the balance of the equity will be allocated to the non-Bumiputra Malaysians. If less than 70 per cent of the equity is held by foreigners, 30 per cent will be allocated to the non-Bumiputra Malaysians and the balance will be reserved for Bumiputra Malaysians. Under special circumstances, non-Bumiputra Malaysians may be permitted to take up the entire balance of the equity as decided by MITI.

[69]For projects involving the export of between 51 and 79 per cent of production, foreign equity ownership of up to 79 per cent may be allowed, depending on such criteria as the level of technology, spin-off effects, size of investment, location, value added and the utilization of raw materials and components. For projects involving the export of between 20 and 50 per cent of production, foreign equity ownership of between 30 and 51 per cent is allowed, depending on criteria similar to those mentioned above.

[70]Issues pertaining to foreign labour and expatriates are under regular review by the Cabinet Committee on Foreign Workers.

permits with the Malaysian Immigration Authorities before entering Malaysia. For companies located in the Multi-media Super Corridor, there is no restriction on the employment of foreign professionals. As in many other WTO Members, support by a future employer greatly facilitates the granting of a work permit to a prospective foreign worker.

Box III.3: Malaysia's Multi-media Super Corridor

The authorities consider information technology as a "strategic" sector which warrants targeted regulations and significant public investment. The Multi-media Super Corridor (MSC) is expected to provide the catalyst for information technology development in Malaysia by demonstrating the effectiveness of multimedia and creating supply and demand for multimedia. The project aims to attract Malaysian and international multi-media companies with high technology to locate their operations in the MSC, thus making the country a regional centre to channel their services to other countries in the region. The Corridor is 50 kilometres long and 15 kilometres wide stretching from Kuala Lumpur City Centre in the north to the new Kuala Lumpur International Airport at Sepang in the South. The MSC further includes a new administrative capital Putrajaya. The development of the MSC will be supported by a set of enabling laws to encourage electronic commerce and other multimedia initiatives. These laws will aim to provide a comprehensive framework of "cyberlaws" covering copyright, digital signature, computer crime, telemedicine and electronic government. Within the Corridor, investors are eligible for duty-free imports of multimedia equipment, income tax exemption and investment tax allowance up to ten years, 100 per cent foreign ownership is allowed, fast-track processing of visas for foreign professionals apply, and there are no restrictions on the number of foreign professionals to be employed per company. Moreover, there will be no censorship of information delivered through the Internet.

Development of seven multimedia applications in the Corridor receive priority: electronic government, smart schools, telemedicine, multi-purpose cards, research-and-development clusters, borderless marketing and a worldwide manufacturing web.

The total investment required in the MSC is estimated to be approximately RM 50 billion over 20 years. To facilitate development in the MSC, the Multi-Media Development Corporation was established in 1996. Telekom Malaysia Berhad is the provider of the backbone fibre-optic telecommunications infrastructure in the MSC.

79. Foreign or Malaysian professionals who wish to provide services are, under Malaysian law, required in most cases to be registered with the relevant Malaysian bodies. Only selected foreign degrees and registrations from some foreign institutions are recognized by the registering bodies (Chapter IV(4)(vi)).

80. A liberal policy towards the allocation of work permits for foreign workers has undoubtedly made an important contribution to the development of Malaysia's manufacturing sector as such workers constitute approximately 10 per cent of the work force[71], with the share varying by manufacturing sub-sector (Chapter IV(3)).[72] Estimates suggest that, in 1991, immigrants further made up 30 per cent of total employment in agriculture and forestry, 70 per cent in construction and 10 per cent in other

[71]The total number of both legal and illegal foreign workers is estimated to be almost two million (Government of Malaysia (1996a)). Foreign workers who are employed are required to register; upon registration they are not allowed to change employer and are required to leave the country when their work permits expire.

[72]Bank Negara Malaysia (1997a).

non-government services sectors, thus making an important contribution to the development of these sectors (Chapter IV(2) and (4)).[73]

81. However, in view of "the negative effects that it will have in the long-run and the social problems that may arise", the authorities consider the dependence on foreign, particularly unskilled, labour to be excessive. In order to reduce dependence on labour, only manufacturing projects with Capital Investment Per Employee (CIPE) of more than RM 55,000 will be approved for manufacturing licence with the exception of those projects located in the Eastern Corridor of Peninsular Malaysia, Sabah and Sarawak. Industries are encouraged to automate and move towards higher value-added activities with emphasis on enhancing productivity. Furthermore, the Malaysian Government in its 1996 budget doubled (with two exceptions) its existing levies on unskilled and semi-skilled foreign workers.[74] (Domestic helpers and unskilled agricultural workers were exempted from this increase.) At the same time, it imposed a freeze on the recruitment of foreign unskilled workers (other than maids from Indonesia, Philippines and Cambodia).

(ii) Incentives[75]

82. One of the most striking features of Malaysia's industrial policy is the pervasiveness of various incentives, particularly tax incentives, aimed at the manufacturing, agriculture and tourism sectors. These incentives are contained in the Promotion of Investments Act 1986, Income Tax Act 1967, Customs Act 1967, Sales Tax Act 1972, and the Excise Act 1976. As implied by the nature of the foregoing legislative acts, incentives are embodied not only in direct taxes, primarily income taxes, but also in indirect taxes, that is, sales and excise taxes as well as customs duties. In addition, government-sponsored loans are available to practically all small and medium-sized enterprises.[76] These incentives are, with one notable exception concerning sales taxes on cars (Chapter IV(3)(iii)), granted on a non-discriminatory basis to domestically and foreign-owned companies.

83. The Ministry of International Trade and Industry plays a key role in the administration of these incentives. All applicants for tax incentives applied to manufacturing firms, as well as those applied to some agricultural activities are lodged through the Malaysian Industrial Development Authority.

[73]The World Bank (1995). This source also reports estimates that in 1991 the share of immigrants in total manufacturing employment was as low as 3 per cent. This estimate is substantially lower than the estimates of 11 per cent for 1996 reported by the Bank Negara Malaysia (1997a). Such an increase might, however have occurred in the face of rapid growth in Malaysia and substantial wage differences between Malaysia and the country of origin.

[74]These levies vary according to the skills of the workers and the sector in which they are employed. For the manufacturing and construction sectors, the annual levy on unskilled foreign workers was increased from RM 420 to RM 840 and for semi-skilled workers it was increased from RM 600 to RM 1,200. (Government of Malaysia, 1995). Unskilled workers in the agricultural sector are subject to an annual levy of RM 420. On the other hand, rebates are allowed for those workers, including professionals, that are subject to income tax

[75]These incentives are described in more detail in Malaysian Industrial Development Authority (1996).

[76]The main criteria to qualify for government-sponsored loans for small and medium-sized enterprises is that less than 75 people are employed full-time and that shareholder funds are less than RM 2.5 million. To qualify for tax incentives shareholder funds must be less than RM 500,000. Other criteria deal with aspects of sole proprietor and partnerships.

Although under the purview of MITI, MIDA recommends directly to MITI and the Ministry of Finance on all issues related to the approval of applications for investment and other incentives.

(a) Direct tax incentives

84. Among the main tax incentives are Pioneer Status, Investment Tax Allowance (ITA) and Reinvestment Allowance (RA). Whereas Pioneer Status entails a production incentive, both the ITA and the RA are incentives for investment. These three incentives are mutually exclusive. Foreign-owned firms are, by and large, accorded national treatment in respect of eligibility for these tax incentives. As a consequence, foreign-owned firms accounted for more than two-thirds of the value of investment qualifying for Pioneer Status and the Investment Tax Allowance during the period 1992-1996 (Table III.12).

Table III.12
Tax incentive indicators, 1992-96

	1992	1993	1994[a]	1995	1996
Number of projects approved					
Pioneer status	173	147	196	184	150
of which majority foreign owned firms[b]	(99)	(79)	(93)	(94)	(74)
Investment tax allowance	34	47	71	66	70
of which majority foreign owned firms[b]	(26)	(26)	(37)	(37)	(46)
Without tax incentives	667	492	600	648	562
of which majority foreign owned firms[b]	(300)	(223)	(302)	(272)	(254)
Total	**874**	**686**	**870**	**898**	**782**
of which majority foreign owned firms[b]	(425)	(328)	(432)	(403)	(374)
Value of approved investment (RM billion)					
Pioneer status	3.9	1.9	7.5	5.2	10.6
of which majority foreign owned firms[b]	(3.1)	(1.1)	(5.6)	(3.0)	(8.3)
Investment tax allowance	7.9	5.4	5.9	6.1	9.2
of which majority foreign owned firms[b]	(7.1)	(2.8)	(1.9)	(2.3)	(8.1)
Without tax incentives	15.9	6.5	9.5	9.6	14.5
of which majority foreign owned firms[b]	(6.6)	(2.0)	(3.4)	(3.3)	(7.0)
Total	**27.7**	**13.8**	**22.9**	**20.9**	**34.3**
of which majority foreign owned firms[b]	(16.8)	(5.9)	(10.9)	(8.6)	(20.4)
Indicators of tax expenditure (RM million)					
Tax revenue forgone due to reinvestment allowance granted during the previous year[c]	291.0	372.7	547.6	1,452.6	648.4
Double deduction for research expenditure	48.3	18.6	100.2	42.2	37.8

a In 1994 an industrial Adjustment Allowance of RM 1.99 million was approved for three projects.
b Wholly foreign-owned and majority foreign-owned companies.
c Refers to tax forgone due to reinvestment allowance granted to companies during the previous year only. As the reinvestment allowance could be used during a number of years total tax forgone will be substantially larger. Larger tax revenue forgone reflects an increase in applications due to a temporary change in regulations during 1994.

Source: Information provided by the Malaysian authorities.

85. A company granted Pioneer Status pays tax on only 30 per cent of its statutory income for a period of five years (15 per cent, if located in designated less-developed regions, namely the states of Sabah and Sarawak together with the "Eastern Corridor" of Peninsular Malaysia). In 1995 and

1996, Pioneer Status was granted to just over one fifth of all manufacturing projects approved by MIDA, down from almost one half of all approved projects in 1990 (Table III.12). The value of approved projects also declined. Interestingly, projects with Pioneer Status became more labour intensive. The fact that projects with Pioneer Status involved a smaller investment per employee than projects not qualifying for tax incentives suggests that incentives may have been directed inadvertently at labour-intensive projects. The minimal evaluation for small-scale projects might have contributed to this bias.

86. The ITA involves an allowance of 60 per cent (80 per cent in the case of a designated less-developed region) in respect of qualifying capital expenditure during a five-year period. The allowance can be offset against 70 per cent (85 per cent in the case of a designated region) of statutory income and any unused amounts carried forward (without interest) to subsequent years until the full amount of the allowance is exhausted. Although the ITA was granted to less than 10 per cent of all projects approved by MIDA during the 1992-96 period, the capital-intensive nature of the projects was such that they represented well over one quarter of the total value of approved investments (Table AIII.8).

87. The RA offers an allowance of 60 per cent of capital expenditures incurred by companies in expanding, modernizing or upgrading production facilities, or in diversifying into related activities. The allowance can be offset against 70 per cent (100 per cent in the case of a designated region) of statutory income and any unused amounts carried forward (without interest) to subsequent years until the full amount is used up.

88. High technology companies may be granted either Pioneer Status involving a five-year tax holiday or a 60 per cent ITA that can be fully offset against statutory income. "Strategic projects" qualify for either Pioneer Status with a ten year tax holiday or a 100 per cent ITA that can be fully offset against statutory income. Strategic projects are those involving heavy capital investment and high technology, and which can generate extensive linkages and have a significant impact on the Malaysian economy. An R&D company (i.e. a company which provides R&D services to its related companies or to any other company) is eligible to apply for an ITA of 100 per cent on qualifying capital expenditure incurred within ten years. A contract R&D company (i.e. a company which provides R&D services to companies other than its related companies) is eligible to apply for Pioneer Status with full income tax exemptions for five years or an ITA of 100 per cent on qualifying capital expenditure incurred within ten years. The ITA can be utilized to offset against 70 per cent of the statutory income. Among the other incentives for R&D are an Industrial Building Allowance (IBA) in the form of an initial allowance of 10 per cent and an annual allowance of 2 per cent for buildings used for purposes of approved R&D, and double deduction for R&D-related expenditure. Qualifying capital expenditure incurred by companies for establishing or upgrading technical or vocational training institutions are also eligible for the ITA of 100 per cent for a period of ten years and IBA in the form of an annual rate of 10 per cent. An IBA is also granted in respect of buildings used as warehouses for storing goods for export.

89. Expenses incurred by companies establishing or upgrading technical or vocational training institutions or for approved training are also eligible for the ITA, IBA or a double deduction. Moreover, an IBA is granted in respect of buildings used as warehouses for storing goods for export.[77] Furthermore, in a move to promote exports of services from Malaysia through the facilitation of a regional headquarters function, "approved operational headquarters" (OHQs) are subject to a statutory corporate tax rate of 10 per cent instead of the normal rate of 30 per cent (Chapter IV(4)).

[77]In addition some tax incentives are available for export insurance (section (3)).

90. Estimates of the total annual costs of these various tax incentives in terms of revenue forgone were not available. However, judging from information provided by the Malaysian authorities on a few of these incentives, large amounts of forgone tax revenues are involved. For example, during the two-year period 1995-1996, the Reinvestment Allowance alone cost the government an average annual amount of roughly RM 1 billion in forgone tax revenues. One might expect costs of similar magnitudes to be associated with the granting of Pioneer Status and the Investment tax Allowance. The annual cost associated with the double deduction for R&D-related expenditure was estimated to be around RM 40 million during the same two-year period.

Box III.4: Evaluation of the effectiveness of incentives

Incentives for investment and production are widespread in Malaysia, as in many other developing and developed economies. Their aim is to develop local industry and attract foreign investment - in which Malaysia has had considerable success. However, there are grounds for doubting the effectiveness of such incentives, based on evidence from other economies: indeed, in some instances the use of incentives may even be counterproductive.

In the first place, incentives are seldom among the main determinants of business decisions. The experience with evaluation of tax incentives in other countries suggests that the cost of an investment incentive to the Government (in terms of expenditure or tax revenue forgone) may exceed the investment generated. Their high cost is related to the difficulty in identifying incremental investment; that is, investment that would not have been undertaken without the incentive.

Tax cuts for foreign multinational enterprises (MNEs) that are taxed in their home countries purely on a residence basis (that is, which receive a full credit for taxes paid abroad) may have little or no effect on the incentive for those firms to invest in the country offering such relief. Such cuts would provide an effective incentive only insofar as MNEs are in an excess foreign credit position, taxes on repatriated income can be deferred, the MNE's home country exempts foreign-source income from domestic taxes, or "tax sparing" is allowed.

Secondly, to the extent that incentives do stimulate particular types of investment, they may result in a less efficient allocation of national resources than would be the case if the Government remains neutral and refrains from influencing private decisions. Any adverse effect of incentives on resource allocation would manifest itself as lower total factor productivity (TFP). In the case of investments, such as those in R&D, which are thought to yield social benefits (externalities) that are not adequately taken into account by private investors, it is usually extremely difficult to measure such externalities accurately, with the result that incentives may turn out to be excessive.

Thirdly, incentives are usually expensive for the Government, involving large losses in tax revenues. They tend to worsen the fiscal balance, thereby reducing national savings and showing up as a deterioration in the current account balance.

Lastly, use of incentives may provoke countermeasures by trading partners. Even where they do not contravene the WTO Agreement on Subsidies and Countervailing Measures, they may nevertheless be used by other countries as a justification for anti-dumping or countervailing actions. Alternatively, countries may react by adopting incentives of their own, thus resulting in a beggar-thy-neighbour situation. Such an "incentives race" is harmful to all countries concerned.

91. In view of the large amounts of tax revenues forgone as a result of such incentives, and doubts as to their effectiveness (Box III.4), the authorities indicated that they were reviewing the widespread use of incentives in order to make them more selective (by among other things, focusing them on the encouragement of automation in labour intensive industries and on technological development).

Curtailment of other income tax incentives would not only reduce the complexity of the income tax system and the scope for tax avoidance, but also facilitate a revenue-neutral reduction in Malaysia's statutory corporate tax rate, which is currently 30 per cent, 4 percentage points higher than the prevailing rate in neighbouring Singapore.[78]

(b) Indirect tax incentives

92. As regards indirect tax incentives, excise taxes levied on "national cars" are considerably lower than those applicable to other domestically assembled or imported cars (Chapter IV(3)(iii)).[79] In addition, machinery, equipment, components and materials used for R&D and training purposes are eligible for exemption from sales and excise taxes as well as from import duties. Similar exemptions, or drawbacks, are also allowed for machinery and equipment used directly in the manufacturing process as well as for components and materials that are used in the manufacture of goods for export (section (3)).

93. Indirect tax incentives in the form of exemptions or drawbacks are designed to address the inherent bias against exports of Malaysia's existing sales and excise taxes. Such exemptions or drawbacks could be reduced or eliminated if Malaysia followed in the steps of several other countries (including Canada, Japan, New Zealand and Singapore) which have recently introduced broad-based value-added taxes (VAT) that exempt exports in a manner consistent with the GATT.

(c) Non-tax incentives

94. The principal type of non-tax incentive is the Industrial Adjustment Allowance (IAA), an allowance of up to 100 per cent in respect of qualifying capital expenditure incurred by a manufacturing company undertaking industrial adjustment. In addition, the Industrial Adjustment Fund provides loans at concessionary rates to companies undertaking restructuring programmes. A RM 1,990,000 IAA was granted to three wholly Malaysian-owned textile companies in 1994.

95. Not only do small and medium-sized firms have privileged access to credit because banks are required to allocate a minimum share of total lending to such enterprises, they are also beneficiaries of government-sponsored credit. As all major banks well exceed the minimum lending requirement to small and medium-sized enterprises, no *de facto* preferences appear to arise from this requirement (Chapter IV(4)(ii)). As regards government-sponsored finance and assistance, the ASEAN-Japan Development Fund is the largest, with a total allocation of RM 588 million over less than ten years (Annex III.2). Under the Seventh Malaysia Plan (1996-2000) a total of RM 261 million has been allocated to implement technology acquisition, commercialization of research and development and technology development programmes for small and medium-sized enterprises.[80]

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[78] A narrowing of the gap between corporate tax rates in Malaysia and Singapore would also reduce the incentive for multinational enterprises to exploit the difference in rates by shifting profits artificially to Singapore from Malaysia, thereby eroding corporate tax payments in the latter.

[79] In the case of the PROTON, for example, the reduction in excise tax is 50 per cent.

[80] Plans for The Commercialization of Research & Development Fund (CRDF) and the Technology Acquisition Fund (TAF) for SMEs are currently underway. The objectives, among others are to promote technological upgrading through the introduction and utilization of modern cost-efficient technology in the manufacturing and physical development of existing and new products/processes among the SMEs and raising the competitive level of the industrial sector, enabling them to compete globally.

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of sound recordings, broadcasts and published editions with the United States and the United Kingdom (Chapter II(3)).[85]

Table III.13
Semi-public and public-sector advisory and review bodies (intellectual property rights), 1997

Body	Functions	Members
National Committee on Trade Related Aspects of Intellectual Property Rights	To advise the Government on its obligations under, and implementation of the TRIPS Agreement	Relevant government agencies, private sector representatives, academics, trade associations, intellectual property associations, intellectual property practitioners
Patent Boards established under the Malaysian Patent Act 1983	- To issue certificates for utility holders; - to consider applications for compulsory licences; - to appoint examiners; and - to advise the Minister generally on matters pertaining to the Patents Act.	Relevant government agencies, research institutes, institutions of higher learning, and other persons considered to be fit and proper by the Minister of Domestic Trade and Consumer Affairs.
Anti-Piracy and Product Counterfeiting Task Force	To deal with problems relating to infringing and counterfeiting activities	Representatives of government enforcement agencies, Attorney General's Chamber, Intellectual Property Department, Chambers of Commerce and intellectual property related industries
Copyright Tribunal established under the Malaysian Copyright Act 1987	To consider applications with respect to licensing schemes, entitlement to licences and proposed or expiring licences granted by licensing bodies as well as to issue licences to produce and publish in the national language a translation of a literary work	As appointed by the Minister of Domestic Trade and Consumer Affairs

Source: Information provided by the Malaysian authorities.

(b) Structure of intellectual property right protection

Copyright

100. Copyright in Malaysia generally subsists on creation and continues to subsist until 50 years after the death of the author (Copyright Act, 1987). It subsists if the author is a citizen, permanent resident of a corporate body established in Malaysia or any other Berne Convention country, and if the work is made or first published in Malaysia or any other Berne Convention country, or if, being a broadcast, the work is transmitted from Malaysia or any other Berne Convention country. Conforming to the Berne Convention, registration is not a prerequisite for the enforcement of copyright in Malaysia.[86] Computer software and compilation of data is protected as a literary work[87], and the Act protects rental rights to all eligible works, sound recordings and broadcasts. However, performers are not currently

[85]These arrangements are based on the Copyright (Application To Other Countries) Regulation 1990.

[86]However, Section 42 of the Copyright Act, 1987 (Act 332) explicitly allows as admissible evidence an affidavit or statutory declaration stating that at the time specified therein, copyright subsisted in such work, that he or she is the owner of the work, and that an annexed copy is a true copy thereof.

[87]Section 13(2) of the Malaysian Copyright Act 1987 lists the exceptions to copyright protection for research, educational and other similar purposes.

protected. Moral rights, such as the right to prohibit alteration, are protected under copyright law. The Copyright Act does not prohibit parallel imports. Compulsory non-exclusive licenses for copyrighted works may be granted by the Copyright Tribunal.[88]

101. Penalties against infringement of a copyright may include fines and imprisonment. Of the 5,802 complaints received concerning copyright infringements during the period 1 December 1987 to 5 March 1997, over 4,500 led to legal cases. The total value of goods seized exceeded RM 22 million, while fines exceeded RM 1.2 million (Table AIII.9).

Patents

102. Patents are protected upon registration (Patent Act 1983). During the period October 1986 to December 1996, a total of 9,302 patents were registered, of which 212 (2.3 per cent) originated in Malaysia (Table AIII.10). Priority of registration is based on the first-to-file principle. The official fee for filing a request for the granting of a patent is RM 200. Patents are protected for 15 years from the date of being granted. Utility innovations are protected for five years from the date of granting and may be protected for two additional five-year terms. Utility innovations are also subject to annual renewal fees. Non-patentable inventions are listed in the Act.[89] No protection for plant varieties is available at present under Malaysia's patent legislation. Conditions for granting a compulsory licence are described in the Act.[90] The owner of a patent has the right to institute Court proceedings against any person who has infringed or is infringing the patent.

Trademarks

103. Trademarks are protected upon registration in Malaysia under the Trade Marks Act 1976.[91] For registration of a trademark, the applicant is required to fill in 12 copies of the application form with representations of the trademark attached to each. The fee is RM 30. If the application is launched through an agent, two additional forms and an additional fee of RM 10 is charged. Registration of a trademark is for an initial period of seven years and is renewable for subsequent periods of 14 years. Words and signs that may not be contained in a trademark are listed in the Act and the Regulations.[92]

[88]Compulsory licences may be granted on application only in respect of production and publication in national language of a literary work written in any other language. Royalties for such licences shall be determined by the Tribunal.

[89]Section 13 of the Malaysian Patent Act 1983 (Act 291), lists among others items, scientific theories, mathematical methods, plant and animal varieties other than man-made living micro-organisms or processes, business methods, surgery or therapy methods for the treatment of human or animal bodies.

[90]If a patent owner, without any legitimate reasons, fails to use a patented process, or does not produce a patented product, meet public demand, or charge a reasonable price within three years of being awarded a patent, the Patent Board may grant a compulsory licence to any applicant (Patents Act 1983 (Act 291), section 49). A compulsory licence may also be granted if an invention claimed in a patent cannot be worked in Malaysia without infringing a patent benefiting from an earlier priority date (Patents Act 1983 (Act 291), section 49A). When the application for a compulsory licence is filed, the Registrar shall notify the owner of the patent of the date the application is to be considered by the Board (Patents Act 1983 (Act 291), section 50).

[91]Although non-registered trademarks are not protected (Trade Marks Act 1976, Section 82(1)), passing-off goods or services as those of another person is not allowed under the Trade Descriptions Act 1972.

[92]Section 15 of the Trade Marks Act 1976 and Regulation 12 and 13 of the Trade Marks Regulations 1983.

There is no compulsory licence provision for trademarks.[93] During the period 1992-96 a total of 27,179 trademarks were registered in Malaysia, of which 6,554 were owned by Malaysian residents (Table AIII.11).

Trade descriptions

104. The Trade Descriptions Act 1972 allows for criminal proceedings against any person who, in the course of a trade or business, applies a false trade description to or in respect of any goods or supplier or offers to supply such goods. Under this Act, trade descriptions, such as those related to markings of food, and price descriptions are regulated. Although not explicitly mentioned in the Act, it might also provide authority to take action against the use of geographical indications which do not indicate the true origin of the product.[94] During the period 1 January 1973 to 8 March 1977, 11,000 complaints were received concerning infringements of this Act, over RM 55 million worth of goods were seized, and fines of almost RM 6 million were levied (Table AIII.12).

Confidential information

105. Confidential information is protected against unauthorized use and disclosure under common law. Confidential information includes industrial processes, business secrets, secret methods, and customer lists. There are no formalities or time limits applied to obtain such protection.[95]

Industrial Designs

106. Currently, the Industrial Design Registration Act of 1949 of the United Kingdom is applicable in Malaysia. A registered proprietor of industrial designs and models cannot recover damages if an infringer proves that at the date of infringement he or she was not aware of the registered design.[96]

107. A Malaysian Industrial Design Bill was passed by the Malaysian Parliament in 1996 and is expected to come into force in 1997. Once the Bill is in force, all activities relating to administration and registration of industrial designs will be undertaken in Malaysia. The Bill specifies the priority date of an application for registration as the filing date of the application; designs filed earlier abroad in a treaty or convention country will receive priority if filed in Malaysia within six months from such earlier date.[97] Under the Bill, registration of an industrial design will come into force on the filing

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[93]However, there is a Registered User provision whereby the registered proprietor permits a person to use his or her trademark by way of agreement between the registered proprietor and the user (Trademarks Act 1976 (Act 175), Part IX).

[94]Observers have noted that the Malaysian Trade Marks Act 1976 also provides some protection for geographical indications (Ariff et al. 1996, p. 71).

[95]Hemnes et al. (1994), p. 5.

[96]Hemnes et al. (1994), p. 2.

[97]Industrial Design Bill 1996, Clause 17.

date for a period of five years and may be extended for two further consecutive five year terms.[98] Compulsory licences for industrial designs may be granted by decision of the Court.[99]

Forthcoming changes in IPR legislation

108. In order to fully implement the TRIPS Agreement, the Malaysian authorities intend to amend by 1998, the Patents Act, the Trade Marks Act and the Copyright Act, and also to enact a Performers' Act and a law to protect the layout designs of integrated circuits.[100] To address some of the issues related to intellectual property protection for multimedia investments, a "Convergence Act" covering broadcasting, telecommunications and computer services is under study at the Ministry of Energy, Telecommunications and Posts (Table AII.1). Malaysia's APEC Individual Action Plan acknowledges the long-term need to review and adapt intellectual property laws in line with global developments.

(c) Policies towards the transfer of protected intellectual property rights

109. The use of foreign-owned intellectual property plays an important role in Malaysia's economic development because it contributes to total factor productivity growth. Licences, fees and royalties paid to foreigners for the use of intellectual property are reflected in the balance of payments. As in the case of physical capital, inflows of intellectual property exceed outflows and thus international payments for the use of this property far exceed receipts.[101] Receipts increased dramatically in 1996 but are still below 10 per cent of payments (Table III.14).

Table III.14
International payments and receipts for use of intellectual property rights, 1991-96[a]
(MR million)

	1991	1992	1993	1994	1995	1996
Receipts	4.9	66.8	6.2	4.6	9.2	62.8
Payments	377.5	480.0	603.6	749.9	909.7	979.9
Balance	-372.6	-413.2	-597.4	-745.3	-900.5	-917.1

a Payments and receipts for authorized use of patents, copyrights, trademarks, industrial processes, franchises etc. and the use through licensing agreements of produced originals of prototypes (such as manuscripts and files).

Source: Bank Negara Malaysia, Cash Balance of Payments Reporting System.

110. The Ministry of International Trade and Industry monitors all technology transfer agreements (TTAs) with foreign partners. All manufacturing concerns licensed by MITI are required to obtain prior written approval from the Ministry before entering into technology transfer agreements with foreign

[98] Industrial Design Bill 1996, Clause 25.

[99] Compulsory licences may be granted on the ground that the design is not applied in Malaysia. However, no order which is inconsistent with any treaty, convention, arrangement or engagement with any country outside Malaysia shall be made by the Court.

[100] APEC (1996).

[101] A withholding tax of 10 per cent is levied on payments made to foreign suppliers of technology. Double Taxation Agreements may result in the reduction or elimination of such taxes (Table AII.7).

partners.[102] The agreements must define in detail the technological content and principal features of technology or process, anticipated production, quality and specification of products and particulars of technical assistance and the manner in which it is to be provided.[103] The Ministry monitors the duration of the agreements to ensure that they are sufficient to allow full absorbtion of technology, that provision is made for adequate training of the local company's personnel, and that there is sufficient provision for the continued use of patents covered by the agreement after its expiry.[104] Effective 3 September 1997, the Government has deregulated the processing of technology transfer agreements by granting automatic approval to technology agreements signed between 100 per cent foreign-owned companies and with royalty payments of less than 3 per cent of net sales.

111. During the period 1989-96 a total of 1,124 TTAs were approved by MITI, and during 1993-96, royalty payments were made under 467 agreements. Most royalty payments concerned the electric and electronics sector (Table III.15), which suggests that advanced technology was transferred mainly to this sector (Chapter IV(3)). For those agreements which expressed royalty payments as a percentage of the sales price, more than half of all payments were below 2 per cent.[105]

Table III.15
Number of technology transfer agreements by rate of royalty payment, in selected industry groups, 1993-96

Industry group	Royalty less than 2%	Royalty 2%-4%	Royalty more than 4%	Lump sum + running royalty	Lump sum	Others	No payment	Cumulative total (1993-96)
Electrics and electronics	60	37	22	14	10	28	11	182
Chemical products	27	5	2	4	7	12	2	59
Transport equipment	21	8	1	21	8	3	1	63
Plastic products	12	4	1	5	1	3	0	26
Food products	9	2	1	2	0	0	1	15
Fabricated metal products	11	3	2	3	1	0	0	20
Others	45	29	2	10	5	6	5	102
Total	185	88	31	59	32	52	20	467

Source: Information provided by the Malaysian authorities.

[102]Such agreements may cover licence rights over specific processes, formulae or manufacturing technology, other knowledge and expertise for the establishment of a plant and the provision of various technical assistance and supporting services.

[103]Ministry of Finance (1995), p. 260.

[104]Ariff et al. (1996), p. 25.

[105]According to the Ministry of International Trade and Industry, the level of technology transferred can generally be considered low if this percentage is below 2 per cent and high if it is above 4 per cent (Ministry of International Trade and Industry (1996b), p.p. 241-242).

(iv) Standards and technical requirements

112. The procedures for the development of standards are established in the Standards of Malaysia Act 1996.[106] Under the Act, the Minister[107] appoints a Director General of the Department of Standards who shall "foster and promote standards and standardization of specifications as a means of advancing the national economy, benefiting the health, safety and welfare of the public, assisting and protecting consumers, promoting industrial efficiency and development, facilitating domestic and international trade and furthering international cooperation in relation to standards" [108] Further, under the Act a Malaysian Standards and Accreditation Council has been established to advise the Minister in respect of standardization policies, programmes, schemes, projects and activities. The Minister may, by notification in the Gazette, declare any specification to be a standard if he or she is satisfied that the affected people have had the opportunity to comment.

113. SIRIM Berhad (Standards and Industrial Research Institute of Malaysia) established in 1975 and incorporated in 1996, is the sole national agency appointed to coordinate the development of standards in Malaysia.[109] As such, SIRIM functions as an arm of Government as well as a development agency and a protector of consumer interests. It aims to ensure that Malaysian Standards take into consideration socio-economic factors, product capability and suitability to local conditions, while it conducts independent third party certification through inspection, testing and certification.[110]

114. In addition to issues covered by the Standards of Malaysia Act 1996, product standards are the basis for newly adopted technical regulations other than sanitary and phytosanitary measures applied to agricultural products (Chapter IV(2)). Packaging and labelling requirements are governed by the Food Act (1983) and the Food Regulation (1985) as well as the Price Control (Labelling by Manufacturers, Importers, Producers and Wholesalers) Order 1990.[111] Since the last Review, the Price Control Order has been amended to require the indication of Recommended Retail Price for powdered milk and cooking oil.

[106]The Standards of Malaysia Act 1996 received Royal Assent on 15 July 1996 and was Gazetted on 25 July 1996.

[107]The Department of Standards Malaysia is under the purview of the Minister of Science, Technology and the Environment.

[108]Standards of Malaysia Act 1996, Section 10(1).

[109]In specific areas, such as interconnections in the telecommunications sector, ministries appoint specific committees. For example, in 1994, the regulating authority in this sector (Jabatan Telekom Malaysia) established the Interconnection Steering Committee to set guidelines for the interconnection of basic and cellular services (Chapter IV(4)(iv)).

[110]SIRIM (1996), p. 2.

[111]Under the Food Act and Regulation every package containing food for sale, should not only include the designation and weight of the product, but also information on the manufacturer. In the case of imported food, the name and address of the manufacturer or packer is required, as well as the country of origin and the name of the importer. If the product contains beef, pork, edible fat, oil, alcohol, food additive, vitamins or certain minerals, the label must indicate the presence of these items. In the case of imported food products, the information has to be provided in Bahasa Malaysia or English.

Development of standards

115. Out of 2,416 Malaysian Standards currently in force, 521 (or 21.6 per cent) are based on ISO or IEC Standards. Between 1992 and 1996, 818 new standards were developed of which 63.7 per cent were based on ISO or IEC standards (Table III.16). Malaysian standards are aligned, as far as possible, with international standards, according to the authorities.

Table III.16
Indicators of standards development in Malaysia, 1992-96

Indicator	1992	1993	1994	1995	1996
New Malaysian standards	121	150	168	213	166
Appointment of Standard Writing Organizations	0	0	2	1	2
Licences issued under the Product Certification Scheme	94	161	109	163	187
Certificates issued under the Quality System Registration Scheme	79	158	218	225	216

Source: Information provided by the Malaysian authorities.

116. Malaysia participates in ASEAN and APEC initiatives. Initiatives developed in these regional bodies aim to align existing national standards in their region with internationally developed standards. Under the ASEAN Consultative Committee on Standards and Quality (ACCSQ) programme, member countries have agreed to align standards for some electrical and electronic domestic appliances and rubber products within an agreed time-frame. Within APEC, Malaysia is developing an action plan to align its standards with international standards in selected priority areas; electrical and electronic appliances, food labelling, plastic and rubber products.

117. Since the inception of the WTO, and as of 1 September 1997, Malaysia has notified 27 standards to the Technical Barriers to Trade Committee (Table AIII.13). In 1995, Malaysia notified a labelling requirement for cigarettes to the WTO Committee on Technical Barriers to Trade.[112] During 1996, notifications on 19 draft Malaysian standards were made, covering taps, water meters, plastic containers, pipes and fittings, bitumens and other products. During January-July 1997, seven notifications concerning PVC pipes were received.

Developments in technical regulations since Malaysia's 1993 Trade Policy Review

118. In Malaysia, national standards are used as the basis for technical regulations. Since Malaysia's 1993 Review, Malaysian Standards Specification for Protective Helmets for Vehicle Users[113] and Portland Cement[114] have been made obligatory by the relevant regulatory bodies in order to ensure the safety and quality of the products concerned. The Code of Practice on Safety and Health at Work[115] is a

[112]WTO document G/TBT/Notif.95.175, 7 June 1995.

[113]Malaysian Standard 1:1996.

[114]Malaysian Standard 522:Pt.1-3:1985 (not yet enforced).

[115]Malaysian Standard MS 462:1994.

supplementary document of the existing Occupational Safety and Health Act 1994. Technical regulations are applied equally to domestically owned, foreign-owned and joint-venture firms.

Conformity assessment

119. Any person or organization desiring to be accredited or registered as a conformity assessment organization, a laboratory for testing or calibration, a training organization for conformity assessment, or a person qualified to perform conformity assessment and related services may apply to the Director General of Standards.[116] Department of Standards Malaysia (DSM) accreditation is open to any applicant, local or foreign, who fulfils the accreditation conditions specified and published by the Department. Since 15 August 1990, and as at May 1997, 109 laboratories have been accredited for specific tests and or calibration, while nine such accreditations have been withdrawn.

120. A certification body is an impartial government or private legal entity which is allowed to operate a certification scheme in which interested parties are represented without a single interest dominating. Activities of a certification body may involve the granting of ISO 9000 certificates, product certification to manufacturers, and ISO 14000 certificates to firms, and the upgrading of ISO 9000 certificates for manufacturers of motor vehicles and auto-components. The current Accreditation of Certification Bodies (ACB) scheme of the Department of Standards offers accreditation only to quality system certification bodies on the basis of international accreditation criteria. The application fee in Malaysia is RM 5,000 and the annual fee is RM 5,000. Non-Malaysian applicants are subject to the same application and annual fees as well as to actual professional charges, costs of return flights, and accommodation arising from engaging overseas assessor(s). Appeal to an impartial and independent panel is available. SIRIM Berhad is the first organization in Malaysia to be accredited as an ISO 9000 certification body. As at 22 April 1997, over 1,000 companies have been certified under the ISO 9000 system and seven companies under the ISO 14000 system. The electrical, electronic and telecommunications sector was the largest user of both standards (Table III.17).

Table III.17
Certification of companies, by quality system and sector, April 1997

Scheme and sector		Number of companies certified
ISO 9000	(Management standards)	1,059
	Food and agriculture	56
	Pharmaceutical	39
	Chemical	109
	Polymer and material	160
	Building and civil engineering	116
	Mechanical engineering	119
	Automotive industry	66
	Electrical and telecommunications	280
	Services	114
ISO 14000	(Environmental standards)	7
	Electrical appliances	2
	Electronic components	2
	Machinery equipment	1
	Depot operation	1
	Photographic equipment	1

Source: Information provided by the Malaysian authorities.

[116] Standards of Malaysia Act 1996, Section 16.

121. The ISO Quality Assessment Recognition (QAR) and International Accreditation Forum (IAF) establish a system for the accreditation of an ISO certification body. The Department of Standards has close links with its counterparts abroad through the International Accreditation Forum (IAF) and the Pacific Accreditation Cooperation (PAC). Malaysia has a memorandum of understanding with member countries of the Asia-Pacific Laboratory Cooperation (APLAC) and International Laboratory Accreditation Council (ILAC) to cooperate and work towards mutual recognition agreements. The Department of Standards Malaysia has a Memorandum of Understanding with the Joint Accreditation System of Australia and New Zealand (JAS-ANZ).

(v) Government procurement, state-owned enterprises and privatization

122. Government procurement preferences accorded to Malaysian firms constitute government assistance to these firms. Selected state-owned enterprises are required by public procurement regulations to follow similar practices. These preferences not only restrict competition among suppliers, thereby impairing economic efficiency, but also raise the cost to the Government and state-owned enterprises of procuring goods and services. The competitiveness of state-owned enterprises is, in turn, hampered insofar as they are forced by preferential procurement regulations to purchase their inputs from relatively high-cost local suppliers. On the other hand, the Malaysian authorities take the view that government procurement plays a vital role in national development and that since state-owned companies contribute substantially towards Malaysia's development, these companies need to be regulated in terms of procurement procedures. In this context they consider any incidental increase in costs as unavoidable. However, the Ministry of Finance will regularly review these procurement regulations to enable the procuring enterprises to improve their competitiveness.

123. In order to foster economic efficiency, however, some state-owned firms are allowed greater autonomy, including freedom from public procurement regulations, while others have been privatized. Privatization has made a significant contribution to economic growth and government revenue. Efficiency gains resulting from privatization of certain enterprises are indicative of the efficiency losses associated with previous government control over them.[117] Foreign investors are allowed to participate in the privatization exercise in the form of equity financing and provision of management expertise. As a matter of policy, foreign investors are allowed to participate up to a maximum of 25 per cent of the share capital of a privatized entity. In addition, they can also participate in privatized companies listed on the Kuala Lumpur Stock Exchange. This is to enable foreign companies with the necessary expertise and capital to provide the required input for projects involving new technology not available in Malaysia. Foreign participation is also encouraged in order to raise foreign capital required for large projects and to provide access to foreign markets and global linkages.

(a) Government procurement

124. The impact of government procurement regulations goes well beyond current government purchases of goods and services and public investment, as federal operating and development (investment) expenditure, which currently amounts to RM 58.2 billion, is well over 20 per cent of GDP.[118] Federal procurement regulations also apply to procurement by the 58 Statutory Bodies of the Federal Government

[117]In the case of Telekom Malaysia, for example, the return on assets and output per employee more than doubled following privatization (Chapter IV(4)(iii).

[118]Ministry of Finance (1996).

and the three largest Non-Financial Public Enterprises, NFPEs, (Petronas, Tenaga Nasional and Telekom Malaysia Berhad).[119]

125. Among the objectives of federal procurement policies are to encourage use of local materials and components, reduce dependence on imports and diminish the balance-of-payments deficit. The scale of government expenditure suggests that procurement preferences may have a substantial short-term impact on the balance of payments. Such a policy would, however, attract resources from other more efficient uses, thus undermining the competitiveness of Malaysian firms in the long term. In practice, the Malaysian authorities allocate a substantial share of government procurement contracts to foreign suppliers (Table III.18). This policy contributes to the impressive performance of Malaysia's economy.

Table III.18
Overview of government procurement, 1991-97

	1991	1992	1993	1994	1995	1996	1997[a]
Federal government operating expenditure (RM billion)	28.3	32.1	32.2	25.1	36.6	41.8	41.4
Federal government development expenditure (RM billion)	9.6	9.7	10.1	11.3	14.1	14.9	16.8
Total Government contracts[b]	...	...	...	...	13.2	36.6	...
Government contracts awarded to foreign companies[b] (RM billion)	...	...	...	...	5.2	29.2	...

... Not available.

a Budget allocation.
b Including contracts for Statutory Authorities Petronas, Tenaga Nasional and Telekom.

Source: Data provided by the authorities and Ministry of Finance (1995 and 1996), Economic Report 1995/96 and 1996/97, Kuala Lumpur.

126. The Government Procurement Management Division (previously known as the Contract and Supply Management Division) of the Ministry of Finance is the central federal procurement agency. On an annual basis, this agency manages procurement amounting to RM 5.3 billion. In 1994, government procurement regulations were revised as part of a regular review, leading to the replacement of 151 Treasury Circular Letters by 34 new Treasury Circular Letters.[120] Contracts are divided into three categories, supplies, services and works. Each Ministry has its own procurement unit, but supplies and services contracts with a value above RM 7 million and works contracts with a value above RM 50 million are referred to the Ministry of Finance.

127. For supplies contracts, Malaysian Bumiputra companies receive a margin of preference of 2.5 to 10 per cent over a reference price. The margin of preference is inversely proportional to a value of not more than RM 15 million. Malaysian Bumiputra manufacturing companies also enjoy preferential treatment of 3 to 10 per cent, with the margin of preference being inversely related to the contract value up to RM 100 million. All supplies contracts with a value between RM 10,000 and RM 100,000, and works contracts up to RM 100,000 are reserved for Bumiputra suppliers. As a matter of planning

[119] Items procured by Petronas, Tenaga Nasional and Telekom with a value of RM 15 million or more must be referred to the Ministry of Finance.

[120] The Financial Procedure Act 1957, as amended in 1972, authorizes the Minister of Finance to manage, supervise, control and direct all federal financial matters.

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(b) Non-financial public enterprises and privatization

132. Investment by public agencies and NFPEs accounted for 17.7 per cent of GNP during 1991-95, down from 24.1 per cent during 1981-85, but slightly up from the 14.2 per cent during 1986-90. For the 1996-2000 period, an average of 11.5 per cent share in GNP is envisaged. From 1991 to 1995 out of a total public sector development (investment) expenditure of RM 142.8 billion, 27 per cent was made by the Federal Government, 9.7 per cent by State governments, 8.6 per cent by local and statutory authorities, and 54.7 per cent by NFPEs. While some of these investments earn a commercial rate of return, others are made on the basis of non-commercial criteria reflecting the Government's policy objectives formulated in its economic development plans (Annex II.1).[122] As a consequence of privatisation, the number of the main NFPEs declined from 42 in 1993 to 31 in 1996, although their revenue increased somewhat (Tables III.19 and AIII.14).[123]

Table III.19
Financial position of NFPEs, 1991-96
(RM million)

	1991	1992	1993	1994	1995	1996
Revenue	41,032	42,540	43,679	43,323	46,615	50,101
Operating expenditure	27,835	28,999	30,036	28,520	30,251	33,990
Current surplus/deficit	13,197	13,541	13,643	14,803	16,364	16,111
Development expenditure	11,156	16,147	19,458	16,196	15,222	18,654
Overall balance	2,041	-2,606	-5,815	-1,393	1,142	-2,543
Sources of financing						
Domestic financing	-3,602	-295	-868	-6,875	-11,094	-5,585
External borrowing	1,561	2,901	6,682	8,268	9,952	8,128

Source: Data provided by the Malaysian authorities.

133. Privatization of firms producing goods and services may include the transfer of management responsibility, assets or the right to the use of assets and personnel involved. Privatization is seen as important because it can contribute to economic efficiency, promote economic growth, reduce the Government's administrative and financial burden, increase government revenue and facilitate Bumiputra participation; foreign participation in privatization is expected to assist in promoting global international exposure for Malaysian entities.

[122]At the end of 1996 there were 528 government-controlled companies compared to 504 at the end of 1995. These companies were mainly engaged in providing services (157 companies), manufacturing (74 companies), investment holding (48 companies), plantations (30 companies), property development (37 companies), recreation and resorts (29 companies), transportation (29 companies), agriculture (17 companies), construction (17 companies), and other activities (58 companies). State-owned companies in manufacturing, investment holdings, finance, services and property development accounted for 83.8 per cent of investment by government-controlled companies Ostensibly 323 out of the 481 government-controlled companies that submitted financial information were profitable.

[123]Non-Financial Public Enterprises (NFPEs) are public sector agencies undertaking the sale of industrial and commercial goods and services. They include statutory bodies, government-owned or government-controlled companies and agencies owned by statutory bodies. Ownership and control refer to a government or public-sector agency controlling more than 50 per cent of total equity. The numbers in the text refer to the NFPEs with minimal annual sales of at least RM 50 million.

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136. Privatized companies are, in selected cases, obliged to assume socio-economic obligations. Examples are vendor development, marketing arrangements, training, technology transfer and research and development (section (2)(iv)). In this context, seven of the largest privatized companies allocated RM 119 million to training programmes in 1995, up from RM 79 million in 1993 and RM 90 million in 1994.[127] Privatization is thus used as in instrument to facilitate the transfer and development of technological and entrepreneurial skills.

137. In the absence of a comprehensive competition policy, the authorities established 11 regulatory authorities to maintain standards and protect consumer interests in terms of pricing, availability and quality of service as well as to ensure the healthy development of the industry. Regulatory authorities were established to cover electricity and gas supply, ports, airports, highways, posts, telecommunications, railways and sewerage (section (vi) below). However, the "regulatory authorities were not able to function effectively particularly due to the difficulty in operating within a rapidly changing technological environment".[128] The authorities have ensured that all privatized roads and highways have alternative routes, thus providing some competition to the privatized entities.

(vi) Competition policy and related issues

138. Malaysia's economic policies are aimed at creating an entrepreneurial climate in which companies are prepared to take on the challenges of trade liberalization. In this context, government intervention has been reduced and privatization has allowed for greater flexibility. However, greater freedom for private firms may also allow a small number of firms to establish a dominant market position in which not all benefits of liberalization are passed on to the consumer. The risk of a small number of firms resorting to anti-competitive practices may increase since the control on such behaviour is considered inadequate; for example, there are no controls on anti-competitive practices originating from the licensing of intellectual property. Furthermore, privatization of "natural monopolies" (e.g. the infrastructure field) may have increased the scope for private anti-competitive practices. A draft competition law has been prepared by the Ministry of Domestic Trade and Consumer Affairs and is under review following comments from other government organizations and the private sector.

Existing anti-trust policy instruments

139. At this stage, there is no comprehensive competition law or regulation, although sector- and product-specific regulations do exist. Import or export cartels are not necessarily illegal and no records exist of possible cartels. On the other hand, anti-competitive practices of privatized firms in the domestic market are to some extent controlled by regulatory authorities in charge of selected sectors (section (v)).

140. The Malaysian Code on Take-overs and Mergers 1987 has the force of law by virtue of existing provisions of the Securities Commission Act 1993 (Chapter IV(4)(ii)). However, it has limited legal

[127]Other examples include the vendor programmes undertaken by privatized companies. For example, Perusahaan Otomobil Nasional Berhad agreed to a RM 569.1 million Component Scheme Promotion; Telekom Malaysia Berhad agreed to a RM 452.6 million Entrepreneurs Development Programme and a Credible Supplier Scheme; Tenaga Nasional Berhad agreed to a RM 337.2 million Entrepreneurs Development Programme, an Umbrella Scheme, a Credible Contractor Scheme and a Strategic Joint-venture; Indah Water Konsortium Sdn. Berhad agreed to a RM 6.3 million Construction of Treatment Plant and Pumping Station Sewerage System and Pumping Station Network. (Government of Malaysia (1996b), p. 211)

[128]Government of Malaysia (1996b), p. 216.

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Annex III.1
Timeframes specified in Malaysia's Anti-dumping and Countervailing Measures Legislation and Regulations

Under Malaysia's anti-dumping and countervailing legislation, a request for an investigation may be submitted by "... a producer, producers or an association of producers of a like product on behalf of the domestic industry producing such product".[131] The Government is obliged to determine within 14 days upon receipt of the submission whether it is an adequate petition. On the basis of the information provided in the request, the Government may decide to launch an investigation if there is enough evidence to warrant it, and if such an investigation is in the public interest. In special circumstances the Government may initiate an investigation of its own accord.[132] Prior to initiation of a countervailing investigation, the Government must provide any interested foreign government with the opportunity for consultation. The Government must then publish its decision regarding whether to launch an investigation, and if it does decide to do so, the proposed time-limits for the investigation.

For the purpose of an investigation, a subsidy is defined as a direct or potentially direct transfer of funds or liabilities, forgone government revenue, government-provided goods and services other than general infrastructure or purchased goods, or any form of income or price support.[133] Dumping is assessed on the basis of a comparison with the sale of comparable merchandise in the domestic market of the exporting country during the six-month period preceding the investigation or any additional or alternative period the Malaysian Government deems relevant or necessary to permit a proper comparison. In the event that such sales do not permit a proper comparison, the Government may consider comparable merchandise exported to any third country or a constructed value.[134] A specific-company export price and normal value are calculated on a weighted average basis.

The investigation determines whether a subsidy has been provided or a dumping margin exist with respect to the merchandise in question, and, if so, whether injury is found to exist in any of the following ways: the domestic industry in Malaysia producing the like product is materially injured, or threatened with such injury, by reason of the merchandise in question; or the establishment of such industry in Malaysia is materially retarded by reason of the subject merchandise. The Government may prepare and distribute questionnaires to any party relevant to the investigation and all parties receiving a questionnaire are given 30 days to reply. Within 90 days (or, in special circumstances

[131]Identical text in the Countervailing and Anti-Dumping Act 1993 was used for the initiation of a countervailing duty investigation (Article 4(1)) (Article 20(1)).

[132]Countervailing and Anti-Dumping Act 1993, Sections 4(6) and 20(6).

[133]Government payments to a funding mechanism or entrusted to or directed through a private body in order to carry out any one or more of the listed functions is also considered a subsidy (Section 24(d) of the Countervailing and Anti-dumping Duties Regulations 1994).

[134]Among other things, a third country has to be selected on the basis that the merchandise to the third country is similar to that exported to Malaysia, the market structure and development is similar and the sales are conducted in the ordinary course of trade. A constructed value must be the sum of the costs of materials and other processing methods employed in similar merchandise, the amount of general expenses and an amount of profit.

120 days) from the publication of the initiation of the investigation, the Government is obliged to make a preliminary determination. If a mutually agreed solution is reached, the Government must publish a notice setting forth the terms of the mutually agreed solution. Up to 30 days prior to a final determination, a petitioner may request retroactive imposition of final duties. A final determination must be made within 120 days of the publication of the preliminary determination. During a period of 14 days from the notice of the final decision, it can be appealed to a tribunal established for this purpose. An administrative review must be conducted only after one year has elapsed from the date of publication of the decision.

Annex III.2
Funds targeted at small and medium-sized enterprises

Small and medium-sized companies specializing in technological advanced production are eligible for grants available under the Industrial Technical Assistance Facility (ITAF).[135] The facility consists of a Consultancy Service Scheme implemented by Bank Pembangunan Malaysia Berhad, which has a total allocation of RM 10 million and allows for a maximum grant of RM 40,000; a Product Development and Design Scheme implemented by SIRIM, which has a total allocation of RM 20 million and allows for a maximum grant of RM 250,000; a Quality and Productivity Improvement Scheme implemented by SIRIM, which allows for a total allocation of RM 15 million and a maximum grant of RM 250,000; and a Market Development programme implemented by MATRADE with a total allocation of RM 5 million and a maximum grant of RM 40,000. In 1993 a total of RM 3.8 million was allocated to 137 successful applicants, in 1994 RM 7.2 million to 291 applicants, in 1995 RM 8.5 million to 418 applicants and in 1996 RM 9.4 million to 392 applicants.

In 1993 a Soft Loan for Quality Enhancement was established to provide facilities to finance purchases of machinery and equipment for Bumiputra-owned small and medium-sized manufacturers in the furniture and food-based industries. In 1994 the scope was widened to cover the automotive, electrical and electronics, plastics, machinery, engineering, and textiles sectors. Under this scheme, 28 loans were approved in 1993, 30 in 1994, 50 in 1995 and 19 in 1996.

The Malaysian Industrial Development Finance (MIDF) agency manages the Scheme for Modernisation and Automation with the objective of encouraging small and medium-sized enterprises to use modern machinery and/or replace old machinery. The loans cover no more than 75 per cent of the cost of the machinery and equipment, and carry an interest rate of 4 per cent. Under the scheme 13 loans were approved in 1993 compared to 26 in 1994, 42 in 1995, and 39 in 1996. As at 31 August 1997, a total of RM 62.35 million had been allocated to the MIDF under the scheme.

143. The ASEAN-Japan Development Fund scheme is designed to promote the development of Malaysian-controlled small and medium-sized enterprises. The funds are provided by the Japanese Overseas Economic Cooperation Fund (OECF) and the Export-Import Bank of Japan (Eximbank) and are channelled through four Malaysian development finance institutions.[136] Loans of the OECF are somewhat smaller and targeted at less-capitalized firms, but do carry a lower interest rate than those financed by the Eximbank (6.5 per cent per annum compared to 7.75 per cent). Between 1988 and March 1997, a total of RM 588 million has been allocated from this facility to 450 applicants.

[135] Qualifying companies are required to; process production facilities or have access to facilities approved by the government; be involved in manufacturing or services or any related project under the government franchise scheme, be incorporated under the Companies Act 1965; have shareholders' funds of not more than RM 2.5 million; have at least 70 per cent of their equity held by Malaysian interests, and at least 51 per cent should be owned by other small and medium-sized enterprises, or individuals.

[136] Malaysian Development Finance Berhad, Bank Industry Malaysia Berhad, Bank Pembangunan Malaysia Berhad and Bank Pertanian Malaysia.

IV. TRADE POLICIES BY SECTOR

(1) Overview

1. The trade and trade-related measures described in Chapter III each tend to favour one sector or another over others. For example, average applied MFN tariffs are relatively high for imports of products like tropical fruits, vegetables, beverages, tobacco, textiles, as well as motor vehicles and motorcycles compared to most other primary and manufacturing sectors, for which tariffs are low if not zero. Non-tariff border measures, largely involving non-automatic licensing for the administration of SPS standards and environmental reasons as well as for protectionist purposes, are more pervasive for agricultural products and automobiles than for the majority of other products (Table AIV.1). Export taxes and other charges are levied mainly on primary products. Tax incentives are concentrated in machinery and electronics as well as wood, paper and rubber products. Other measures, including regulations which limit market access, pertain mainly to the services sector.

2. These measures, both individually and in combination, may affect various industries and even firms differently, thus producing "winners", namely the net beneficiaries, and relative "losers", that is, those industries or firms who either do not benefit from such measures or are adversely affected by them. For instance, the relatively high tariffs on imported automobiles together with the excise tax reduction applicable to selected automobile manufacturers, directly favour producers of the latter. Moreover, given the interlinkages between sectors, measures applied to one sector may feed through to others; for example, insofar as measures applied to goods and services produced in one sector tend to increase their prices, and those goods and services are used as inputs by another sector, the latter's costs will be adversely affected. By contrast, tax and non-tax incentives or subsidies accorded to firms producing goods and services in one sector, reduce not only the costs of those firms, but also the costs of firms elsewhere for whom those goods and services are inputs. Similarly, measures directly applicable to inputs, notably capital and labour, affect the costs faced by firms using those inputs. Even a seemingly general measure, such as an investment or R&D incentive, affects different industries and firms differently, depending on their capital and R&D intensities.

3. While government assistance may not necessarily be one of the main determinants of business decisions, it would be surprising if the wide array of measures currently used in Malaysia did not, in one way or another, significantly influence the allocation of resources between and within sectors. One would expect resources to have moved from those sectors, such as most agricultural and manufacturing sectors, that receive relatively little, if any, assistance by means of these measures to those sectors that are heavily favoured.

4. Malaysia has indeed experienced significant inter-sectoral shifts in production, and thus resources, since the last Review (Table I.3). In broad terms, production has shifted from agriculture and resource-based industries into manufacturing and services. As a consequence, the combined share of the primary sector in GDP fell from 28.5 in 1990 to 19.9 in 1996. By contrast, the share of manufacturing in GDP rose from 30.5 in 1990 to 34.2 per cent of GDP in 1996, while the corresponding share of services increased from 42.5 to 44.8 per cent.

(2) Primary Sector

(i) Main Features

5. Malaysia's agricultural trade policies are, with a few notable exceptions, remarkably liberal, especially as far as tariff and non-tariff border measures are concerned. Generally speaking, import tariffs on agricultural products are low, averaging 4.8 per cent in 1997, if specific duties are excluded. However, very high specific duties (involving *ad valorem* equivalents of up to 1,772 per cent on a few sensitive items) quadruple the average tariff for agricultural products to 20.2 per cent. Although a wide range of products remain subject to import licensing and sanitary and phytosanitary (SPS) measures, it appears that these measures restrict imports in only a small number of cases. Non-border measures, notably credit subsidies, are also used. These subsidies, together with an influx of low-skilled foreign workers, have enabled Malaysia to maintain the competitiveness of its agricultural products on world markets. Indeed, exports of palm oil have ensured a significant trade surplus in agricultural trade (Chart IV.1).[1] Land areas used for palm oil have increased significantly, partly reducing land available for other agricultural commodities; the lack of arable land is a constraint on the development of the agricultural sector in Malaysia (Table IV.1).

Table IV.1
Production of selected agricultural commodities and their use of land, 1990, 1995 and 2000

	Land area used ('000 hectares)			Production ('000 tonnes)			Small-holder production share (%)	Number of producers ('000)
	1990	1995	2000[a]	1990	1995	2000[a]	1996	1996
Industrial commodities								
Rubber	1,823.1	1,696.0	1,400.0	1,291.0	1,106.1	1,014.0	...	59.0[b,c]
Palm oil	2,029.5	2,479.0	2,622.2	7,939.3[d]	10,209.2[d]	11,934.0[d]	...	...
Cocoa	419.8	245.0	250.0	247.0	151.9	156.0	...	37.4[b]
Pepper	11.5	8.6	8.1	31.0	16.5	15.6	...	...
Pineapple	9.3	11.8	14.7	168.3	178.0	191.0	...	...
Tobacco	10.2	10.5	10.0	10.2	10.3	13.0	...	...
Food commodities								
Paddy	662.6	666.3	400.0	2,016.3	2,159.2	1,940.0	95	296.0
Coconut	314.1	284.0	219.7	1,530.8	2,190.5	3,300.0	90	168.4
Vegetables	31.4	36.3	42.1	693.9	793.8	1,050.0	100	17.5
Fruits	177.3	244.5	345.1	1,257.0	1,136.0	1,027.0	95	305.0
Total[e]	5,546.3	5,769.2	5,368.4	n.a.	n.a.	n.a.	...	...

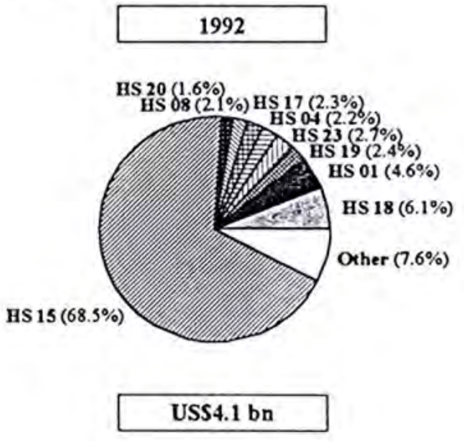
n.a. Not applicable.
... Not available
a Forecast.
b Peninsula Malaysia only.
c Employment at estates as reported on the 1994 Census.
d Including crude palm oil and palm kernel production.
e Total includes land use by other agricultural crops and livestock production.

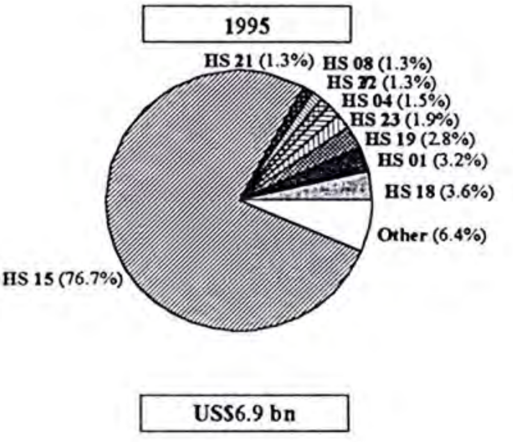
Source: Data provided by the Malaysian authorities; 1994 Annual Census of coconut, cocoa, tea and rubber estates; and Government of Malaysia (1996), Seventh Malaysia Plan, Kuala Lumpur, p.p. 230-231.

[1]Data based on the HS definition of Agriculture as agreed in the Uruguay Round suggests that in 1995 Malaysia imported US$3.7 billion of agricultural products as compared to US6.9 billion of exports. 76.7 per cent of Malaysia's agricultural exports consisted of animal and vegetable fats and oils, which includes palm oil.

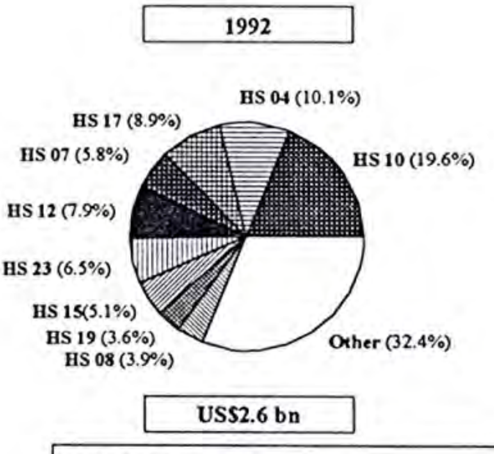
Chart IV.1
Trade in agricultural products, by product, 1992 and 1995
US$ billion and per cent

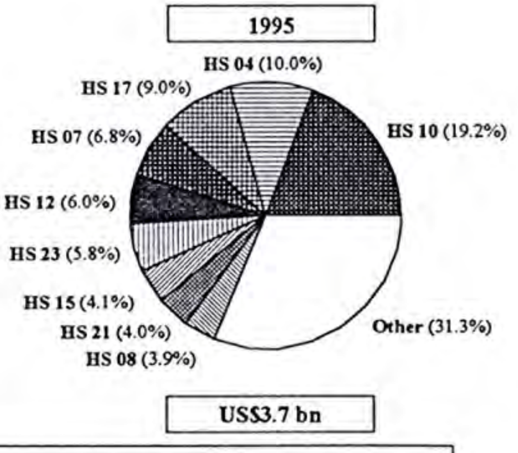
(a) Exports





(b) Imports





HS 01 - Live animals;
HS 04 - Dairy products; birds' eggs; natural honey; edible products nes;
HS 07 - Edible vegetables and certain roots and tubers;
HS 08 - Edible fruit and nuts;
HS 10 - Cereals;
HS 12 - Oilseeds and oleaginous fruit, misc. grains, etc.;
HS 15 - Animal or vegetable fats and oils (excl. 1504);
HS 17 - Sugars and sugar confectionery;
HS 18 - Cocoa and cocoa preparations;
HS 19 - Preparations of cereal, flour, starch/milk; pastrycooks' products.
HS 20 - Preparations of vegetables, fruit, nuts or other parts of plants;
HS 21 - Miscellaneous edible preparations;
HS 22 - Beverages, spirits and vinegar;
HS 23 - Residues and waste from the food industries, prepared animal fodder (excl. 230120).

Note: Data based on HS definition of Agriculture as agreed in the Uruguay Round.

Source: UNSTAT, Comtrade database.

6. The mining sector makes an important contribution to GDP, employment, trade and government is Oil and gas are the main products. Whereas gold production has increased, tin production has declined substantially as a consequence of the gradual depletion of deposits (Table AIV.4).[2] Malaysia's policy objective in the sector is to ensure the efficient exploitation of the country's natural resource-based the transfer of technology and know-how to local resource-based companies. Trade policies this sector have been liberalized since the previous review, with both export and import duties reduced.[3] However, price controls continue to apply to individual petroleum products.[4] The state-owned oil company Petronas also continues to be the main vehicle (other than export taxes) for the appropriation of resource rents from oil and gas. To the extent that Petronas is obliged by the Ministry of Finance's public procurement regulations to accord preferences to Malaysian firms (Chapter III(4)(v)), these resource rents are, in effect, partly used to cross-subsidize those firms' activities.[5] Although Petronas continues to enjoy significant market power, the trade liberalization measures applied to other mining sub-sectors have tended to contribute to a more efficient exploitation of Malaysia's natural resources.

(ii) Policy objectives in the agricultural sector

7. Policies in the agricultural sector are guided by the National Agricultural Policy (NAP), 1992-2010, formulated in January 1992 (Annex II.1). The NAP defines as the overriding policy objective "the maximisation of income through optimal utilization of resources".[6] Sub-objectives of the policy include a balanced and sustainable development of the agricultural sector and an enhanced integration with other sectors, particularly the food-processing sector. These objectives focus agricultural development mainly on activities with a competitive edge and thus offering higher economic returns, while constraints originating from the sub-objectives lead to significant protection in a small number of sectors. Policies are administered by the Ministries of Agriculture, Primary Industry and Finance, as well as by the Malaysian Industrial Development Authority (Table II.1).[7]

[2]Malaysia has become a net importer of tin as the annual production of tin has declined gradually. Consequently, Malaysia no longer sees a role for itself in the Association of Tin Producing Countries (ATPC) and will therefore be withdrawing from the Association with effect from 1 January 1998.

[3]Export duties on almost all minerals other than petroleum have been abolished or reduced. Furthermore, in the 1996 budget, import duty on gold was removed so as to encourage the development of the jewellery industry.

[4]The retail price for individual petroleum products are subject to controls under the Price Control Act 1946 and the Control of Supplies Act 1961 (Chapter III(4)(vi)). Prices are determined through an Automatic Pricing Mechanism (APM), as established in 1983, after consultation between the Government and industry representatives. The Mechanism aims to provide an equitable and timely basis for retail price adjustments to reflect changes in production costs and operating expenses. The mechanism is based on a "cost build-up" which comprises production costs, exchange rates, operating costs, company margins, dealers commissions, and government duties/subsidies.

[5]However, preferential treatment in government procurement is only given to locally available suppliers. Furthermore, Petronas is required to accord preferential treatment to local suppliers only for values up to RM 15 million. Procurement exceeding RM 15 million is open to international bidders.

[6]Government of Malaysia (1993), p. 4.

[7]The Ministry of Agriculture is the main government authority formulating agricultural and fishery policies (Table II.1). As in the case of other Ministries, public, semi-public and private organizations advise this Ministry on specific issues (Table AIV.3). Forestry and resource based industries are under the Ministry of Primary

(continued...)

(iii) Main policy instruments in the agricultural sector

Border measures

8. In order to enhance productivity gains and reduce inflation[8], the Malaysian authorities have liberalized import conditions attached to food, especially beef, chicken and vegetables.[9] With the exception of eggs and unmanufactured tobacco, import tariffs are zero for all products for which quantitative restrictions were "tariffied" in accordance with the WTO Agreement on Agriculture.[10] Import tariffs on agricultural items produced in temperate climates are particularly low. For example, tariffs on onions, potatoes, wheat, and maize are all zero. *Ad valorem* components of import tariffs for tropical fruit and vegetables are also low. By contrast some *ad valorem* equivalents of specific duties on some "sensitive" products are very high (Table IV.2). However, with the exception of unmanufactured tobacco and rice, all other tariffs, including those on tropical fruit, are scheduled to be reduced to 0-5 per cent by 1 January 2003.

Table IV.2
Selected agricultural product groups subject to specific duties

HS category (2-digit)	Descripton	Number of lines	Average excluding AVEs of specific, mixed and alternative duties (per cent)	Average including AVEs of specific, mixed and alternative duties (per cent)
0708	Leguminous vegetables, shelled or unshelled, fresh or chilled	5	1.0	165.8
0801	Coconuts and cashewnuts	7	2.1	5.7
0803	Bananas	5	5.0	73.0
0804	Dates, figs, pineapples, avocadoes, guavas, mangoes and mangosteens	7	5.7	29.4
0805	Citrus fruit, fresh or dried	9	9.4	13.1
0807	Melons and papaws (papayas)	4	5.0	54.0
0810	Fresh fruit n.e.s.	15	5.0	37.8
2401	Unmanufactured tobacco	5	5.0	356.7

Source: Calculated by the WTO Secretariat from data provided by the Malaysian authorities.

...continued)
Industries. Agro-processing industries are under the purview of the Ministry of International Trade and Industry and investment incentives for agricultural activities are allocated through the Malaysian Industrial Development Agency (MIDA) (Chapter II(2)). The Ministry of Finance is the final arbiter on import and export tariffs.

[8]Food accounts for 34.9 per cent of the consumer price index, while beverages and tobacco account for an additional 3.6 per cent (Bank Negara Malaysia (1996a), p. P-101.

[9]Government of Malaysia (1996a), p. 19.

[10]Import tariffs on eggs are 5 per cent and import tariffs on unmanufactured tobacco and tobacco refuse are 5 per cent plus RM 50 per kg. with *ad valorem* equivalents in 1996 ranging from 8.8 to 907.4 per cent.

9 Malaysia does not officially maintain tariff quotas for products for which quantitative restrictions ... :n tariffied, but has reserved, but not used, the right to use the special safeguard provisions under the WTO Agreement on Agriculture.[11] However, these products remain subject to import licences whose validity varies by product: for some agricultural products, such as chicken, eggs, meat and products they are valid for one month, while those for other products, such as tobacco, are valid for one year (Table III.6). Import licences for coffee and cabbages are issued depending on the situation on the Malaysian market thus constituting a "variable quota".[12] Import licensing, to monitor the implementation of SPS, environmental and other technical measures is, as to be expected, particularly important for agricultural products.[13] Labelling is also important for food products imported into Malaysia (Chapter III(4)(iv)).[14]

10. Malaysia has no export subsidy programmes subject to reduction commitments.[15] Rubber, pepper and some wood items are subject to export taxes, ostensibly on environmental grounds. However, export taxes for logs and palm oil are also levied to encourage domestic processing of these items (Chapter III(3)(ii)). Furthermore, some agricultural exports, such as poultry, prawns, milk, tropical fruit and vegetables, are subject to export licensing requirements (Table AIII.5).

Domestic policy measures

11. The largest outlay in connection with a domestic support programme involves the financing of a minimum price for rice (see below). Other programmes concern public investment in drainage and irrigation facilities, subsidies for fertilizers, support for research and development, and support for marketing and extension services (Table IV.3). In addition, the Central Bank (Bank Negara Malaysia) provides funding at a concessionary rate of 1 per cent to financial institutions for onward lending to customs at 4 per cent to promote investment in new productive capacity.

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[11]WTO document G/AG/N/MYS/3, 16 April 1996.

[12]In 1995, imports for both cabbage and coffee exceeded the tariff quotas allocated in Malaysia's WTO Schedule (WTO document G/AG/N/MYS/4, 10 July 1996). Moreover, minimum prices are maintained for cabbage at 60c/kg. Some 71 per cent of coffee consumption is imported, the remainder being locally produced by smallholders.

[13]In 1995, import licensing to monitor the implementation of SPS and environmental measures covered 100 per cent of tariff lines in HS chapters 1 and 10; it covered between 60 and 100 per cent of tariff lines in HS chapters 2, 5, 6, 7, 8 and 11; and it covered between 20 and 60 per cent of tariff lines in HS chapters 4, 9, 12, 32, 36, 38, 47, 62 (Chapter III(2)(iii)).

[14]Labelling is governed by the Food Act (1983) and the Food Regulation (1985) as well as the Price Control (Labelling by Manufacturers, Importers, Producers and Wholesalers) Order 1990.

[15]WTO document G/AG/N/MYS/2, 6 March 1996.

Table IV.3
Overview of domestic support measures, 1995-96

Measure name	Description	Value of Measure (RM m.)	
		1995	1996
Price subsidy and guaranteed minimum price[a]	See Section IV(2)(iv).	386.0	400.0
Fertilizer subsidy[b]	The measure is aimed at increasing productivity and in encouraging good agricultural practices (GAP) amongst small holders. Paddy farmers with paddy land below 2.4 hectares or 6 acres of paddy land receive 40 kg. (2 bags) of urea and 80 kg. (4 bags) mixture (nitrogen, phosphate and potassium) for every acre.	86.0	90.0
Agricultural credit[b]	The measure is aimed at reducing production costs and encouraging farmers to be less reliant on outright subsidies. Concessionary credit is also provided to promote innovations on agricultural practices, promote productivity improvements, hence increasing production and income. Individual farmers and small holders only are eligible for these credit concessions.	450.0	Discontinued since 1996
Drainage and irrigation facilities[a]	General services which benefit rural and small-holder farmers	240.7	287.0
Research and development[a]	General service provided to most crops and agricultural programmes involving small-scale farmers to reduce unit costs, enhance efficiency and finding new users	35.6	30.0
Marketing support[a]	Marketing of produce is limited to small-holder producers	15.1	21.5
Extension services[a]	General services which benefit rural and small-holding farmers and include pesticide inspection services and transfer of technology to producers	4.6	4.4

a Notified to the WTO by the Malaysian authorities as a measure which is exempt from the reduction commitment as a "Green box" measure.

b Notified to the WTO by the Malaysian authorities as a measure which is exempt from the reduction commitment under the provisions of special and differential treatment "Development Programmes".

Source: WTO document G/AG/N/MYS/6, 20 January 1997; and information provided by the Malaysian authorities.

(iv) Policies targeted at the paddy and rice sector

(a) Paddy

12. Paddy production increased between 1990 and 1994, but since then has declined somewhat (Table AIV.2). In 1995, paddy farming covered the third largest land area used for agriculture after palm oil and rubber estates, with 95 per cent managed by small-holder producers; a total of 296,000 producers were engaged in rice farming (Table IV.1). The self-sufficiency ratio for paddy dropped from 80 per cent in 1990 to 75 per cent in 1995 and is expected to drop to 65 per cent by the end of the Seventh Malaysia Plan in 2000.

13. The Government maintains a Guaranteed Minimum Price and a Paddy Price Subsidy for paddy farmers. The objective is to "ensure a fair and stable price of paddy and to reduce the incidence of poverty among the paddy farmers". Under the Guaranteed Minimum Price scheme, Bernas (a privatized state-trading enterprise) undertakes to buy paddy from farmers at not less than the guaranteed minimum price, which is currently RM 49.61 per 100 kg. for long grain and RM 46.30 per 100 kg. for medium

grain.[16] Under the paddy price subsidy programme, the Government makes fixed payments (currently RM 85.31 per 100 kg.) to farmers for the paddy sold by them to any commercial rice mill. This subsidy is in auition to the price received by the farmers for the paddy, and constitutes the largest source of domestic support for agricultural production (Table IV.3).

(b)

14. Only one company, "Bernas Berhad", is permitted to import rice into the country (Chapter III(2)(v)).[17] Bernas has no statutory power or authority and is subject to the same laws and rules as other rice millers and traders in the country; it undertakes to import rice and implement rice price subsidy programmes under a long-term contract with the Government.[18] Bernas generally buys rice abroad under contracts valid for three-to six month periods.[19] The deficit is determined by the shortfall of production over consumption. Imports gradually increased during the period 1994-96, but are expected to decline somewhat in 1997 (Table IV.4).

Table IV.4
Domestic production and imports of rice, 1992-97
('000 metric tons)

Item	1992	1993	1994	1995	1996	1997[a]
Domestic rice production	1,240	1,288	1,314	1,373	1,370	1,370
Imports	452	395	343	437	562	500
Estimated consumption	1,692	1,683	1,657	1,810	1,932	1,870

a Forecast.

Source: WTO document G/STR/N/1/MYS, 15 August 1995; and information provided by the Malaysian authorities.

15. Price controls apply to standard rice at RM 85.31 per 100 kg. and for premium quality rice at RM 92.51 per 100 kg. Rice millers are required to produce 30 per cent of their output at standard and premium quality. As they are free to determine prices for super quality rice, profits realized on

[16]Under the Rice Order (Control of Grades and Prices) 1992, rice marketed in Malaysia is classified according to three major grades, namely super grade, premium grade and standard grade.

[17]Distribution of the imported rice by Bernas is almost entirely by means of first-hand sales; the imported rice is sold ex-Bernas warehouse to wholesalers who in turn distribute rice directly to retailers. Bernas does not compete to distribute rice directly to retailers. There are more than 1,000 rice wholesalers in the country. Furthermore, Bernas manages a stockpile as a food reserve to meet contingency needs and to ensure a stable supply of rice into the market.

[18]Bernas procures paddy from farmers and mills rice as a business operation. It competes with 176 other private rice millers in the procurement of paddy and marketing of its milled rice. Bernas purchases about 45 per cent of the marketable surplus paddy annually.

[19]Ostensibly, rice imports are based on commercial and marketing considerations. The type, grade and quality of rice that is imported is determined by domestic market preferences and needs. Import sources are chosen on the basis of commercial considerations, namely quality and price. Bernas procures the rice through exporters in the relevant exporting countries by way of quotations or tenders. For strategic reasons, Bernas has also diversified its sources of supply in order to reduce its over-dependence on a single source, which might make supply vulnerable during periods of supply difficulty or crisis. Thailand and Viet Nam are the major rice suppliers for Malaysia (WTO document G/STR/N/1/MYS, 15 August 1995).

this quality may be used to cross-subsidize the minimum production requirement for standard and medium quality.

(3) Manufacturing

(i) Main features

16. In contrast to agriculture and mining, the manufacturing sector has been the driving force of the Malaysian economy since the mid-1980s. Over the 1986-95 period, manufacturing value added increased by an annual rate of 13.5 per cent as compared to an average GDP growth of 7.8 per cent; in 1995, the share of manufacturing in GDP reached 33.1 per cent. During the same period, manufacturing employment grew at an annual rate of 8.9 per cent reaching 2 million or 10 per cent of the population in 1995. Increases in the scale of employment and the volume of capital employed (by virtue of investment) were the main determinants of increases in manufacturing output and value added, while total factor productivity growth was only of minor importance (Chapter I). Export demand for manufactured products, which grew at an average annual rate of 28.6 per cent during the period 1986-95, has been the engine of growth in this sector. In 1996, manufactures accounted for 81 per cent of total exports. Growth of the manufacturing sector was also responsible for strong import growth given that in 1996, the import content of manufactured goods was 36.2 per cent (down from 38.4 per cent in 1994). Imports required for export processing thus contributed to Malaysia's high ratio of trade (imports plus exports) to GDP, which at 180 per cent in 1993-1996 is high in comparison with many other WTO members (Chapter I).

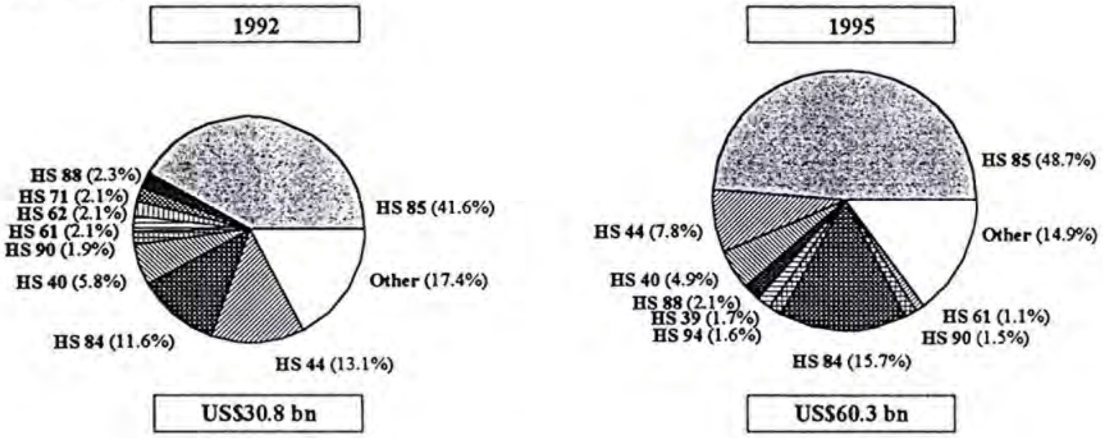
17. Border measures are significant for manufactured products, with applied tariffs ranging from zero to 290 per cent. Although average tariffs have declined markedly since the last review of Malaysia's trade policies, tariff escalation and dispersion has widened, possibly increasing the distorting impact of tariffs on the domestic allocation of resources; and export processing zones and duty drawback systems facilitate duty-free treatment of imports required for export processing. Import licensing is also pervasive, although it may be restrictive only for a few products (Chapter III(2)(iii)). Anti-dumping and countervailing duty legislation is in place, but at this stage not widely applied.

18. A variety of non-border measures is also used, including standards, government procurement preferences and particularly tax and non-tax incentives. Notwithstanding doubts concerning the efficacy of various incentives aimed at attracting foreign direct investment (Chapter III, Box III.4), such investment has undoubtedly made an important contribution to the high rate of growth of the manufacturing sector. Indeed, more than half of all manufacturing firms' equity is foreign-owned; the proportion is even larger in the case of export-oriented firms.

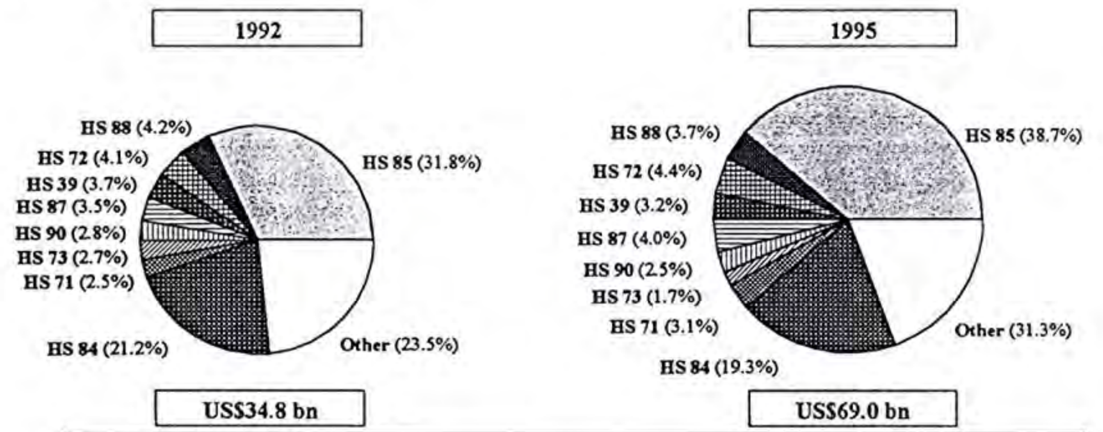
19. Border and non-border measures have affected different industries and firms differently, with some industries taking advantage of various measures more than others. Electronics firms, for instance, have greatly benefited from locating their operations in export processing zones, which exempt producers from import duties on raw materials and intermediate inputs, and have taken advantage of tax incentives for investment. The electronics industry has also been one of the main beneficiaries of Malaysia's openness to foreign direct investment, as demonstrated by the fact that approximately 96 per cent of the sector's equity is foreign-owned (Table AIV.6). As a result, electronics (included in HS Chapter 85) comprised over 48 per cent of manufactured exports in 1995, up from under 42 per cent in 1992, during a period in which total manufactured exports practically doubled (Chart IV.2).

Chart IV.2
Trade in manufacturing products, by product, 1992 and 1995
n and per cent

(a) Exports



(b) Imports



HS 39 - Plastics and articles thereof;
HS 40 - Rubber and articles thereof;
HS 44 - Wood and articles of wood, wood charcoal;
HS 61 - Articles of apparel and clothing accessories, knitted or crocheted;
HS 62 - Articles of apparel and clothing accessories, not knitted or crocheted;
HS 71 - Natural or cultured pearls, precious or semi-precious stones, precious metals, etc.;
HS 72 - Iron and steel;
HS 73 - Articles of iron or steel;
HS 84 - Nuclear reactors, boilers, machinery and mechanical appliances;
HS 85 - Electrical machinery and equipment and parts thereof; sound recorders and reproducers, television images and sound recorders and reproducers, and parts and accessories of such articles;
HS 87 - Vehicles other than railway or tramway rolling-stock, and parts and accessories thereof;
HS 88 - Aircraft, spacecraft, and parts thereof;
HS 90 - Optical, photographic, cinematographic, measuring, checking, precision, medical or surgical instruments and apparatus; parts and accessories thereof;
HS 94 - Miscellaneous manufactured articles: furniture, bedding, mattresses, mattress supports, etc.

Note: Data based on products from HS 28 to HS 96.

Source: UNSTAT, Comtrade database.

20. While border and non-border measures have played a role in almost all manufacturing industries, it would appear that the automobile and textile and clothing industries have been subject to measures that are particularly strongly targeted. Specifically, reduced excise taxes, domestic content requirements and "vendor" programmes as well as import tariffs and licensing have played an important role in the development of the Malaysian "national" automobile industry. Trade policies implemented by Malaysia's trading partners and complemented by Malaysia's policies in ASEAN together with industrial adjustment assistance have played an important role in the development and restructuring of the textile and clothing industry.

(ii) Textiles and clothing

21. Textiles and clothing is a traditionally important manufacturing sector, which in 1996 still made a strong contribution to GDP, employment and exports (Table AIV.5). Employment in the sector has declined since 1993; however, textile production and exports continued to grow and has become increasingly capital intensive. By contrast, clothing production declined during 1993-95, as assembly operations were shifted offshore. It recovered somewhat in 1996 (Table IV.5). The United States and the EU were the major destinations of clothing exports with, respectively, RM 1.5 billion and RM 1 billion in 1995 out of a total of less than RM 3.5 billion.[20]

Table IV.5
Overview of developments in the textile and clothing sector, 1990-96

		1990	1991	1992	1993	1994	1995	1996
Production[a]	Texiles (million metres of cotton cloth)	120.3	145.7	159.2	164.2	206.8	222.7	180.9
	Clothing (million units)	69.3	75.6	80.1	80.3	79.4	72.8	74.3
Value added (RM b)[a]	Textiles	17.2	19.9	20.9	24.0	31.3	36.6	...
	Clothing[b]	9.2	9.8	10.6	11.1	11.8	12.6	...
Employment ('000)[c]	Textiles[d]	30.4	30.7	32.4	34.1	33.1	33.0	31.8
	Clothing	45.4	47.2	47.4	49.1	46.2	43.3	42.0
Imports (US$ m.)[e]	Textiles	951	1,131	1,307	1,193	1,394	1,535	1,551
	Clothing	76	96	130	128	160	154	156
Exports (US$ m.)[e]	Textiles	343	453	570	668	831	1,129	1,193
	Clothing	1,315	1,529	1,877	1,953	2,071	2,266	2,395

... Not available.

a Bank Negara Malaysia (1996).
b Including footwear and made-up textile goods.
c Department of Statistics (various issues).
d Firms with more than 100 employees for the natural fibre, spinning and weaving mills, dyeing, bleaching, printing, and finishing of yarns and fabric except batik, synthetic fibre mills, and firms with more than 20 employees for knitting mills.
e UNSTAT, Comtrade database 1996 exports and imports have been estimated through applying total merchandise trade annual growth by the 25 largest trading partners, derived from national statistics, to the product breakdown of 1995.

Source: Data provided by the Malaysian authorities; Bank Negara Malaysia (1996), Quarterly Bulletin, First Quarter, Vol. 11, No. 1; Department of Statistics Malaysia (various issues), Monthly Manufacturing Statistics, Kuala Lumpur; and UNSTAT, Comtrade database.

[20]Ministry of International Trade and Industry (1996b), p. 93.

Import tariffs[21]

22. Despite a decline over the past decade (Chart III.1), average tariffs on textile and clothing items were still 17.2 per cent in 1997. Tariff escalation in excess of that for the average manufacturing sector has provided protection for down-stream producers (Table IV.6). However, the phasing-in of AFTA preference may have already reduced the impact of tariff escalation somewhat. Imports of fully-processed items from AFTA countries are subject to average tariffs of less than half the MFN rates, provided they satisfy the relevant rules of origin. By 2003, this margin of preference may increase to 75 per cent if MFN tariffs are not reduced. Foreign equity and foreign labour constitute about three quarters and one quarter of the sectoral total, respectively (Table AIV.6). Since the 1993 Review of Malaysia's trade policies, the textile and clothing sector is one of the few sectors that have actually received assistance under the "Industrial Adjustment Allowance" (Chapter III(4)(ii)).[22]

Table IV.6
Structure of Malaysia's MFN and AFTA tariffs, selected years
(Per cent of total number of tariff lines unless otherwide indicated)

Indicator	MFN tariffs				AFTA tariffs[b]	
	Excluding estimates of AVEs for specific duties and specific components of mixed and alternative duties			Including AVE estimates[a]		
	1988	1993	1997	1997	1997	2003
Manufactured products (ISIC 3)						
Raw materials	5.9	5.8	3.2	3.2	2.1	0.9
Semi-processed	18.3	15.3	7.0	7.4	4.8	1.9
Fully processed	18.1	15.4	11.9	15.4	10.5	5.3
Textile, wearing apparel and leather industries (ISIC 32)						
Raw materials	3.2	3.0	0.3	0.3	0.0	0.0
Semi-processed	28.5	17.6	15.4	16.1	9.2	4.1
Fully processed	28.0	23.6	19.7	19.7	8.5	4.4

a Estimates of *ad valorem* equivalents of 96 specific duties, 157 mixed duties and 62 alternative duties were provided by the Malaysian authorities to the WTO Secretariat.
b No AVEs are calcultated for AFTA rates expressed as specific, mixed or alternative duties. However, some products on the General Exclusion List were expressed as a margin of preference over specific MFN duties for which AVEs were available. For these products as well as for "sensitive" and "highly sensitive" unprocessed raw materials which are not yet included in the AFTA schedules, AVE estimates were included.
c AFTA preferences are analysed on the basis of the MFN tariff schedule and therefore contain by definition the same number of tariff lines; in practice a slightly different classification is used to administer tariff preferences (Customs Duties Order (Common Effective Preferential Tariff) 1995 and Customs Duties Order (Common Effective Preferential Tariff) (Amendment) 1997 follow a different classification compared to Customs Duties Order 1996 amended by Customs Duties (Amendment) (No.3) Order 1996).
d According to the 1995 Harmonized System tariff classification. The change to the 1996 Harmonized System classification on balance aggregated some bound lines, while some unbound lines were split. As a result, under the 1996 HS tariff classificaton 62.4 lines are bound. The actual imports for which tariff lines are bound remain generally unchanged.
e Using APEC 1995 import weights, excluding Brunei and the Philippines, while 1994 data are used for Australia.

Source: Calculated by the WTO Secretariat and UNCTAD from data provided by the Malaysian authorities to the WTO Secretariat; and Comtrade data.

[21] Malaysia also reserves the right to use import quotas under the WTO Agreement on Textiles and Clothing. All articles of cotton and other textile material including "kain sarong batik" classified under HS code 6211.42.000 and 6211.49.000 require and import licence (Table AIII.4).

[22] Firms in the wood-based products, palm-oil processing and machinery and engineering sectors are also eligible to receive such assistance.

Export quotas

23. Under the WTO Agreement on Textiles and Clothing, Malaysia's exports of such items to four WTO Members namely the United States, the European Union, Canada and Norway are subject to import quotas. These quotas are allocated to manufacturers on the basis of past performance and those with confirmed orders. Manufacturers who have fully used their quota receive an additional quotas of 3 to 6 per cent during the following year, while manufacturers who do not use their quotas must surrender the unused portions by the end of June each year. Those who do not surrender unused quotas lose the unused allocation from their eligibility for the following year.

24. Exports to the United States are covered by the largest number of textile and clothing quotas, followed by exports to Canada, the European Union and Norway. Quota utilization rates vary by product and over time, but remain a serious restraint on exports. In 1996, quota utilization rates exceeded 100 per cent for cotton and synthetic dresses, and knitted shirts to the United States, for winter outwear to Canada, and jerseys and pullovers to the European Union (Table AIV.7).

Rules of origin issues

25. The rules of origin regulating preferential trade within ASEAN have changed since the last Review and the rules of origin for exports to the United States changed effective 1 July 1996. Changes in the ASEAN rules of origin applied to textile and clothing products aim to facilitate interregional trade in these products (Chapter III(2)). The change in rules of origin applied by the United States note, *inter alia*, that finishing of textile fabrics in a source does not confer origin, as was the case under the previous rules which allowed two finishing operations to confer origin to a product.[23] According to an agreement reached between the United States and the EU, exports of discharge-printed fabric imported from Malaysia and finished in the European Union are regarded as originating from the EU under the new rules of origin applied by the United States. Furthermore, exports of clothing assembled outside Malaysia (such as in Viet Nam, Sri Lanka or other low-wage economies) from clothing parts made in Malaysia are under the new rules considered to originate from the country of assembly and not Malaysia. Malaysia and its ASEAN partners have expressed concern about this change in rules of origin as applied by the United States.[24]

(iii) Automobiles and their parts

26. Passenger car production in Malaysia has more than doubled since 1990, reaching over 300,000 units by 1996, two thirds of which contained an engine smaller than 1,600cc. During the same period, sales values of motor vehicles tripled, while those of parts and accessories increased six-fold. By 1996, 14 assembly and manufacturing firms were supplying the market, thus limiting the scope for the realization of economies of scale. A larger number of firms were producing parts and accessories, frequently specializing in the production of specific items. In spite of rising exports, imports of motor vehicles and their parts continue to be almost ten times as large as exports. Almost two thirds of the value of imports consist of completely built-up models and parts originating from Japan (Table IV.7).

[23]WTO (1997a).

[24]WTO (1997a).

Table IV.7
Ove[illegible] the automobile sector, 1990-96

	1990	1991	1992	1993	1994	1995	1996
Prod[illegible] ('000)							
[illegible] cars below 1,600 cc.	106.5	128.0	119.3	116.4	131.2	181.9	226.0
Passenger cars 1,600 cc. and above	24.4	24.5	17.6	28.7	42.1	59.0	86.5
Commercial vehicles	73.7	78.9	34.7	34.7	37.7	46.1	74.8
Sales value (RM billion)							
Motor vehicles	2.0	2.4	2.4	3.0	3.7	5.7	7.5
Parts and accessories of motor vehicles	0.4	0.6	0.5	0.8	1.2	1.7	2.4
Employment ('000)							
Motor vehicles	7.5	8.1	7.2	7.6	9.4	13.0	15.9
Parts and accessories of motor vehicles	4.3	4.9	5.2	9.2	11.8	14.2	16.1
Number of firms							
Motor vehicles	9	9	10	12	13	12	14
Parts and accessories of motor vehicles	28	29	36	45	56	61	69
Value added (RM billion)	1.3	1.8	1.6	2.0	2.4	...	...
Exports (US$ million)[a]	121	147	200	235	219	279	295
Imports (US$ million)[a]	1,312	1,522	1,150	1,325	1,810	2,785	2,816
Imports from Japan (US$ m.)[a]	1,007	1,214	873	1,062	1,363	2,084	1,891

... Not available.

a UNSTAT, Comtrade database; 1996 exports and imports have been estimated through applying total merchandise trade annual growth by the 25 largest trading partners, derived from national statistics, to the product breakdown of 1995.

Source: Department of Statistics Malaysia (various issues), Monthly Manufacturing Statistics, Kuala Lumpur and UNSTAT, Comtrade database.

Policy objectives

27. The thrust of the Malaysian Government's policy with regard to the automotive sector is to shift the emphasis from assembling activities into full-scale manufacturing operations with their own design and bigger production capacities, to increase efficiency both in manufacturing and distribution, expand into mature export markets and to strengthen the component parts and accessories sub-sector.[25] The main instruments are tariff policies, local-content requirements and industrial linkage programmes to facilitate technology transfer. Other incentives include promotion of the use of standards, tax incentives for component suppliers, and government support for investment abroad (Table IV.8).

Import licensing

28. Import licences for completely knocked-down (CKD) motor vehicles are only issued to motor vehicle assemblers. Completely built-up (CBU) units are subject to import quotas, as well as to an import tariff of up to 200 per cent. All assemblers are allowed to import 80 CBU units per company per year (Chapter III(2)(iii)). Bumiputra companies who are appointed as franchise holders by overseas

[25]Ministry of International Trade and Industry (1996a).

principal vehicle manufacturers are allocated an annual ceiling of 600 units for passenger cars, 360 units for dual-purpose vehicles and 500 units for motorcycles.[26]

Table IV.8
Government support for the automotive industry in Malaysia

Support facility	Proton	Perodua	USPD	Other franchise
Import duty on imported completely knocked-down units	13%	0%	0%	42%
Import duty on competing completely built-up units	Up to 1,800 cc: 140%	Over 1,800 cc: 170%	Up to 2,500 cc: 170%	Over 2,500 cc: 200%
Excise duty as compared to the normal rate[a]	50% of the normal rate	50 % on exclusive models, zero on basic model	zero on all models	normal rate
Sales tax	10%	10%	10%	10%
Standards	Automotive manufacturers and assemblers will be required to comply with the UN/ECE standards in the near future. However, there is no advance automobile testing facility and design centre in the country.[b]			
Technology transfer	During 1993-95, 50 technology transfer agreements were concluded in the transport equipment sector.[c]			
Measures to promote Malaysian component suppliers	Vendor programmes and motor vehicle component manufacturers have been classified as promoted products which are eligible for tax incentives (Chapter III(4)(ii)).			

a Normal excise duties are for motorcycles smaller than 150 cc, 10 per cent; motorcycles with a capacity of more than 150 cc, 20 per cent; busses, nil; trucks, nil; passenger vans, 30 per cent; panel vans, nil; 4-wheel drives, 45 per cent; passenger cars, with a value of less than RM 7,000, 25 per cent, with a value of between RM 7,000 and RM 10,000, 30 per cent, with a value between RM 13,000 and RM 20,000, 50 per cent, with a value between RM 20,000 and RM 25,000, 60 per cent and with a value over RM 25,000, 65 per cent.
b Ministry of International Trade and Industry (1996), Second Industrial Master Plan 1996-2005, Kuala Lumpur, p.p. 263-64
c Ministry of International Trade and Industry (1996), Malaysia International Trade and Industry Report 1995/96, Kuala Lumpur, p. 242.

Source: Information provided by the Malaysian authorities and sources listed above.

Import tariffs

29. Import tariffs encourage the domestic assembly of CKD vehicles, as tariffs on such vehicles are substantially lower than those on CBU vehicles. To further encourage the local production of selected items, these have to be removed from CKD imported cars in order to qualify for the lower tariff. However, imports of these items are in some cases subject to lower tariffs than the CKD imported motor vehicles.[27]

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[26]Bumiputra companies are defined as companies where at least 51 per cent of the individually-owned company is owned by Bumiputra Malaysians; at least 51 per cent of the Board of Directors is Bumiputra including the Chief Executive, the Managing Director, the General Manager and other key posts; at least 51 per cent of the employees are Bumiputra; the financial management is controlled by Bumiputra; and the organizational chart and the management functions must reflect that the company is handled by Bumiputra.

[27]Mandatory deleted components for motorcycles are: tyres and tyre flaps/inner tube protectors; electric accumulators/batteries; paints, sealers, thinner, fillers, chemical phosphates, acids and rust protectors; oils and grease separately packed; drive chains; chain guards/chain cases; rear view mirrors; spokes; nipples; control (continued...)

30. ASEAN's Industrial Cooperation (AICO) Scheme was introduced effective 1 November 1996. Un. .he Scheme cooperating firms become immediately eligible for the 2003 AFTA tariffs (Chapter II(3)(iii) and III(2)(ii)). ASEAN's Brand-to-Brand Cooperation Scheme is being phased out with the introduction of the new AICO Scheme.[28] However, existing BBC companies continue to enjoy the [illegible] of preference for products approved before November 1996 until the expiry of the approved car mo[illegible].

Local-content requirements

31. Following a gradual increase over time, passenger cars of up to 1,850 cc. are required to achieve a local content of 60 per cent and passenger cars of 1,851 to 2,850 cc and commercial vehicles of up to 2,500 kg. gross vehicle weight to have a local content of 45 per cent (Table IV.9).[29] To monitor the realization of this target, each assembler is required to report the local content achieved by each model assembled in Malaysia to the Ministry of International Trade and Industry, which has assigned a pre-determined local-content percentage to each component. Assemblers are allowed to transfer over-achievement in local content of a particular model to other models. Assemblers are encouraged to export components which are internationally competitive, and export performance can be taken into consideration in a request for a waiver from compliance with the target. The authorities may invite producers to reduce the net selling price of any model for non-compliance with the local content requirement. To date no such sanctions have been enforced on assemblers for non-conformity with the local-content provisions. Although the authorities are concerned about the low local content in each of the component parts produced in Malaysia[30], no policy initiatives have been taken to address this situation. The programme has been notified to the WTO Committee on Trade-Related Investment Measures.[31]

[27](...continued)
cables; kick starter levers; engines; shock absorbers including front fork and oil cushion units of all sizes. Mandatory deleted components for passenger and commercial vehicles are: air filters; alternators and voltage regulators; batteries; carpets and underlays; coil springs; exhaust systems; external body protective mouldings; flasher relays; fuel tanks; glass; horns; leaf springs; melt damping sheets; mudflaps; radiators; radiator hoses; seatbelts; seat and slide assemblies; seatpads; shock absorbers; spark plugs; starter motors; tubeless tyre valves; tubing for brakes, clutches and fuel; tyres; wheel nuts; windscreen washers; wiper motors; wire harnesses; u-bolt assemblies comprising spring pins and shackle pins/bolt and shackle assemblies for commercial vehicles.

[28]See GATT(1993) for a description of the BBC Scheme.

[29]Ministry of International Trade and Industry (1996a).

[30]Ministry of International Trade and Industry (1996a).

[31]The WTO notification concerning the programme lists as the rationale for this local-content stipulation "an upgrading of engineering and technical skills in the infant component-parts industry" (WTO document G/TRIMS/1/MYS/1, 12 April 1995). Malaysia submitted a revised notification pursuant to Article 5.1 of the TRIMS Agreement on 14 March 1996 (G/TRIMS/N/MYS/1/Rev.1, 18 March 1996) Japan noted that this notification was submitted nearly one year after the expiry of the deadline for notifications under Article 5.1 and asked for more detailed information on the local-content requirement related to investment incentives and on the local content policy on motor vehicles (G/TRIMS/M/5, 27 November 1996). The programme appears to have had a significant impact on the development of the automobile and car-parts sector, of which exports have developed rapidly during recent years.

Table IV.9
Local content targets for the automobile sector, 1992-96

Type of vehicle	1992	1993	1994	1995	1996
Passenger cars of up to 1,850 cc.	30	40	50	55	60
Passenger cars of 1,851 to 2,850 cc. and commercial vehicles up to 2,500 kg. GVW	20	30	35	40	45
Passenger cars of above 2,850 cc. and commercial vehicles of above 2,500 kg. GVW	Only mandatory deletion items are required to be locally sourced.				

Source: Information provided by the Malaysian authorities.

32. Under the Government's Vendor Development Programme, the Proton Component Scheme was established in 1988 to develop local small and medium sized suppliers of components and industrial services. Under the Programme, tripartite arrangements have been introduced, involving the Ministry of International Trade and Industry (MITI), anchor companies and financial institutions which provide loans to the vendor. The Proton MR 0.5 billion Component Scheme was continued as a contractual part of its privatization (Chapter III(2)(iv)). The Vendor Programme allows SMI to share in the benefits of effective assistance received by Proton.[32]

(4) Services

(i) Overview

33. In 1996, services contributed almost 45 per cent of GDP and 47 per cent of employment. After manufacturing, the services sector is the fastest growing sector of the economy, just exceeding average GDP growth during the 1990-96 period. The fast growing service sub-sectors include transport, communications and financial services, which provide inputs into the faster growing manufacturing sector. The growing importance of services, particularly business services, is emphasized in the Second Industrial Master Plan.

34. Malaysia has a large deficit on its foreign services trade, largely attributable to the negative balances in freight and insurance and investment income (Chart I.4). Other services, which include education services, are also in deficit. By contrast, tourism has been a major net foreign exchange earning sector since 1990.

35. Services imports and exports abroad may be delivered through cross-border supply, consumption abroad, commercial presence, and by the presence of natural persons. In Malaysia, cross-border supply is particularly important for the transport, re-insurance and value-added telecommunications sectors. Although there are practically no quantitative restrictions on the use of foreign transport companies, there are various tax and other incentives encouraging the use of local suppliers. Other incentives are used to encourage the use of locally incorporated insurance companies.

[32]Such Programmes may become more commercial as effective assistance for Proton declines when import tariffs for cars and car parts are reduced in the context of the implementation of Malaysia's AFTA Commitments from on average 35.7 per cent in 1997 to 4.2 per cent in 2003 (For example, the phasing-in of Malaysia's AFTA Temporary Exclusion List -1999, indicates that import tariffs on some completely build-up automobiles will decline from 200 per cent in 1997, to 20 per cent in 1999 and 5 per cent in 2003).

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(ii) Financial services

(a) Overview

41. In 1996, financial services contributed around 12.2 per cent to GDP and around 5.5 per cent to total employment.[35] Value added per worker in financial services is thus more than double the national average. Although other sub-sectors also make a significant contribution to value added in financial services[36], the banking sector is the main manager of financial assets.[37] The market share of the Employees Provident Fund (EPF), which is based on compulsory contributions of employers and employees, has gradually declined, although total assets under its management have increased substantially. Insurance funds are less important as guardians of financial assets (Table IV.10). The Kuala Lumpur Stock Exchange and related securities exchanges have improved the efficiency of savings mobilization and investment allocation. Foreign institutions play a significant role in Malaysia's financial services sector. Since 1979, no new banking licences have been awarded to foreign or local investors.

Table IV.10
Share in total assets of the financial system by institution, 1970-96
(Per cent unless otherwise indicated)

	1970	1977	1985	1990	1991	1992	1993	1994	1995	1996
Total (RM million)	**11.6**	**37.5**	**166.1**	**309.1**	**372.2**	**436.6**	**570.5**	**628.2**	**733.0**	**915.2**
Shares in total (per cent)										
Bank Negara Malaysia[a]	20.8	20.7	9.9	12.1	12.0	14.4	17.6	14.8	12.1	10.5
Banking system	42.9	47.2	59.6	60.6	58.0	56.1	53.8	54.1	56.4	58.3
Commercial banks	38.4	37.8	45.1	44.2	41.2	40.2	39.4	38.6	40.3	39.6
Finance companies	4.6	7.0	10.7	12.8	13.2	12.6	11.1	11.7	12.5	13.1
Merchant banks	0.0	2.4	3.8	3.6	3.6	3.3	3.3	3.8	3.7	3.7
Provident, pension and insurance funds	27.2	21.8	19.7	18.3	18.8	18.6	17.3	18.9	18.9	18.2
Employees provident fund	19.5	15.6	14.9	15.1	14.3	14.3	12.7	13.5	13.4	12.9
Other provident funds	3.9	2.4	1.8	1.6	1.4	1.4	1.7	2.0	2.0	2.0
Life insurance funds	2.8	2.6	2.2	0.8	2.3	2.1	2.0	2.4	2.4	2.3
General insurance funds	1.0	1.2	0.8	0.8	0.8	0.9	0.9	1.0	1.1	1.0
Development finance institutions[b]	1.1	2.4	2.4	1.9	1.7	1.5	1.6	1.5	1.6	1.4
Savings institutions[c]	5.6	4.7	4.9	3.2	2.5	2.3	2.4	2.5	2.1	1.9
Other financial intermediaries[d]	2.4	3.3	3.5	3.9	7.0	7.1	7.3	8.4	8.8	9.7

a Includes Bank Negara Malaysia and Currency Board.
b Include Malaysian Industrial Development Finance Berhad (MIDF), Agricultural Bank of Malaysia, Borneo Development Corporation, Sabah Development Bank Berhad, Saban Credit Corporation, Development Bank of Malaysia, and Industrial Bank Berhad.
c Includes National Savings Bank, Bank Kerjasama Rakyat and the cooperative societies.
d Includes discount houses, unit trusts, building societies, Pilgrims Management Fund Board, Credit Guarantee Corporation and Cagamas Berhad.

Source: Yusof, Zainal Azam, Awang Adek Hussin, Ismail Alowi, Lim Chee Sing and Sukhdave Singh (1996), "Financial Reform in Malaysia", in: Gerad Caprio, Jr., Izak Atiyas and James A. Hansen (eds.) Financial Reform Theory and Experience, Cambridge University Press, Cambridge, p.p. 276-320; and Bank Negara Malaysia (various issues), Annual Report, Kuala Lumpur.

[35] Such shares are not unusual, for example in 1995 the U.S. financial services sector employed 5.8 per cent of the work force and generated 17.1 per cent of GDP (WTO, 1997).

[36] For example value added by stock commodity and foreign exchange brokers increased from less than RM 0.5 billion in 1989 to RM 4.7 billion in 1994. During the same period employment increased from 4,100 to 11,500, suggesting a significant increase in value added per worker (Table AIV.8).

[37] Islamic banks do not pay or charge interest but may provide depositors with a share of the bank's profits. In addition to Islamic banking by specialized institutions, other financial institutions may also offer such services through their existing branches.

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banks of such locally incorporated foreign-owned banks are allowed to continue holding 100 per cent interest in their Malaysian subsidiaries; in contrast to insurance institutions, their is no requirement for divestment of share-holding by the parent bank in favour of Malaysian interests. Foreign parties may also acquire up to an aggregate of 30 per cent equity interest in existing Malaysian-owned banks. For offshore banks in the Labuan International Offshore Financial Centre, there are no foreign-ownership restrictions. Entry can be in the form of a branch or a subsidiary.

Table IV.11
Performance of the Malaysian banking system, 1990-96
(RM million and per cent)

Financial year ending	1990	1991	1992	1993	1994	1995	1996[a]
Net interest income	4,115	4,832	5,658	6,973	8,868	10,392	13,389
Pre-tax profit	1,985	2,271	2,657	3,788	5,205	6,869	8,721
Average shareholders' funds and net working funds	9,250	12,872	15,853	18,736	21,532	26,215	31,687
Return on assets (%)	1.4	1.3	1.3	1.5	1.7	1.9	2.0
Return on equity (%)	21.5	17.6	16.8	20.2	24.2	26.2	27.5
Specific provisions/total loans (%)	5.3	3.6	3.4	3.2	2.2	1.6	1.0
General provisions/total loans (%)	0.7	0.9	1.1	1.3	1.6	1.6	1.9
Non-performing loans/total loans (%)	20.3	15.6	14.9	12.6	8.1	5.5	3.9

a Preliminary.

Source: Government of Malaysia (1996), Seventh Malaysian Plan, Kuala Lumpur; and data provided by the Malaysian authorities.

46. Out of a total of 37 commercial banks, 14 are foreign owned; in 1996 these foreign-owned banks managed 23 per cent of assets, granted 26 per cent of loans, managed 21 per cent of deposits and generated 33 per cent of total pre-tax profits in the sector. Since 1979, no new licences have been issued. However, offshore banking licences are issued to banks carrying out offshore banking business on the Federal Territory of Labuan. Although new branches and automatic teller machines are being authorized for domestic banks, foreign banks may not establish new branches, including off-site automatic teller machines. The latter, in particular, constitutes a major impediment to the expansion of foreign-owned banks, given the rapid growth of the branch and automatic teller machine network of domestically-owned banks. Of the total 40 finance companies, four are 100 per cent foreign owned, while six have some foreign equity participation. No new licences have been granted since 1984. Nine of the 12 merchant banks have some foreign participation. Although no new bank licences for on-shore banking have been granted in recent years, foreign institutions may enter the Malaysian market through a representative office or through the acquisition of an existing institution.[42]

47. In view of the shortage of specialized staff with suitable experience, blanket approval is granted for banks to employ three expatriate specialists at any one time in each of four critical areas, namely trade finance, corporate finance, treasury products and information technology. In respect of foreign banks, these are in addition to two senior posts which can be filled by expatriates. It is noteworthy that domestic-owned banks are thus subject to more stringent regulations on hiring expatriates than foreign-owned institutions. For the employment of specialists or experts in non-critical areas, prior

[42] The maximum permissible share holding in a licensed institution is 10 per cent for an individual (domestic or foreign) and 20 per cent for other entities. Aggregate foreign share holding in a licensed institution is 30 per cent.

approval of the Central Bank is still required. Commercial banks must ensure that banking skills and technology associated with the employment of expatriates are transferred to local staff.[43]

Credit facilities

48. There is a limit of RM 5 million equivalent in aggregate on foreign currency borrowing by residents from non-residents and on-shore banks, whether Malaysia or foreign-controlled. Non-resident controlled companies (NRCCs) may borrow up to RM 10 million from domestic sources. The amount of credit granted by foreign-controlled banking institutions in Malaysia to NRCCs should not exceed 40 per cent of total credit facilities obtained by NRCCs from banking institutions. This requirement was introduced to counter anti-competitive collusion between NRCCs and foreign-owned banks which would exclude Malaysian-owned banks from providing credit to NRCCs. This rule is, however, implemented flexibly to ensure that NRCCs have ready access to banking facilities at competitive prices to meet their financial requirements. Malaysia is committed to increasing the percentage to 50 per cent of total credit facilities obtained by NRCCs in 2000. NRCCs account for 3.4 per cent of all bank loans suggesting that the market share of the foreign-owned banks incorporated in Malaysia is not significantly affected. Effective from 1 July 1996, all commercial banks are allowed to open foreign currency accounts for qualified residents. Prior to that date, only tier-1 commercial banks, whether Malaysian- or foreign-controlled commercial banks were allowed to provide such service.

Differences between foreign-owned and Malaysian-owned banks

49. At the end of 1996, foreign-owned commercial banks had a higher loan-deposit ratio than domestic-owned banks (0.977 compared to 0.870). The risk-weighted capital ratio of foreign-owned commercial banks was 10.7 per cent compared to 11.2 per cent for Malaysian-owned banks, both ratios were thus well above the Basel requirement of 8 per cent. Foreign-owned commercial banks employed proportionally less staff per deposit or loan than domestically owned banks. The authorities believe that some of these differences can be explained by a requirement that banks which open additional branches in urban areas are also required to extend their services to rural areas.

WTO commitments[44]

50. Under its GATS Schedule, Malaysia is committed to allowing 14 wholly owned commercial banks to remain wholly owned by their existing shareholder. A further commitment to allow entry is limited to up to 30 per cent equity participation by foreign banks in Malaysian banks.[45] This commitment is subject to the following limitations. A foreign bank wishing to acquire more than 5 per cent of a Malaysian bank is required to contribute to the financial and economic development of Malaysia, and the country of origin must have significant trade and investment interest in Malaysia. In addition, the country of origin should not have significant direct representation in the Malaysian banking industry. An institution owned or controlled by a foreign government is not allowed to control a commercial or merchant bank in Malaysia. A commercial bank is not allowed to acquire a share in another commercial bank, but may do so in a merchant bank and *vice versa*. Persons are not allowed to acquire 5 per cent or more of the equity of a bank if they already have such a shareholding in another

[43]Bank Negara Malaysia (1996b).

[44]WTO document GATS/SC/52/Suppl.1, 28 July 1995.

[45]Furthermore, there is no commitment to allow single or related non-Malaysian persons to hold more than 20 per cent of the equity of a Malaysian bank. The commitment allows only non-Malaysian banks to hold such equity in Malaysian banks.

licensed financial institution. New services are subject to prudential criteria. Entry by foreign institutions through a representative office is allowed, but it may only undertake research, exchange of information and liaison services.

51. For banks, Malaysia is committed to allowing the entry of two senior managers for each institution with an aggregate foreign shareholding in excess of 50 per cent. Further commitments have been made to allow employment of foreign experts. Entry is limited to a maximum period of a five years. A commitment to allow the establishment of offshore banks is confined to Labuan.[46]

(c) Insurance

Overview

52. The Malaysian insurance sector experienced rapid growth during the period 1990-96. In line with rapidly rising GDP during that period, life insurance premiums more than doubled. Growth in general insurance premiums was slightly slower, with more than 20 per cent being reinsured abroad. The domestic retention rate of reinsurance premiums in Malaysia dropped gradually from over 77 per cent in 1990 to 73 per cent in 1995, but subsequently improved markedly to 78 per cent in 1996. The trend in insurance fund assets was broadly similar to that in premiums (Table IV.12).

Table IV.12
Overview of the Malaysian insurance sector, 1990-96

	1990	1991	1992	1993	1994	1995	1996
Number of registered companies							
Direct life insurance	4	3	5	5	5	5	5
Direct general insurance	39	39	40	41	40	40	40
Direct composite insurance	135	15	14	13	13	13	13
Reinsurance	1	1	1	2	3	4	7
Insurance brokers	46	44	36	36	37	34	37
Loss adjusters	43	45	43	42	42	43	43
Life insurance agents	37,373	45,716	54,370	68,531	80,615	93,881	92,018
General insurance agents	14,456	12,607	15,206	17,478	19,139	21,552	25,222
Total premium (RM million)[a]	3,170.1	3,854.7	4,578.9	5,326.7	6,501.1	7,818.5	9,317.1
Per cent of GNP	2.9	3.1	3.3	3.5	3.7	3.8	4.0
Life insurance (RM million)	1,643.1	2,030.3	2,408.6	2,957.4	3,653.7	4,525.5	5,098.5
General insurance (RM million)	1,979.1	2,401.1	2,896.0	3,235.2	3,940.7	4,512.3	5,378.0
General reinsurance placed outside Malaysia	452.1	576.7	725.7	865.9	1,093.4	1,219.3	1,159.4
Retention rate of reinsurance (per cent)	77.2	76.0	74.9	73.2	72.3	73.0	78.4
Insurance funds assets (RM million)	9,498.1	11,325.1	13,658	17,025.3	20,905.1	24,831.4	30,048.9
Life insurance assets (RM million)	7,097.2	8,323.3	9,793.8	12,118.7	14,862.2	17,358.1	20,467.2
General insurance assets (RM million)	2,400.9	3,001.8	3,864.2	4,986.6	6,042.9	7,473.3	9,581.7

a Net of reinsurance outside Malaysia.

Source: Bank Negara Malaysia (1995 and 1996), 32nd and 33rd Annual Reports of the Director General of Insurance, 1995 and 1996, Kuala Lumpur; and data provided by the Malaysian authorities.

[46]Offshore banks in Labuan are permitted to accept foreign currency deposits only.

53. As of 31 December 1995, 65 insurance companies operated in Malaysia, of which 13 were incorporated abroad, including six foreign insurers. The latter, which accounted for 55 per cent of all total life premiums, are significantly larger than Malaysian-incorporated companies.[47] The insurance industry employed 19,480 people in 1996 (excluding insurance agents): 8,368 at managerial/supervisory level, 9,843 at clerical level and 1,269 at non-clerical level. Forty-eight non-Malaysians were employed at the managerial/supervisory level, but none at other levels.

54. The insurance industry is regulated by the Insurance Act 1996, administered by the Bank Negara Malaysia. Bank Negara places emphasis on the restructuring of the insurance industry to promote effective Malaysian participation. Between 1975 and 1996, a total of 44 foreign-incorporated insurers had restructured their operations in Malaysia into 34 Malaysian-incorporated insurers in which Malaysian participation is gradually increasing (Table IV.13).[48] Foreign participation in insurance brokers and loss adjusters is lower than that in insurance companies.

Table IV.13
Distribution of paid-up capital of Malaysian-incorporated insurers, 1992-96
(Per cent of total unless otherwise indicated)

	1992	1993	1994	1995	1996
Total paid-up capital of Malaysian incorporated insurers (RM million)	884.7	1,153.2	1,229.1	1,450.3	1,742.9
Held by Malaysians	66.3	66.2	67.1	69.0	67.7
Bumiputra	36.9	37.9	38.5	36.8	37.1
Non-Bumiputra	29.4	28.3	28.6	32.2	30.6
Held by non-Malaysians	33.7	33.8	32.9	31.0	32.3

Source: Bank Negara Malaysia (1996), 33rd Annual Report of the Director General of Insurance 1995, Kuala Lumpur; and data provided by the Malaysian authorities.

55. Except for six foreign-incorporated professional reinsurers, which are not subject to the requirement of local incorporation, the remaining seven foreign insurers are required to incorporate locally by 30 June 1998. The Government has committed in its WTO GATS Schedule to allow these branches of foreign insurance companies to retain up to 49 per cent foreign-held equity if they restructure ownership by that date. Companies which restructure their ownership after that date are subject to a maximum foreign ownership share of 30 per cent. No new insurance companies are being licensed except for reinsurers. Foreign equity in locally incorporated insurance companies is normally limited to a minority stake (usually 30 per cent), although the Central Bank sometimes grants exceptions.

56. In addition to incentives to promote Malaysian ownership, tax incentives are available to the insurance sector.[49] Some of these incentives are conditional upon local ownership of the companies. For example, sums received by way of annuities granted under annuity contracts issued by Malaysian

[47]Bank Negara Malaysia (1996c).

[48]Bank Negara Malaysia (1996c).

[49]"Tax reductions and exemptions were also provided to encourage the development of the insurance industry which has the potential to contribute to growth and mobilise long-term savings to support the nation's industrialisation drive". (Bank Negara Malaysia, 1996b.)

insurers, which were defined in the 1996 budget as life insurers whose ownership or membership are held in majority by Malaysian citizens.[50]

Reinsurance

57. The relatively small size of Malaysian-incorporated insurance companies has led to an increasing reliance on reinsurance. In 1996, 21.6 per cent of written premiums in the general insurance sector were placed with reinsurance companies outside Malaysia. By comparison more than half of marine, aviation and transit reinsurance premiums were placed outside Malaysia, which was substantially higher than corresponding reinsurance premiums for fire and motor vehicles (Table IV.14). The authorities continue efforts to "optimise" national retention.[51] In April 1997, the first life reinsurance company was licensed to provide reinsurance in Malaysia. The company is a joint venture between members of the Life Insurance Association of Malaysia and a foreign reinsurer.

Table IV.14
Malaysian reinsurance premiums, 1990-96
(Per cent unless stated otherwise)

	1990	1991	1992	1993	1994	1995	1996
Marine, aviation and transit (RM million)	179.5	218.5	230.5	308.8	382.5	400.2	412.0
Placed in Malaysia	51.6	37.3	37.3	34.4	33.5	35.8	41.7
Placed outside Malaysia)	48.4	62.7	62.7	65.6	66.5	64.2	58.3
Fire (RM million)	405.4	461.4	590.6	684.4	851.8	940.8	1,002.6
Placed in Malaysia	53.1	53.3	54.0	55.9	53.6	55.1	59.9
Placed outside Malaysia	46.9	46.7	46.0	44.1	46.4	44.9	40.1
Motor (RM million)	156.3	210.7	324.2	331.1	375.7	461.0	498.7
Placed in Malaysia	80.8	78.0	68.4	69.6	72.6	74.3	82.0
Placed outside Malaysia	19.2	22.0	31.6	30.4	27.4	25.7	18.0
Miscellaneous (RM million)	313.4	377.3	451.0	493.3	636.2	785.1	864.8
Placed in Malaysia	53.4	52.8	54.1	47.1	46.4	45.9	50.5
Placed outside Malaysia	46.6	47.2	45.9	52.9	53.6	54.1	49.5

Source: Bank Negara Malaysia (1996), 33rd Annual Report of the Director General of Insurance 1995, Kuala Lumpur; and data provided by the Malaysian authorities.

WTO commitments[52]

58. Malaysia is committed to allowing a maximum of 30 per cent aggregate foreign shareholdings in existing locally incorporated insurance companies.[53] No commitment has been made to grant new licences. However, as mentioned above, a commitment has been made to allow an aggregate foreign

[50]Bank Negara Malaysia (1996c).

[51]Bank Negara Malaysia (1996c).

[52]WTO document GATS/SC/52/Suppl.1, 28 July 1995.

[53]Acquisition by a foreign insurance company of an aggregate shareholding of more than 5 per cent in a locally incorporated Malaysian insurance company is subject to conditions regarding the ability to contribute to Malaysia's development and the existing level of representation of the country of origin of the foreign insurance company. There are also restrictions on the acquisition of interests by insurance companies or persons that already hold interests in Malaysia.

shareholding of 49 per cent in existing branches of foreign insurance companies (and partly foreign-owned insurance companies which are locally incorporated) which incorporate locally and restructure their shareholding so that foreign shareholding shall not exceed 49 per cent by 30 June 1998. Subsequent disposal of the 49 per cent or any part thereof after 30 June 1998 shall be made to a Malaysian party and aggregate foreign shareholding shall not exceed 30 per cent. Further, Malaysia has committed itself to issuing seven new licences for non-life reinsurance within ten years ending 30 June 2005.[54] Entry as an offshore reinsurance company is confined to Labuan.

(d) Securities trading

59. The Kuala Lumpur Stock Exchange (KLSE), the Kuala Lumpur Options and Financial Futures Exchange (KLOFFE) and the Malaysian Monetary Exchange (MME) are Malaysia's stock and derivatives exchanges. At the end of March 1997, market capitalization of the Kuala Lumpur Stock Exchange was RM 793 billion. Futures contracts of the Kuala Lumpur Composite Index were launched when trading began on KLOFFE on 15 December 1995. Three-month Kuala Lumpur inter-bank offered-rate (KLIBOR) futures began trading on 28 May 1996. Trading volume on the Kuala Lumpur Commodities Exchange (KLCE) was, in 1996, confined to the trading of crude palm oil (CPO) futures.[55]

60. The Malaysian Securities Commission (SC) is the main regulatory authority covering activities on all stock exchanges.[56] The Commission is responsible for the enforcement of the Securities Commission Act 1993, the Futures Industry Act 1993, and the Securities Industry (Central Depository) Act 1991 and, together with the Registrar of Companies, the Securities Industry Act 1983 (Table AII.1).[57]

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[54]For the seven new licences, entry will be through branches or locally incorporated joint ventures. In issuing these licences, priority will be given to: the foreign reinsurers or joint ventures of the top 100 reinsurers who meet certain criteria; those who are intending to base their regional headquarters in Kuala Lumpur and have plans to operate regionally through joint ventures; and those who comply with the objectives of, *inter alia*, optimum retention of local risks. Aggregate foreign shareholding in the joint ventures will not exceed 49 per cent and priority will be given to joint ventures with local partners which have certain characteristics of size and strength.

[55]Contracts declined from 525,889 lots in 1995 to 498,118 in 1996 (equivalent to 12.5 million tonnes of crude palm oil in 1996). Reflecting the decline in trading volume, the average daily turnover was 2,004 lots or 50,098 tonnes in 1996 as compared to 2,160 or 53,996 tonnes in 1995. The decline in turnover was due to less volatile movements in crude palm oil prices during the year (section (2)(iii)(b)). (Bank Negara Malaysia, 1997b).

[56]The Securities Commission Act of 1993 established the Securities Commission consisting of an Executive Chairman, who is entrusted with day-to-day administration of the Commission, four members representing the Government, and four other members. The functions of the Securities Commission are to: advise the Minister of Finance on all matters relating to the securities and futures contracts industries; regulate the issuance of securities; regulate the designation of futures contracts; regulate the take-overs and mergers of companies; regulate all matters relating to unit trust schemes; be responsible for supervising and monitoring the activities of any exchange, clearing house and central depository; take all reasonable measures to safeguard the interests of persons dealing in securities or trading in futures contracts; promote and encourage proper conduct among members of the exchanges and all registered persons; suppress illegal, dishonourable and improper practices in dealing in securities and trading in futures contracts and in the provision of investment advice or other services relating to securities and futures contracts; consider and suggest reforms of the law relating to securities or futures contracts including changes to the constitution, rules and regulations of any exchange and its clearing house; encourage the development of the securities and futures markets in Malaysia; and perform any functions conferred by or under any other act. (Ministry of Finance, 1995).

[57]The Securities Commission has issued, *inter alia*, Policies and Guidelines for Issue/Offer of Securities, Guidelines on Asset Valuation for submission to the Securities Commission, Guidelines on Unit Trust Funds
(continued...)

In addition, two other agencies are involved: the KLSE (a self-regulating private sector organization), and the Foreign Investment Committee.

Licensing of stockbrokers

61. Trading in securities is carried out by member companies incorporated in Malaysia. However, a "member company" cannot be a "member of the KLSE"; members of the KLSE can be either natural persons or corporations who are shareholders of a member company. A natural person must, *inter alia*, be a Malaysian citizen of at least 21 years of age with relevant qualifications and work experience. A corporate member is required to acquire at least 51 per cent of a stockbroking company and have minimum shareholder funds of RM 100 million. If the corporation is a financial institution, it must obtain the appraisal of the Bank Negara Malaysia to apply for membership. Foreign companies can usually own no more than 30 per cent of the equity in an existing local stockbroking company, but Malaysia has made a commitment in its WTO GATS Schedule to allow foreign stockbroking companies up to 49 per cent equity participation by the year 2000. There are at present 60 licensed stockbroking companies in Malaysia, of which ten have foreign participation.

62. There are three categories of membership of the Malaysian Monetary Exchange (MME); Broker Membership, Non-broker Membership and Local Membership. Broker and Non-broker Membership is open to companies incorporated in Malaysia which fulfil the published criteria. A foreign stockbroking company applying for membership can hold a maximum of 49 per cent equity in an existing Malaysian stockbroking company and must comply with all requirements as applied to local companies. MME is prepared to assist a non-resident applicant in the application for a work permit upon formal admission as a local member if the applicant undertakes to work a minimum period of two years as a local, gives a full commitment for regular attendance on the MME trading floor, and trades a quarterly average of 300 lots per month.

63. Membership of the KLOFFE consist of trading members, local members and other classes of members as created by the Exchange. Trading members must, *inter alia*, be incorporated under the Companies Act 1965 and fulfil certain financial requirements. A foreign stockbroking company applying for membership can only hold a maximum of 49 per cent equity in an existing local stockbroking firm. Local members are individuals who have passed the relevant examination or been granted an exemption from this requirement. KLOFFE is prepared to assist non-residents who wish to become members of the Exchange in obtaining work permits upon formal admission to the Exchange. Upon nomination by trading members, the Exchange also offers trading permits to individuals.

64. There are three categories of membership of the Kuala Lumpur Commodity Exchange (KLCE); members (brokers and non-brokers), local membership and trade affiliates. Members are Malaysian companies of good business integrity who fulfil the financial requirements. The maximum number of members is 130 and all are fully subscribed[58]; membership may be obtained through a secondary market, which is administered by the KLCE. Local membership is open to residents of Malaysia who pass a proficiency test on trading, register as "sole proprietor" and are guaranteed/qualified by a clearing member and satisfy listed financial requirements. The qualifying clearing member must be a registered dealer under the Futures Industries Act 1993. A local may trade on the floor of the Exchange on his

[57](...continued)
(revised on 26 May 1997), Guidelines on Property Trust Funds and the Malaysian Code on Take-overs and Mergers 1987. The Malaysian Code on Take-overs and Mergers 1987 has the force of law by reason of the existing provisions of the Securities Commission Act 1993.

[58]Corporate members may have more than one membership of the KLCE.

own account or that of his clearing member. Trade affiliates are open to any Malaysian or overseas co y fulfilling the financial requirements. Trade affiliates have no floor access, but enjoy lower brokerage fees. A trade affiliate can trade on its own account or on the accounts of overseas clients through a member.

65. presentative offices of foreign brokerage firms are permitted to undertake research, information and liaison services only, and must be incorporated under the Companies Act 1965 and obtain an investment adviser's licence. Representative offices are not permitted to publish or circulate research work in Malaysia.

66. Foreign fund management companies (FFMCs) with a foreign equity share of 100 per cent do not have access to local funds. FFMCs with a minimum local equity participation of 30 per cent have access to local institutional funds provided they manage, or undertake to manage, funds from outside Malaysia up to the amount of US$100 million and the amount of each fund sourced from within Malaysia must be at least RM 10 million. In addition, the first ten joint venture FFMCs will be allowed to manage local unit trusts, subject to certain criteria and conditions. Both fully and partially foreign-owned FFMCs are eligible for a tax exemption in respect of income derived from the management of funds held outside Malaysia. All FFMCs are required to be licensed as fund managers under the Securities Act 1983.[59]

Firms listed on the stock exchange

67. Proposals for the issue of securities and/or listing on a stock exchange must be submitted to the Securities Commission.[60] Foreign-based companies seeking a listing on the Kuala Lumpur Stock Exchange must have a substantial Malaysian interest.[61] Malaysian public companies wishing to offer their securities abroad or list their securities on a securities exchange outside Malaysia are required to seek the approval of the Securities Commission.[62]

68. In 1990, the central bank encouraged the establishment of the Rating Agency of Malaysia (RAM) to provide credit ratings of firms issuing bonds and commercial paper and to provide potential investors with the necessary financial information on which to base investment decisions. Since its inception in 1990, RAM has issued 326 corporate ratings of which 58 during the first eight months of 1996.[63] In line with Malaysia's aspiration of becoming a regional capital market, a second rating agency, the

[59]Companies incorporated under the Offshore Companies Act 1990 may offer fund management services to residents of Malaysia. Companies intending to offer fund management services to residents must comply with onshore requirements.

[60]Section 32 of the Securities Commission Act 1993.

[61]A foreign-based company is considered to have "substantial Malaysian interests" if: more than 50 per cent of the issued and paid-up capital of the company is beneficially held by Malaysian shareholders resident in Malaysia having management control; or the single largest shareholder of the company is Malaysian and resident in Malaysia, having management control and beneficially holding not less than 33 per cent of the issued and paid-up capital of the company at the time of application to offer securities under these guidelines.

[62]Securities Commission Act 1993, Section 32.

[63]Ministry of Finance (1996).

Malaysian Rating Corporation Berhad (MARC), was launched by the Minister of Finance on 5 September 1996.[64]

Quantitative restrictions applied to firms investing on the Malaysian stock exchanges

69. A number of statutes place investment restrictions on funds established by an Act of Parliament.[65] For example, the Employees Provident Fund (EPF) is required to have invested 70 per cent of its total funds in Malaysian Government Securities (MGSs) and to invest 50 per cent of its new funds in these securities. The EPF can invest up to 15 per cent of total funds on the KLSE. Insurance companies are required to invest a minimum of 20 per cent of their fund in low risk assets classified as "authorized assets" (i.e. securities, bills or certificates issued by the Federal Government or Bank Negara Malaysia and Cajama Tier one Notes and Bonds) and may not invest more than 25 per cent in corporate bonds, of which no more than 10 per cent is allowed for unsecured issuers.

WTO Commitments

70. Promotion in Malaysia of Malaysian stocks requires approval and provision of advisory services, which in turn requires commercial presence. Commercial presence for security brokerage is limited to recognized foreign stockbroking companies through equity participation in stockbroking companies, or establishment of a locally incorporated joint venture with a Malaysian stockbroking company. At present, aggregate foreign shareholding can not exceed 30 per cent but, subject to conditions, it may be increased to 49 per cent with effect of 1 July 2000. Entry of recognized foreign stockbroking companies is also permitted through a representative office. Malaysia has reserved the right to limit the issuance of new licences in accordance with "economic needs" tests.

71. Malaysia notes in its GATS Schedule that trades on any Malaysian commodity futures exchange must be conducted through companies incorporated in Malaysia which are members of the exchange. Foreign participation in any locally incorporated joint venture company is limited to 30 per cent, or any higher percentage as determined by the relevant authorities. Representative offices are permitted to undertake research, information and liaison services only. The presence of natural persons may be confined to one management post per establishment.

(iii) Telecommunications

(a) Structural change in the telecommunications sector

72. As in the case of financial services, developments in telecommunications affect not only consumers, but also other sectors for which telecommunications services are an important input. The telecommunications sector in Malaysia has experienced significant growth during the 1990s. In the context of a rapidly changing technological environment, some sub-sectors and technologies have grown much faster than others. For example, the number of resident and business telephone lines increased from 1.8 to 3.3 million between 1991 and 1995, while cellular phones experienced more than a seven-fold increase during the same period (Table IV.15). The number of people waiting for a telephone decreased from 81,780 in 1990 to 44,383 in 1995; the number of complaints declined from 31,600 to 14,400

[64]Ministry of Finance (1996).

[65]Examples are the Employees Provident Fund Act 1991, the Employees Social Security Act 1969, the Insurance Act 1996, the Armed Forces Fund Act 1972, and the Pension Trust Fund Act 1991.

during the same period; and line congestion declined from 15 to 3 per cent.[66] Liberalization of the rig supply telecommunications services has undoubtedly made a significant contribution to the sector's rapid development.

Table
Teleco ations services statistics, 1991-96

Indicator	1991	1992	1993	1994	1995	1996
Number of telephones (million)	1.8	2.1	2.4	2.9	3.3	3.8
Number of telephones per 100 people	9.9	11.6	13.1	14.7	17.0	18.0
Leased circuits ('000)	18.8	21.4	24.9	29.9	37.5	40.9
Cellular telephones ('000)	131.7	206.4	340.1	571.7	1,005.1	1,513.6
Public telephones	46.8	65.2	81.1	104.4	181.9	213.7
Paging subscribers ('000)	62.0	80.0	109.0	128.8	149.3	133.4

Source: Jabatan Telekom Malaysia (1996), Annual Report 1994/1995, Kuala Lumpur; and data provided by the Malaysian authorities.

(b) Policy objective and regulating authority

73. The National Telecommunications Policy (NTP) was formulated in 1994 to facilitate the modernization of the sector through projections of expected developments and investment needs of both physical infrastructure and human capital. Under the NTP, the Ministry of Energy, Telecommunications and Post is responsible for the formulation of policies and long-term planning of the telecommunications sector[67], while the Malaysian Telecommunications Department (Jabatan Telekom Malaysia, JTM) is responsible for the supervision of the sector, with a view to encouraging competition and ensuring an orderly and efficient development of the telecommunications industry.[68] JTM also represents Malaysia in various international telecommunications fora.[69] The Customer's Charter of JTM sets clear targets for the processing of customer complaints (14 days), applications for Public Network licences (90 days), radio station licences (30 days) and applications for amateur, ship and aircraft licences (seven days).[70] The content of audiovisual services, however, is subject to additional regulations (Box IV.1).

[66]Government of Malaysia (1996b).

[67]For example, the Ministry is in charge of drafting a multi-media "convergence" law (Table AII.1).

[68]Ministry of Energy, Telecommunications and Post (1994).

[69]JTM participates in the activities of the International Telecommunications Union (ITU), the International Telecommunication Satellite Organization (INTELSAT), the International Maritime Satellite Organization (INMARSAT), the Asia-Pacific Telecommunity (APT), the APEC meetings dealing with telecommunications, the Negotiation Group on Basic Telecommunications at the WTO, bilateral meetings on frequency coordination of satellite networks and Joint Technical Committees between Malaysia and Thailand, and cooperation with ASEAN dialogue partners (Chapter II(3)(iii)).

[70]Jabatan Telekom Malaysia (1996).

Box IV.1: Market access issues in audiovisual services

Applications for radio and television licences are to be submitted to the Ministry of Information. There are no set standards or procedures for the appraisal of such applications. The licensing and enforcement division of the Ministry of Information drafts and enforces all terms and conditions applied to broadcasting services. A minimum 70 per cent broadcasting time for local programming applies; there is a target quota of 80 per cent of the programmes to be met by local suppliers by the year 2000. Broadcasting of foreign programmes is subject to this target. All programmes whether foreign, local, Malay or Non-Malay are subject to guidelines against violence, horror, sex and counter-culture.

Advertisements are subject to the advertisements code. Advertisements must project Malaysian culture and identity and reflect the multi-racial character of the population; promotion of a foreign lifestyle is not allowed. Commercials must further comply with the "Made in Malaysia" requirement and thus be shot locally by locals using local actors/actresses and music composers. All products advertised should be available in Malaysia, although advertisements of tourist destinations are allowed provided they are shot by a local crew. Advertisements for tourist destinations within ASEAN are exempt from this requirement. Foreign film footage is allowed when it is deemed necessary and relevant to the products as approved by the Ministry of Information.

WTO Commitments

Broadcasting services covering transmission from a foreign broadcast station of foreign broadcast matter from foreign territory through television or radio is bound at 20 per cent of screening time; dubbing into the national language may be required. The absence of restrictions on consumption abroad is also bound.

Commercial presence is required for the cross-border supply of motion picture, video tape and audio recording distribution services. Commercial presence may only be realized through a locally incorporated joint venture with Malaysian individuals or Malaysian-controlled corporations or both and the aggregate foreign shareholding shall not exceed 30 per cent.

74. JTM is also responsible for the development of standards and type approval of all telecommunications equipment used in Malaysia.[71] The main objectives are to ensure inter-operability, compliance with international standards concerning the interfacing of customer equipment, maintain quality, ensure that no interference is caused to other users of the network, and protect the integrity of the network and the safety of personnel.[72] JTM has developed technical standards for equipment approval, and issues import permits for telecommunications equipment (Table AIII.4). The Customer's Charter of JTM requires that all applications for type approval will be processed within 45 days and that import licences will be processed within four days.[73] Since March 1995, import permits have also been issued through an Electronic Data Interchange system allowing for a processing time of one to two days.

[71]In 1997, JTM established the Interconnection Steering Committee to set guidelines on the interconnection of basic and cellular services.

[72]Radio broadcast receivers are not subject to type approval, however.

[73]Jabatan Telekom Malaysia (1996).

(c) Licences and their conditions

75. According to the National Telecommunications Policy "The issuing of licences will be carried out through a bidding or an open tender system according to the criteria of the Licensing Board".[74] Limit the foreign-ownership of companies providing basic telecommunications is up to the maximum listed Malaysia's WTO Schedule.[75] Resale of licences or leased lines is not permitted.[76] In addition to licensing, tariffs for basic telephone services are subject to maximum tariff ceilings, which apply to both fixed-line and cellular cervices, so as to ensure optimum, efficient and productive usage, avoid market distortions, ensure international competitiveness and ensure widespread usage of telephone services in both urban and rural areas.[77] On a request from Telekom Malaysia, maximum prices were rebalanced in 1995 for the first time since 1985[78], and the changes were effective from 1 June 1996.[79] Maximum radio communications fees were also revised in 1995 for the first time since 1957.

76. Telekom Malaysia is Malaysia's largest telecommunications company. The company was established in 1984 and acquired in 1987 a 20-year licence to operate a telecommunications system and in 1989 a cellular licence. It was partly privatized in 1990.[80] Telekom Malaysia has been given priority with regard to the construction of all fixed telecommunication lines in the Multi-media Super Corridor (Box III.4) on the grounds that the company possesses the relevant infrastructure to undertake such work. In 1994, a second network was granted a renewable 20-year licence which allows it to establish, maintain, operate and work a telecommunications system initially along privately-run concession highways. So as to meet demand a large number of new licences have been allocated to provide for a variety of services (Table IV.16).[81] Four of the seven main telecommunications companies have foreign partners.[82] All licences specify the services to be provided, thus limiting the supply of value added services. Re-leasing of lines is not permitted.

[74] Ministry of Energy, Telecommunications and Post (1994).

[75] WTO document GATS/SC/52/Suppl.2, 11 April 1997.

[76] Telecommunications (Amendment) Act 1993, Section 2; and Telecommunications Act 1996.

[77] Jabatan Telekom Malaysia (1996).

[78] However, telephone line rental rates had been in force since 1982.

[79] The maximum prices are published in Jabatan Telekom Malaysia (1996).

[80] Reportedly, return on assets and production per employee more than doubled after privatization, while revenue per subscriber, direct exchange lines per employee, speed of access to basic services, and response to complaints and faults also improved significantly. (Government of Malaysia, 1996b).

[81] During 1994, 1995 and 1996 the number of licence applicants was respectively 24, 47 and 35; the number of licences granted was respectively 12, 12 and 18 and the number or rejections or cases under review was respectively 12, 35 and 17.

[82] Deutsche Telecom owns 29 per cent of the shares of Cellular Communications Network (M) Sdn. Bhd. (Celcom); Swiss Telecom owns 30 per cent of Mutiara Telecommunications; U.S. West owns 20 per cent of Binariang; and International Cable and Wireless owns 30 per cent of Syarikat Telephone Wireless (STW). Telekom Malaysia Berhad, TIME Telecommunications and Mobikom have no foreign partners with an equity stake in the companies.

Table IV.16
Basic telecommunications licences allocated, 1997

Type of service	Number of licences allocated	Foreign participation	Universal service obligations and other conditions/comments
Local network	6	Two with a 3% foreign ownership ratio, one with a 21% and another with a 20% foreign-ownership ratio.	Five have a country-wide universal service obligation.
Trunk networks	7	Two with a 3% foreign ownership ratio, one with a 21% foreign-ownership ratio and another with a 20% foreign-ownership ratio.	Five have a country-wide universal service obligation.
International networks	5	One with a 30% foreign ownership and one with 21% foreign ownership and another with 30% foreign ownership.	All have a country-wide universal service obligation.
Paging	36	Three companies have foreign ownership.	Five with practical national coverage, five for Peninsular Malaysia and the remaining for smaller areas.
Cellular and personal communications	8	One licensee has 30% foreign ownership and an other has 21% foreign ownership.	All have a country-wide universal service obligation.
Public land and mobile radio	12	None	Three licences with coverage of Penninusular Malaysia the other smaller areas.
CT2/Telepoint	1	None	Coverage of major towns in Malaysia.
Value-added services	21	One company with a 20% share.	Ten operators with international coverage all with a variety of services.
Telecomm. services via power lines	3	None	One company each in Peninsular Malaysia, Sabah and Sarawak.
Radio maritime	1	None	Peninsular Malaysia.
Payphone	3	None	Nation-wide coverage of all operators. So as to encourage the development in rural areas, for every two phone booths installed in urban areas the operators have to install one telephone booth in a rural area.
Radio leased channel service	7	None	One nationwide coverage the other local coverage.
Mobile satellite data	1	10% foreign owned.	Mobile data service via satelite.
Satellite	1	20% foreign owned.	Malaysia launched its first satellite, Malaysia East Asia Satellite (MESAT) 1, on 13 January 1996 and the second, MESAT 2, on 13 November of the same year.
VSAT	4	One company with 30% foreign ownership.	Nationwide coverage of all telecommunications services via a hub or direct to customer.
Radiolocation	1	None	Nationwide coverage.
Satellite broadcasting	1	None	Unrestricted.

Source: Information provided by the Malaysian authorities.

77. In early 1996, there were ten companies providing basic services including cellular. In view of the large numbers, the authorities encouraged mergers in order to reduce the number of operators.

This policy, however, was not successful. In July 1996, the Minister of Energy Telecommunications and P..t announced that Malaysia would not issue any new licences for fixed network operators. Only existing companies are to provide services. According to the authorities, this is to avoid costly duplication. This appears to be a significant departure from the previous policy, which had allowed for th. :d growth in the provisions of telecommunications services and benefited the Malaysian econor.. .n general. The change will tend to benefit existing licensees, possibly increasing prices for consumers and other users of telecommunications services as Malaysia does not have competition policy to counter collusion practices (Chapter III(4)(vi)).

(d) WTO commitments

78. Sector-specific commitments incorporated in Malaysia's original WTO GATS Schedule cover value-added services which are provided from channels or lines obtained from licensed network operators. Market access through commercial presence is assured for data and transmission services[83], mobile data services and telex and telegraph services. Commercial presence is to be realized through a locally incorporated joint venture or through partial acquisition of an existing licensed value-added services operator. There is no commitment to allow aggregate foreign share to exceed 30 per cent.

79. Malaysia is also party to the recently concluded Telecommunications Agreement. Under the Agreement it guarantees market access and national treatment for specific basic telecommunications services up to a maximum of 30 per cent equity of existing public telecommunications operators.[84] Malaysia did not fully adopt the regulatory reference paper of the Agreement, nor did it make any commitments for future liberalization of the market.

(iv) <u>Transportation</u>

80. Transport is important in its own right and because it is an input to other trade-dependent sectors. Malaysia has a significant trade deficit in transport services. The Government's policy objectives are to reduce the sectoral trade deficit and to ensure that Malaysia becomes an international transport hub.

(a) Air transport

81. Air transport developed rapidly during the period 1990-95 and is expected to continue to do so (Table IV.17). Malaysia Airlines is privatized[85], however, as a national carrier, it is required to fulfil some "social obligations" which go beyond pure commercial appraisals. Newly established airlines are required to comply with economic, technical and operational guidelines. Foreign ownership of airlines is currently limited to 30 per cent of total equity. All airports are government owned corporatized entities and are managed on a commercial basis, subject to the regulations of the relevant

[83]Services covering electronic mail, voice mail, on-line information and database retrieval, enhanced facsimile, code and protocol conversion.

[84]The sub-sectors covered are: wired and wireless voice services; packet-switched data transmission services, including frame-relay services; circuit-switched data transmission services; facsimile services; private leased circuit service; domestic/international satellite services and satellite links/capacities (inclusive of mobile satellite); satellite earth stations; international switching and other international gateway facilities; analogue and digital mobile services; paging services; trunked radio services; and video transport services.

[85]Malaysia Airlines is listed on the Kuala Lumpur Stock Exchange and approximately 70 per cent of the stock is held by the private sector; foreign ownership is limited to a maximum of 30 per cent and stands currently at around 24 per cent.

Ministry. The authorities expect all existing airports to be privatized by the year 2000. The new Kuala Lumpur International Airport will contribute significantly to the number of landing slots available at any given time.

Table IV.17
Traffic handled at Malaysian airports, 1990-2000

	1990	1995	2000 (forecast)
Passengers (total '000)	17,323	25,584	37,592
Domestic ('000)	11,259	16,350	23,307
International ('000)	6,064	9,234	14,285
Cargo (total tonnes)	241,590	395,042	607,812
Domestic (tonnes)	68,853	105,380	158,031
International (tonnes)	172,737	289,662	449,781
Aircraft movements (total number)	287,151	411,323	596,694
Domestic	235,463	321,717	454,680
International	51,688	89,606	142,014

Source: Government of Malaysia (1996), Seventh Malaysia Plan, Kuala Lumpur, p. 356.

82. Air transport is regulated by the Ministry of Transport. All international and domestic air fares have to be approved by the Ministry. According to the authorities, traffic rights are granted in relation to market demand and need for the progressive growth of airline services on a "fair, equitable and reciprocal basis". Code sharing and other commercial arrangements are subject to government approval in order to ensure that they are in accordance with the general principles and entitlements agreed to under relevant bilateral air services agreements.

83. Aviation charges reflect the level of services provided by Malaysia. Aviation technical standards are based on ICAO standards and procedures, together with national requirements.

International agreements

84. No commitments covering air services have been made in the WTO. Malaysia has entered into two regional memoranda of understanding (MOU) covering air services; one involving the expansion of air services in the Indonesia-Malaysia-Thailand Growth Triangle and one concerning the expansion of these services in the Brunei-Indonesia-Malaysia-Philippines East ASEAN Growth Area (Chapter II(3)). In addition, Malaysia has established bilateral air service agreements with 72 countries.

(b) Maritime transport[86]

85. As Malaysia's foreign trade has grown, the number of ships calling at Malaysian ports, the average size of those ships, and their total cargo has grown rapidly during the 1990s. These trends are expected to continue during the Seventh Malaysia Plan period (Table IV.18). The number of Malaysian registered ships increased from 301 in 1990 to 600 in 1995. The volume carried by Malaysian vessels increased only from 16.9 million tonnes (16.4 per cent of total cargo) to 28.6 million tonnes (18.8 per cent of total cargo).

[86]Manufacturers in Sabah and Sarawak who export rattan and wood-based products (excluding sawn timber and veneer) are eligible for double deduction on freight charges incurred irrespective of the registration of the freighter, while other exporters receive such double taxation allowances only for Malaysian registered ships.

86. Maritime transport is regulated by the Ministry of Transport. Domestic routes are protected by a cabotage policy, although foreign vessels are allowed to ply between Port Klang and Penang Port and vice versa for transshipment of containers.[87] There are significant government procurement preferences for Malaysian transport companies (Chapter III(4)(v)). Furthermore, the 1996 Federal Budget announced that measures will be taken to increase the utilization of locally owned ships and that the Government will introduce more stringent conditions on non-financial public enterprises[88], although no such measures have yet been taken. Indirectly, Malaysian shipping companies may benefit from a levy on cross-border road transport with Singapore, the purpose of which is to encourage shipping from Malaysia.[89]

Table IV.18
Number of ships calling at Malaysian ports and volume of cargo handled, 1990-2000

	1990	1995	2000 (forecast)[a]
Number of ships calling	50,721	70,098	87,860
Total volume of cargo (million tonnes)	103.4	152.3	254.5
General	25.3	30.1	36.2
Liquid bulk	47.2	60.7	87.6
Dry bulk	15.2	23.7	41.3
Container	15.7	37.8	89.4

a Government of Malaysia (1996), p. 354.

Source: Government of Malaysia (1996), Seventh Malaysia Plan, Kuala Lumpur, p. 354.

87. Malaysian shipping agencies are permitted to be majority foreign-owned; the maximum foreign equity condition has been relaxed from 30 to 70 per cent.[90] In contrast to air transport, cargo sharing and/or slot charter arrangements of the Malaysian International Shipping Corporation (MISC) are considered a purely commercial arrangement.

88. Since the 1994 year of assessment, a double deduction had been granted for freight charges paid to a Malaysian incorporated shipping company for transportation on board a "Malaysian ship".[91] This double deduction has been withdrawn effective 1 January 1997 (year of assessment 1998). The income of a shipping company, derived or deemed to be derived from the operations of Malaysian ships, is exempt from income tax. Dividends distributed from the income of a shipping enterprise

[87]APEC (1996).

[88]Government of Malaysia (1995).

[89]Government of Malaysia (1996a).

[90]APEC (1996).

[91]"Malaysian Ship" is defined as a sea-going ship registered as such under the Merchant Shipping Ordinance 1952 (Amended) other than a ferry, barge, tug-boat, supply vessel, crew boat, lighter, dredger, fishing boat or other similar vessel" (Ministry of Finance, 1995).

to shareholders are also exempt from tax.[92] The shipping industry is also assisted through the Shipping Fund.[93]

89. To register a vessel in Malaysia, the owner of that vessel must be a Malaysian citizen or corporation incorporated in Malaysia, the majority shareholding must be held by Malaysians, the majority of the board of directors must be Malaysians, and the principal place of business must be in Malaysia.[94] In 1996 there were no import duties on ships weighing more than 26 tonnes gross (Harmonized System tariff lines 8904.00.100 and 8904.00.200). By contrast, a 25 per cent import tariff applied to ships of not more than 26 tonnes gross (HS tariff line 8904.00.300). The number of ships registered in Malaysia has increased significantly during the 1990s (Table IV.19).

Table IV.19
Ships registered, 1990-95

Type	1990	1991	1992	1993	1994	1995
Oil tankers	63	65	72	88	91	108
Liquefied gas carriers	6	7	8	8	8	12
Bulk/Ore/Oil carriers	33	26	30	27	28	50
General cargo	180	191	206	257	257	369
Passenger/Cargo carriers	79	84	90	122	129	177
Container ships	15	21	24	22	20	21
Vehicle carriers	5	5	5	6	6	9
Others	616	672	791	1,004	1,111	1,386
Total	997	1,071	1,226	1,534	1,650	2,132

Source: Transport Statistics Malaysia (1995), Ministry of Transport, Kuala Lumpur.

WTO Commitments[95]

90. Malaysia has made a commitment not to impose any restrictions on cross-border supply or consumption abroad in the international maritime transportation services sector, excluding cabotage. In additional comments it noted that the following services at the port are made available to international maritime transport suppliers on reasonable and non-discriminatory terms and conditions: pilotage, towing and tug assistance, provisioning, fuelling and watering, garbage collection and ballast waste disposal, port captain's services, navigation aids, shore-based operational services essential to ship operations,

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[92]Ministry of Finance (1995), p. 143.

[93]The Malaysian Shipping Finance Fund (MSFF) was established on 30 October 1992 to increase shipping capacity and to carry Malaysia's cargo, as a measure to overcome the problem of a deficit in the services account of Malaysia's current account. The Fund consist of a RM 500 million Ship Financing Facility (SFF) and a RM 200 million Shipping Venture Facility (SVF) which are both allocated through the offices of the Bank Negara Malaysia. An additional RM 300 million is provided by the private sector. As of the end of 1996, RM 410 million of the SFF and RM 200 million of the SVF were outstanding.

[94]WTO document GATS/SC/52, 15 April 1994, p. 57.

[95]In addition to its WTO commitments, Malaysia is a party to a number of International Maritime Organization (IMO) conventions concerning Safety and Ships Standards: Safety of Life at Sea (SOLAS) 1974/1978, Standard on Training Certification and Watchkeeping (STCW)1978, Loadline Convention 1969, Maritime Pollution (MAROPL) 1973/1978 and Collission Regulation (COLREG) 1972.

including communications, water and electrical supplies, emergency repair facilities, anchorage, berth and berthing services.

91. Bindings on commercial presence apply only to "a representative office, regional office or locally-incorporated joint venture corporation with Malaysian individuals or Malaysian-controlled corporations or both and aggregate foreign shareholding in the joint-venture corporation shall not exceed 30 per cent". The requirements to register vessels in Malaysia is listed in the Schedule.

(v) International tourism

92. Malaysia is a major tourist destination, with around 7.2 million arrivals in 1996. The total employment created by the industry was estimated to be approximately 106,200 in 1995.[96] Malaysia had a significant surplus in trade in tourism services in 1995 as a total of 6.3 million Malaysians travelled overseas incurring an expenditure of RM 5.8 billion, compared to 7.5 million foreign tourists visiting Malaysia, generating an income of RM 9.9 billion. Tourism receipts have increased sharply during the 1990s as the average length of stay increased somewhat and average expenditure per tourist doubled (Table IV.20). In 1997, 9.5 million tourists are expected to visit Malaysia.[97] Improved access to Malaysia, thanks to the north-south expressway as well as increased flight frequencies, has contributed to this growth.

Table IV.20
Overview of tourist services exports, 1990-96

Year	Tourist arrivals (million)	Tourist receipts (RM billion)	Average length of stay (days)
1990[a]	7.5	4.5	4.6
1991	5.8	4.3	4.6
1992	6.0	4.6	4.7
1993	6.5	5.1	4.6
1994[a]	7.2	9.0[b]	4.8
1995	7.5	9.9[b]	4.8
1996	7.2	11.4[b]	5.4

a "Visit Malaysia" year.
b Including day trippers, excursion and transit passengers.

Source: Information provided by the Malaysian authorities.

93. To promote international tourism to Malaysia, tourist visas are only required for visitors from Bangladesh, China, Chinese Taipei, India, Pakistan, Sri Lanka. No visas are issued to visitors from Israel.

[96]Government of Malaysia (1996b).

[97]Government of Malaysia (1996a).

94. Licences are required for Tourism Training Institutions[98], Tour Operating and Travel Agency Business[99], and Tourist Guides.[100] The Ministry of Culture, Arts and Tourism is in the process of formulating regulations for the licensing and enforcement of Tourist Accommodation Premises and Tourist Restaurants as required by the Tourism Industry Act 1992. Licences are issued by the Secretary General of the Ministry, who is appointed Commissioner of Tourism. The Malaysia Tourism Promotion Board was established, under an Act of Parliament, to promote tourism in Malaysia.[101] The Board is financed by Parliament as well as by earnings on its activities.

95. Foreign investors are allowed to take a stake of up to 30 per cent in Malaysian tourism projects for inbound tourism. Foreign investors are not allowed to participate in ticketing operations or outbound tourism.[102] Negotiations within ASEAN aim to reduce investment restrictions on investors from other ASEAN countries. Investors can apply for tax incentives through the offices of the Malaysian Industrial Development Agency (MIDA) (Chapter III(4)(ii)).[103] Furthermore, a Special Fund for Tourism is administered by the Bank Negara Malaysia; applications are to be made through commercial banks.[104]

WTO Commitments

96. Malaysia has undertaken not to impose restrictions on consumption of tourism services abroad. Delivery of tourism services, including travel agencies and tour operators, through commercial presence is only permitted through joint-ventures in which foreign participation may not exceed 30 per cent.

[98]Tourism Industry (Licensing of Tourism Training Institutions) Regulations 1994.

[99]Registration fees for outbound tour operating businesses are four times as high as registration fees for inbound tour operating businesses (Tourism Industry (Tour Operating Business and Travel Agency Business) Regulations 1992).

[100]Tourism Industry (Licensing and Control of Tourist Guides) Regulations 1992.

[101]Malaysia Tourism Promotion Board Act 1992.

[102]Foreign destinations may be advertised in Malaysia, provided the advertisements are filmed by a Malaysian crew.

[103]Establishment, expansion and modernization of hotels and tourist projects designated by the Malaysian Industrial Development Agency as promoted activities are eligible for consideration of pioneer status and investment tax allowance under the Promotion of Investment Act 1986. Other tax incentives for the tourism industry are administered under the Income Tax Act 1967 and include an initial industrial building allowance of 10 per cent and a subsequent annual allowance of 2 per cent, plus a double deduction for training and promotional expenditure. In the 1997 Budget the Government proposed to grant these tax allowances for five years for the construction of medium and budget hotels, holiday camps and recreational projects; and the construction of convention centres with a hall capable of accommodating at least 3,000 participants. In addition, local companies organizing conferences bringing in at least 500 foreign participants are also to be given income tax exemptions up to the year 2000 (Government of Malaysia, 1996a).

[104]Non-resident controlled companies may apply to this fund provided the investment is made in Malaysia.

(vi) Professional services

(a) Overview

97. Professional services cover a wide range of services, some of the main categories being accountants, architects, doctors, engineers, lawyers and surveyors. GDP estimates include these services in "other services", which contribute 2 per cent to GDP. In comparison to other sectors, a relatively small number of highly qualified professionals is engaged in supplying these services. In almost all professional services, value added increased by approximately 150 per cent between 1989 and 1994, while increases in employment varied between 40 per cent for accountants and over 100 per cent for architects (Table AIV.8). Market share of the four largest firms was relatively low at 27.5 per cent for accountants, 11.5 per cent for architects, 2.6 per cent for doctors, 15.4 per cent for engineers, 9 per cent for lawyers and 12.4 per cent for surveyors.[105]

98. Foreign trade in such services is small but feasible through cross-border supply, commercial presence and presence of natural persons. Foreign firms or individuals wishing to provide professional services to Malaysian clients are generally required to be registered with the relevant Malaysian professional associations. Such registration requirements are generally administered by the relevant professional service board or association.

Overview of WTO Commitments

99. With regard to national treatment, Malaysia has agreed not to limit the cross-border supply or consumption abroad of those professional services for which it has made commitments.[106] Malaysia is committed to not placing any restrictions on national treatment for those business sectors for which commitments have been made, except that some services must be authenticated by a licensed auditor or a registered authority.[107] In those sectors in which Malaysia has made a commitment to allow commercial presence, it is in all cases limited to a maximum of 30 per cent.

(b) Accounting services

100. The Accountants Act, 1967 (revised in 1972) requires a person who intends to provide accounting services to be registered as a member of the Malaysian Institute of Accountants (MIA). Such a person shall be admitted as a member if, among other things, he or she has passed the required examinations of if he or she is a member of one of the eleven associations of accountants.[108] To practice as an

[105]Bank Negara Malaysia (1996b).

[106]Legal services; accounting, auditing and bookkeeping services; taxation services; architectural services; engineering services; integrated engineering services; medical specialty services; computer and related services; consultancy services related to software implementation; database services; computer software development services; research and experimental services on social sciences and humanities; rental and leasing services without operators, related to ships (excluding cabotage and offshore trades), aircraft, construction, mining and industrial plant and equipment; management consulting services; services incidental to manufacturing; technical testing and analysis services; student placement services; convention and exhibition management services; and landscaping services.

[107]Auditing, taxation, architectural, engineering, integrated engineering services must be authenticated by a licences authority in Malaysia.

[108]These include: Malaysian Association of Certified Public Accountants; Institute of Chartered Accountants of Scotland; Institute of Chartered Accountants in England and Wales; Institute of Chartered Accountants in Ireland;
(continued...)

accountant in Malaysia, non-Malaysians must obtain the necessary work permit from the Malaysian Immigration Department, be ordinarily resident in Malaysia and a member of MIA. After taking account of the interests of local accountants, the MIA occasionally provides a letter of support to the Immigration Department for its member firms who seek to recruit staff abroad.[109]

WTO Commitments

101. Commercial presence may be realized only through a locally registered partnership with a Malaysian firm and aggregate foreign ownership of such firm shall not exceed 30 per cent.

(c) Legal services

102. Admission to the legal profession is governed by the Legal Profession Act 1976. The Act requires a legal practitioner to be "a qualified person". A qualified person is defined as a person who possesses a degree or a qualification recognized by the Qualifying Board established under the Act. The Act recognizes law degrees from the University of Malaysia in Singapore, the University of Singapore and the National University of Singapore. Other non-Malaysian degrees recognized by the Board are law degrees from 60 listed law faculties in the United Kingdom, an external law degree from the University of London, law degrees from 15 recognized Australian law schools and five recognized New Zealand law schools.

103. Foreign law firms are allowed to undertake advisory work to local lawyers or local clients from their home base without physical presence in Malaysia. Foreign law firms are further allowed to undertake, through cross-border supply or physical presence, legal services covering advisory and consultancy services relating only to home-country laws, international law and offshore corporation laws in Malaysia.

WTO Commitments

104. Market access through commercial presence is bound for corporations incorporated in the Federal Territory of Labuan which provide legal services to offshore corporations established on the Territory.

[108](...continued)
Association of Certified Accountants (United Kingdom); Australian Society of Accountants; New Zealand Society of Accountants; Canadian Institute of Chartered Accountants; Institute of Chartered Accountants of India; and Institute of Cost and Management Accountants (United Kingdom).

[109]The MIA currently has just over 10,000 members. By the year 2020, demand for accountancy services is expected to require at least six times the current number of accountants.

REFERENCES

APEC (1996), Malaysia's Individual Action Plan, Manila.

APEC ...onomic Leaders' Meeting (1995), The Osaka Initial Actions, 19 November.

APT Asia-Pacific Telecommunity (1997), The APT Yearbook 1997, Bangkok.

Ariff, Mohamed, Mahani Zainal Abidin and Tan Eu Chye (1996), Study of the Emerging Global Trading Environment and Developing Asia: The Malaysian Perspective, University of Malaya, for the Asian Development Bank, July, Kuala Lumpur.)

ASEAN Secretariat (1993), AFTA Reader, Vol. 1, Jakarta.

ASEAN Secretariat (1995), AFTA Reader, "New Time Frame: Acceleration of Tariff Reduction", Vol. 3, September, Jakarta.

Bank Negara Malaysia (1995), Annual Report 1994, Kuala Lumpur.

Bank Negara Malaysia (1996a), Quarterly Bulletin, First Quarter 1996, Vol. 11, No.1., Kuala Lumpur.

Bank Negara Malaysia (1996b), Annual Report 1995, Kuala Lumpur.

Bank Negara Malaysia (1996c), 33rd Annual Report of the Director General of Insurance, 1995, Kuala Lumpur.

Bank Negara Malaysia (1997a), Survey of Manufacturing Companies 1996, Economics Department, Kuala Lumpur (mimeo).

Bank Negara Malaysia (1997b), Annual Report 1996, Kuala Lumpur.

Bruton, Henry J, in collaboration with Gamini Abeysekera, Nimal Sanderatne and Zainal Asnam Yusof (1992), The Political Economy of Poverty, Equity and Growth Sri Lanka and Malaysia, published for the World Bank by Oxford University Press, Oxford.

Bureau of National Affairs (1996), International Environmental Reporter, July.

EIU (1996), Country Profile: Malaysia - Brunei, The Economist Intelligence Unit, London.

Europa Publications Limited (1996), The Europa World Year Book 1996, London.

GATT (1991), Trade Policy Review - Indonesia, Geneva.

GATT (1993), Trade Policy Review - Malaysia, Geneva.

Government of Malaysia (1990), Sixth Malaysia Plan 1991-1995, Economic Planning Unit, Prime Minister's Department.

Government of Malaysia (1991), The Second Outline Perspective Plan 1991-2000, Kuala Lumpur.

Government of Malaysia (1992), The 1993 Budget, Kuala Lumpur.

Government of Malaysia (1993), The National Agricultural Policy (1992-2010), Policy Statement, Kuala Lumpur.

Government of Malaysia (1995), The 1996 Budget, Kuala Lumpur.

Government of Malaysia (1996a), The 1997 Budget, Kuala Lumpur.

Government of Malaysia (1996b), Seventh Malaysia Plan 1996-2000, Kuala Lumpur.

Government of Malaysia (1996c), The Way Forward - Vision 2020, Kuala Lumpur.

Hemnes, Thomas M.S., Mara G. DiMambro and Marcia. L. Moore (1994), "Malaysia", in: Intellectual Property World Desk Reference, Supplement 2, Kluwer Law and Taxation Publishers, Deventer and Boston.

IMF (1997a), World Economic Outlook, Washington, D.C.

IMF (1997b), Exchange Arrangements and Exchange Restrictions, Annual Report 1996, Washington, D.C.

Jabatan Telekom Malaysia, (1996), Annual Report 1994/95, Kuala Lumpur.

Koenig, L.M. (1996), "Capital Inflows and Policy Responses in the ASEAN Region", Working Paper of the International Monetary Fund, Washington, D.C.

Lloyd, P.J. (1996), "Should AFTA and CER Link?", in: AFTA in the Changing International Economy, Institute of South East Asian Studies (ISEAS), Singapore.

Malaysian Industrial Development Authority (1996), Malaysia - Investment in the Manufacturing Sector: Policies, Incentives and Facilities, Kuala Lumpur.

Ministry of Energy, Telecommunications and Posts (1994), The National Telecommunications Policy, Kuala Lumpur.

Ministry of Finance (1995), Economic Report 1995/96, Kuala Lumpur.

Ministry of Finance (1996), Economic Report 1996/97, Kuala Lumpur.

Ministry of International Trade and Industry (1996a), Second Industrial Master Plan 1996-2005, Kuala Lumpur.

Ministry of International Trade and Industry (1996b), Malaysia International Trade and Industry Report 1995/97, Kuala Lumpur.

National Productivity Corporation (1997), Productivity Report 1996, Malaysia.

Ostry, J.D. (1997), "Current Account Imbalances in ASEAN Countries: Are They a Problem?" Working Paper of the International Monetary Fund, Washington, D.C.

Pacific Economic Cooperation Council (PECC), Philippines Institute for Development Studies (PIDS) and the Asia Foundation (1996), Perspectives on the Manila Action Plan for Apec, Singapore.

Salleh, Ismail Muhd and Saha Dhevan Meyanathan (1993), The Lessons from East Asia: Malaysia Growth, Equity, and Structural Transformation, The World Bank Washington, D.C.

SIRIM (1996), Annual Report 1995, Kuala Lumpur.

World Bank (1995), Malaysia Meeting Labor Needs: More Workers and Better Skills, Report No. 13163-MY, Country Operations Division I, Country Department I, East Asia and the Pacific Region, Washington, D.C.

WTO (1995), Trade Policy Review - Thailand, Geneva.

WTO (1996), Trade Policy Review - Singapore, Geneva.

WTO (1997a), Trade Policy Review - United States, Geneva.

WTO (1997b), ITA Schedules Malaysia, 26 March, Geneva.

Yean, Tham Siew (1997), "Determinants of Productivity Growth in the Malaysian Manufacturing Sector", Asean Economic Bulletin, Vol. 13, No. 3, March 1997.

Yusof, Zainal Azam, Awang Adek Hussin, Ismail Alowi, Lim Chee Sing and Sukhdave Singh (1996), "Financial Reform in Malaysia", in: Gerad Caprio, Jr., Izak Atiyas and James A. Hansen (eds.) Financial Reform Theroy and Experience, Cambridge University Press, Cambridge.

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APPENDIX TABLES

Table AI.1
Exports by groups of products, 1992-96
(US$ million and per cent)

Commodity	1992	1993	1994	1995	1996
Total (US$ million)	40,757.1	47,103.1	58,818.7	73,737.6	78,150.9
Total primary products	35.2	29.7	25.7	24.0	23.1
Agriculture	20.7	18.2	17.0	15.7	13.9
Food	10.5	9.4	9.9	9.5	8.7
4222 Palm oil	4.6	4.2	4.8	4.9	4.2
Agricultural raw material	10.2	8.7	7.2	6.2	5.2
2433 Lumber shaped non-conif.	3.8	4.2	3.2	2.4	1.9
2311 Natural rubber, gums	2.3	1.8	1.9	2.2	1.8
2423 Saw-, veneer-logs, non-conif.	3.7	2.4	1.6	1.2	1.1
Mining	14.4	11.5	8.6	8.3	9.2
Ores and other minerals	0.4	0.3	0.3	0.3	0.2
Non-ferrous metals	1.1	1.0	1.0	1.1	1.0
Fuels	12.9	10.3	7.4	7.0	7.9
3310 Crude petroleum, etc.	8.9	6.7	4.3	3.6	3.9
3411 Gas, natural	2.8	2.5	1.9	2.0	2.6
Manufactures	64.4	69.7	73.6	74.7	75.9
Iron and steel	0.9	1.0	0.7	0.7	0.8
Chemicals	2.1	2.1	2.6	3.0	3.2
Other semi-manufactures	5.1	6.2	6.0	5.6	5.9
Machinery and transport equipment	43.8	48.5	53.4	55.2	55.3
Power-generating machines	0.1	0.1	0.1	0.0	0.1
Other non-electrical machinery	2.4	2.7	2.7	2.9	2.7
7191 Heating, cooling equipment	1.3	1.4	1.4	1.4	1.2
Agricultural machinery and tractors	0.0	0.0	0.0	0.0	0.0
Office machines & telecommunications equipment	32.8	37.6	41.8	44.4	44.7
7293 Transistors, valves, etc.	13.9	15.5	16.2	18.0	17.9
7149 Office machines, n.e.s.	4.8	5.7	6.2	6.5	6.1
8911 Sound recorders, phonogr. prts.	3.4	4.3	5.2	5.1	4.7
7242 Radio broadcast receivers	4.3	4.4	4.8	4.7	3.9
7249 Telecom. equipment, n.e.s.	3.4	3.7	4.1	3.8	3.9
7241 Television receivers	2.1	2.6	2.9	3.0	2.7
7143 Statistical machines	0.7	1.0	2.0	3.0	5.3
Other electrical machines	4.3	4.8	4.7	4.8	5.2
7222 Switchgear, etc.	1.4	1.6	1.5	1.6	2.0
7221 Electric power machinery	1.3	1.5	1.4	1.4	1.3
Automotive products	0.5	0.5	0.4	0.4	0.4
Other transport equipment	3.7	2.9	3.7	2.6	2.3
Textiles	1.4	1.4	1.4	1.5	1.7
Clothing	4.6	4.2	3.5	3.1	3.0
Other consumer goods	6.5	6.2	6.0	5.7	6.0
Other	0.4	0.6	0.7	1.3	1.1

Source: UNSTAT, Comtrade database (SITC Rev.1).

Table AI.2
Imports by groups of products, 1992-96
(US$ million and per cent)

	1992	1993	1994	1995	1996
Total (US$ million)	39,087.8	44,416.5	57,570.6	75,160.9	76,082.3
Total primary products	15.3	14.5	12.4	11.7	12.7
Agriculture	7.7	7.3	6.6	6.2	6.8
Food	6.6	6.1	5.4	4.9	5.4
Agricultural raw material	1.1	1.2	1.2	1.3	1.4
Mining	7.6	7.2	5.8	5.6	5.9
Ores and other minerals	1.1	1.3	1.0	1.0	0.9
Non-ferrous metals	2.2	2.2	2.2	2.3	2.3
Fuels	4.2	3.7	2.6	2.3	2.7
Manufactures	84.2	84.0	86.2	85.7	84.8
Iron and steel	4.5	4.8	4.3	4.4	4.6
Chemicals	8.1	7.6	6.9	7.2	6.9
Other semi-manufactures	6.4	6.0	5.6	5.6	5.2
Machinery and transport equipment	56.1	57.3	61.6	61.5	61.5
Power-generating machines	0.6	0.9	1.1	1.0	0.8
Other non-electrical machinery	14.0	12.9	12.2	12.3	11.9
7198 Other machines, non-elec.	2.5	2.4	2.5	2.6	2.3
7184 Const. mining mach. n.e.s.	0.7	0.6	0.6	1.1	1.2
7193 Mechanical handling equipment	1.2	1.1	1.1	1.1	1.4
7199 Machine parts, access. n.e.s.	1.4	1.5	1.4	1.0	1.1
7192 Pumps, centrifuges	1.5	1.5	1.1	0.9	1.0
7151 Machine tools for metal	1.1	1.0	1.1	0.9	1.0
Agricultural machinery and tractors	0.1	0.1	0.1	0.1	0.1
Office machines and telecommunications equipment	21.8	24.6	27.2	29.4	31.2
7293 Transistors, valves, etc.	13.8	16.0	18.4	20.6	21.9
7249 Telecom. equipment, n.e.s.	2.9	3.3	3.2	3.4	2.8
7149 Office machines, n.e.s.	2.4	2.3	2.5	2.8	3.8
8911 Sound recorders, phonogrp. prts.	1.8	2.0	2.1	1.5	1.2
Other electrical machines	9.6	10.2	11.2	9.5	9.3
7222 Switchgear etc.	3.8	4.0	4.4	3.6	3.5
7299 Other electrical machinery	2.1	2.3	2.5	2.4	2.2
7221 Electric power machinery	1.8	2.0	2.5	1.9	2.1
Automotive products	3.4	3.3	3.4	4.0	4.5
Other transport equipment	6.8	5.2	6.5	5.2	3.7
Textiles	3.3	2.7	2.4	2.0	1.8
Clothing	0.3	0.3	0.3	0.2	0.2
Other consumer goods	5.4	5.4	5.2	4.7	4.6
Other	0.5	1.5	1.4	2.5	2.5

Source: UNSTAT, Comtrade database (SITC Rev.1).

Table AI.3
Exports by destination, 1992-96
(US$ million and per cent)

	1992	1993	1994	1995	1996
Total (US$ million)	40,757.1	47,103.1	58,818.7	73,737.6	78,150.9
World	100.0	100.0	100.0	100.0	100.0
APEC	77.4	77.9	77.7	77.4	77.8
ASEAN	29.7	28.0	27.5	27.2	28.0
America	20.6	22.7	23.6	23.1	20.3
United States	18.6	20.3	21.1	20.7	18.2
Canada	0.9	1.0	0.9	0.8	0.7
Other America	1.2	1.4	1.6	1.5	1.3
Europe	16.1	15.7	15.2	15.1	14.6
EU15	15.3	14.9	14.3	14.2	13.7
United Kingdom	4.0	4.2	3.8	4.0	3.4
Netherlands	2.4	2.4	2.3	2.4	3.0
Belgium-Luxembourg	1.2	1.2	1.3	1.1	1.1
France	1.4	1.4	1.4	1.0	0.8
Italy	0.9	0.7	0.7	0.8	0.8
EFTA	0.3	0.4	0.2	0.2	0.2
East Europe	0.2	0.2	0.3	0.3	0.4
Former USSR	0.1	0.1	0.1	0.2	0.2
Other Europe	0.3	0.3	0.3	0.3	0.3
Asia	60.0	58.7	58.2	58.9	62.1
Middle East	2.1	2.2	2.1	2.2	1.9
United Arab Emirates	0.7	0.7	0.9	0.9	0.9
East Asia	55.5	54.7	53.6	54.3	57.4
Singapore	23.0	21.6	20.7	20.3	20.5
Japan	13.4	13.0	12.1	12.7	13.4
Hong Kong, China	3.8	4.1	4.6	5.3	5.9
Chinese Taipei	3.1	3.2	3.0	3.1	4.1
Thailand	3.7	3.6	3.8	3.9	4.1
Korea, Rep. of	3.4	3.5	2.8	2.8	3.1
China	1.9	2.6	3.3	2.7	2.4
Indonesia	1.2	1.2	1.2	1.3	1.6
South Asia	2.4	1.9	2.5	2.5	2.8
India	1.1	0.4	0.9	1.1	1.5
Pakistan	0.9	0.9	1.1	1.0	0.8
Oceania	2.3	1.9	2.1	1.9	1.9
Australia	1.7	1.3	1.5	1.5	1.6
Africa	0.9	1.0	1.0	1.1	1.0
Sub-Saharan Africa	0.4	0.4	0.2	0.3	0.3
Other	0.1	0.0	0.0	0.0	0.0

Source: UNSTAT, Comtrade database (SITC Rev.1).

Table AI.4
Imports by origin, 1992-96
(US$ million and per cent)

	1992	1993	1994	1995	1996
Total (US$ million)	39,087.8	44,416.5	57,570.6	75,160.9	76,082.3
World	100.0	100.0	100.0	100.0	100.0
APEC	80.5	82.0	80.2	79.3	79.3
ASEAN	20.4	19.6	19.1	17.4	19.6
America	18.1	19.0	18.7	18.4	17.8
United States	16.0	17.3	17.2	16.6	15.9
Canada	0.7	0.5	0.4	0.5	0.6
Other America	1.4	1.2	1.0	1.2	1.3
Europe	15.2	14.3	16.7	17.6	16.9
EU15	13.5	12.8	14.7	15.6	14.7
United Kingdom	3.1	2.9	2.7	2.6	2.6
France	1.3	1.5	2.7	3.1	2.1
Italy	1.3	1.3	1.4	1.3	1.4
Ireland	0.1	0.1	0.5	0.7	0.9
Netherlands	0.9	0.8	0.7	0.7	0.9
Sweden	0.7	0.7	0.8	0.9	0.8
Belgium-Luxembourg	0.7	0.6	0.6	0.6	0.6
EFTA	1.2	1.0	1.4	1.3	1.2
Switzerland	1.1	0.9	1.2	1.2	1.1
East Europe	0.4	0.4	0.4	0.5	0.7
Former USSR	0.2	0.2	0.2	0.3	0.5
Other Europe	0.1	0.1	0.3	0.2	0.2
Asia	62.7	63.1	61.2	60.8	61.5
Middle East	0.8	0.9	0.6	0.6	0.7
East Asia	60.8	61.1	59.7	59.4	59.7
Japan	26.5	28.2	27.6	28.1	25.2
Singapore	15.6	14.9	14.2	12.4	13.3
Chinese Taipei	5.8	5.5	5.3	5.3	5.1
Korea, Rep. of	3.1	3.1	3.1	4.0	4.8
Thailand	2.5	2.6	2.6	2.7	3.4
China	2.5	2.5	2.4	2.3	2.5
Hong Kong, China	2.2	2.0	2.0	2.1	2.3
South Asia	1.1	1.1	0.9	0.9	1.1
India	0.9	0.9	0.7	0.7	1.0
Oceania	3.3	3.2	3.0	2.8	3.0
Australia	2.5	2.6	2.4	2.3	2.4
New Zealand	0.7	0.5	0.5	0.4	0.5
Africa	0.4	0.4	0.4	0.5	0.7
Sub-Saharan Africa	0.4	0.3	0.3	0.2	0.4
Other	0.3	0.0	0.0	0.0	0.1

Source: UNSTAT, Comtrade database (SITC Rev.1).

Table AII.1
Overview of selected trade-related legislation

Area	Main legislation	Ministry/Institution
Company registration and licensing	Companies Act 1965 Securities Industries Act 1983 Promotion of Investment Act 1986 Industrial Coordination Act 1975	Registrar of Companies, Securities Commission and Malaysian Industrial Development Authority
Customs tariffs, including customs procedures, tariff waivers and exemptions, duty drawback for exports	Customs Act 1967 Import Duties (validation) Act 1992 Excise Act Sales Tax Act	Ministry of Finance
Anti-dumping and countervailing measures	Countervailing and Anti-dumping Duties Act 1993	Ministry of International Trade Industry
Import and export prohibitions or licensing	Customs Act 1967	Ministry of Finance; various other Ministries and Agencies are involved in the administration of the licences required by the Ministry of Finance
Exchange control	Exchange Control Act of 1953	Central Bank
Duty-free zones and warehouses	Free Zones Act 1990	Ministry of Finance
Export credits and insurance		The Export-Import Bank of Malaysia, a wholly owned subsidiary of Bank Industri Malaysia Bhd was incorporated in August 1995.
Trade promotion	Malaysia External Trade Development Corporation Act 1992	Malaysia External Trade Development Corporation, Ministry of International Trade and Industry
Government procurement	Government Contracts Act 1949 (Revised 1973) Financial Procedure Act 1957 (amended in 1972)	Ministry of Finance
Standardization	Standards of Malaysia Act 1996 Pesticides Act 1974	Standards and Industrial Research Institute of Malaysia (SIRIM), Ministry of Agriculture
Sanitary and phytosanitary measures	Plant Quarantine Act 1976 Animal Ordinance 1953	Ministry of Agriculture
Packaging and labelling	Weights and Measures Act 1972 Food Act 1983 Trade Description Act 1972 Price Control Act 1946 Pesticides Act 1974	Ministry of Domestic Trade and Consumer Affairs, Ministry of Health
Domestic distribution	Direct Sales Act 1992 Control of Supplies Act 1961	Ministry of Domestic Trade and Consumer Affairs
Price controls	Price (Grade and Price Control) Order 1992 Control of Supplies Act 1961	Ministry of Domestic Trade and Consumer Affairs[a], Ministry of Agriculture
Intellectual property rights	Patents Act 1983 Copyright Act 1987 Trade Marks Act 1976 Trade Descriptions Act 1972 Industrial Design Bill 1996	Ministry of Domestic Trade and Consumer Affairs
Investment	Income Tax Act 1967 Promotion of Investments Act (PIA) 1986	Malaysian Industrial Development Authority, Ministry of International Trade and Industry and Ministry of Finance
Competition policy	Malaysia has no competition legislation	n.a.

Table AII.1 (cont'd)

Area	Main legislation	Ministry/Institution
Agriculture	Pesticides Act 1974 Plant Quarantine Act 1976 Animal Ordinance 1953 Fisheries Act 1985	Ministry of Agriculture
Fisheries	Fisheries Act 1985	Ministry of Agriculture
Primary industries	Petroleum Development Act, 1974	Petronas, Ministry of Primary Industries and Prime Minister's Department
Manufacturing	Industrial Coordination Act 1975	Ministry of International Trade and Industry, Ministry of Entrepreneurial Development
Central Bank functions including supervision of financial institutions	Central Bank of Malaysia Ordinance 1958 Banking and Financial Institutions Act 1989	Central Bank of Malaysia
All matters relating to securities and futures contracts industries	Securities Industry Act 1983 Securities Industry Act 1991 Securities Commission Act 1993 Futures Industry Act 1993 Securities Industry (Central Depositories Act 1991)	Securities Commission and the Registrar of Companies
Telecommunications	Telecommunications Act 1950[a]	Ministry of Energy, Telecommunications and Posts
Audiovisual services	Broadcasting (Amendment) Act 1997[b]	Ministry of Information and Ministry of Home Affairs
Tourism	Tourism Industry Act 1992 Malaysia Tourism Promotion Board Act 1992	Ministry of Culture and Tourism Malaysia and Malaysia Tourism Promotion Board
Civil aviation	Civil Aviation Act 1969	Ministry of Transport
Marine transport	Merchant Shipping Ordinance 1952	Ministry of Transport
Road transport	Road Transport Act 1987	Ministry of Transport

n.a. Not applicable.

a The control of standard and premium rice is administered by the Ministry of Agriculture under subsidiary legislation; Rice (Grade and Price Control) Order 1992.

b "Convergence Act" covering broadcasting, telecommunications and computer services is under study at the Ministry of Energy, Telecommunications and Posts.

Source: Government of Malaysia.

Table AII.2
Status of selected notification requirements to the WTO, 30 June 1997[a]

WTO Agreement	Description of requirement	Periodicity	Document number of most recent notification (if none, date of scheduled notification)	Comments
Agriculture (Art. 18.2)	Information on tariff quotas	Once, then changes	G/AG/N/MYS/1, 1 June 1995	Current applied rates are lower than out-of-quota tariff rates
Agriculture (Art. 18.2)	Volume of import under tariff quotas	Annual	G/AG/N/MYS/4, 10 July 1996	Tariff quotas are administered as "variable quota" (Chapter III(2)(iii))
Agriculture (Art. 5.7 and 18.2)	Special safeguard trigger prices	Once for all products, or the first time each safeguard is used		Not required as the special safeguard has not been used
Agriculture (Art. 5.7 and 18.2)	Summary of special safeguards taken	Annual	G/AG/N/MYS/3, 16 April 1996	The special safeguard was not invoked during 1995
Agriculture (Art. 18.2)	Aggregate measure of support	Annual	G/AG/N/MYS/6, 20 January 1997	Chapter IV(2)
Agriculture (Art. 18.2)	Export subsidies (outlays)	Annual	G/AG/N/MYS/2, 6 March 1996	Malaysia did not have export subsidy programmes subject to reduction commitments in 1995
Agriculture (Art. 18.2)	Export subsidies (quantities)	Annual	G/AG/N/MYS/5, 7 August 1996	Export figures of vegetable oils as set out in document G/AG/2/Add.1
Textiles and Clothing (Art. 3.1)	Outstanding measures as of 1 January 1995	Once	G/TMB/N/101, 24 May 1995 and G/TMB/N/1/Add.1,16 February 1996	The restriction concerned non-automatic licensing for import of Batik Sarong
Textiles and Clothing (Art. 6.1)	Wish to retain the right to use the safeguard provisions	Ad hoc	G/TMB/N/35, 6 March 1995	Malaysia reserves the right to use the safeguard provisions
Subsidies (Art. 32)	Laws and regulations	Once by March 1995, then changes	G/SCM/N1/MYS, 5 April 1995	The laws and regulations cover both anti-dumping and countervailing measures
Subsidies (Art. 25)	Specific subsidies granted	Annual	G/SCM/N3/MYS, 12 July 1995	The document also covers a notification pursuant to Article XVI.1 of GATT 1994
Subsidies (Art. 25.11)	Countervailing duty actions taken	Every six months	G/SCM/N/19/Add.1/Rev.1, 26 November 1996	No countervailing duty cases taken during 1 January - 30 June 1996
Anti-dumping (Art. 18)	Laws and regulations	Once by March 1995, then changes	G/ADP/N1/MYS/, 5 April 1995	The laws and regulations cover both anti-dumping and countervailing measures
Anti-dumping (Art. 16)	Anti-dumping actions taken	Every six months	G/ADP/N/22/MYS, 10 June 1997	Coverage of period 1 July-31 December 1996

Table AII.2 (cont'd)

WTO Agreement	Description of requirement	Periodicity	Document number of most recent notification (if none, date of scheduled notification)	Comments
Safeguards (Art. 11)	Pre-existing measures	Once	G/SG/N/2/MYS, 25 April 1995	Malaysia does not maintain any safeguard measures
Safeguards (Art. 12)	Laws and regulations	Once by March 1995, then changes	G/SG/N/MYS/1, 17 November 1995	Malaysia does not have any laws, regulations and administrative procedures relating to safeguard measures
Safeguards (Art. 12)	Actions taken	Ad hoc	G/SG/N/3/MYS, 15 April 1995	Malaysia does not maintain any safeguard measures
Technical Barriers to Trade (Art. 15.2)	Measures in existence and taken to implement the Agreement	Once, upon entry into force	G/TBT/2/Add.9, 12 June 1996	-
Technical Barriers to Trade (Art. 2)	Technical regulations	Ad hoc	G/TBT/Notif.97.331, 8 July 1997	The notifications are listed in Table AIII.13
Sanitary and Phytosanitary Measures	Measures taken	Ad hoc	G/SPS/N/MYS/4, 1 may 1997	The notifications are discussed in Chapter III(4)(iv)
Preshipment Inspection (Art. 5)	Laws and regulations which put the Agreement into force	Once, then changes only	G/PS1/N/1/Add.3, 12 July 1996	Malaysia does not have any laws or regulations relating to preshipment inspection
Import Licensing Procedures (Art. 7.3)	Questionnaire; rules and information concerning procedures for the submission of applications	Annual for questionnaire; rules and information once, then changes	-	-
Rules of Origin	Preferential rules of origin	An entry into force	G/RO/N/4, 7 August 1995	ASEAN Preferential Trading Arrangement
Rules of Origin	Non-preferential rules of origin	April 1995	G/RO/N/6, 19 December 1995	Malaysia does not have any non-preferential rules of origin, judicial decisions or administrative rulings of general application relating to rules of origin
Trade-Related Investment Measures (Art. 5.1)	Measures which are not in conformity with the Agreement	Once	G/TRIMS/N/1/MYS/1, 12 April 1995 and G/TRIMS/N/1/MYS/1/Rev.1 18 March 1996	The notifications are discussed in Chapter III(2)(vi)
TRIPS (Art. 69)	Contact point	Once	IP/N/3/Rev.2, 22 July 1996	
Agreement on implementation to Article VII of GATT 1994 (Art. 22.2)	Customs valuation, laws and regulations	Once, then changes	WT/Let/1, 27 January 1995 and revisions 1 and 2	Malaysia reserves the right to delay this notification for a five-year period as a developing country
GATT 1994 (Art. XVIII)	State trading	Annual	G/STR/N/1/MYS, 15 August 1995	The notification is discussed in Chapter III(2)(vi)
GATT 1994 (Part IV)	Enabling Clause	Ad hoc	WT/COMTD/3, 11 August 1995	ASEAN tariff preferences

a Malaysia has made no notification under the GATS Agreement.

Source: World Trade Organization.

Table AII.3
WTO disputes involving Malaysia, 1 January 1995 - 30 June 1997

Dispute	Major dates	Outcome as of 31 July 1997
Disputes in which Malaysia has been involved as a complainant		
United States: Import prohibition of certain shrimp and shrimp products	Request for consultations: 14 October 1996 by India, Malaysia, Pakistan and Thailand Requests to join the consultation: 30 October 1996 by Hong Kong 30 October 1996 by the European Union 1 November 1996 by Japan 6 November 1996 by Australia Requests for establishment of a panel: 10 January 1997, Malaysia and Thailand 7 February 1997 by Pakistan 8 March 1997 by India Panel established: 25 February 1997 as requested by Malaysia, Thailand and Pakistan	Panel procedures are ongoing
Complaints against Malaysia's policies		
Prohibition of imports of polyethylene and polypropylene	Request for consultations: 13 January 1995 by Singapore Request for establishment of a panel: 17 March 1995 by Singapore Withdrawal of request for panel: 19 July 1995	Non-automatic licensing was converted into automatic licensing (Chapter IV(3))
Disputes in which Malaysia has joined the consultations		
Turkey: Restrictions on imports of textile and clothing products administered	Request for consultations: 15 February 1996 by Hong Kong Requests to join the consultations: 28 February 1996 by Malaysia, the Philippines and Thailand 28 February 1996 by Peru 29 February 1996 by India 1 March 1996 by Brazil 1 March 1996 by Canada 1 March 1996 by the European Union	Consultation period has expired but no panel has been requested

Source: World Trade Organization.

Table AII.4
Malaysia's Bilateral Trade Agreements, August 1997

No.	Country	Date of signature
1.	Australia	26 August 1958 (revision initiated on 5 June 196)
2.	Japan	10 May 1960
3.	New Zealand	3 February 1961
4.	United Arab Emirates	26 February 1962
5.	Republic of Korea	5 November 1962
6.	USSR[a]	3 April 1967
7.	Bulgaria	20 May 1968
8.	Yugoslavia[b]	26 June 1969
9.	Hungary	2 February 1970
10.	Poland	7 November 1970
11.	Czechoslovakia	20 November 1972
12.	Egypt	8 January 1977
13.	Bangladesh	1 December 1977
14.	Libya	18 January 1977
15.	Iraq	17 January 1977
16.	Turkey	13 February 1977
17.	Democratic People's Republic of Korea	9 June 1979
18.	Germany	27 May 1980
19.	Pakistan	5 November 1987
20.	China	1 April 1988
21.	Iran	19 March 1989
22.	Mali	16 November 1990
23.	Argentina	1 July 1991
24.	Venezuela	26 November 1991
25.	Romania	1 March 1991
26.	Chile	21 June 1991
27.	Vietnam	11 August 1992
28.	Tunisia	25 November 1992
29.	Zimbabwe	9 July 1993
30.	Croatia	26 October 1994
31.	Jordan	2 October 1994
32.	Bosnia	26 October 1994
33.	Turkmenistan	13 May 1994
34.	Namibia	12 August 1994
35.	Albania	24 January 1994
36.	Colombia	14 August 1995
37.	Uruguay	9 August 1995
38.	Peru	13 October 1995
39.	Kazakhstan	27 May 1995
40.	Kyrgyz Republic	20 July 1995
41.	Lebanon	23 March 1995
42.	Ghana	12 March 1996
43.	Brazil	26 April 1996
44.	Czech Republic	28 June 1996
45.	Malawi	5 September 1996
46.	South Africa	7 March 1997
47.	Morocco	10 March 1997

a This Agreement is now effective with Russia.
b The Agreements with Yugoslavia and Czechoslovakia are no longer valid.

Source: Ministry of International Trade and Industry (1996), Malaysia International Trade and Industry Report 1995/96, Kuala Lumpur.

Table AII.5
Malaysia's Investment Guarantee Agreements, July 1997

No.	Country	Date of signature
1.	United States	21 April 1959 (revised in 1965)
2.	Germany	22 December 1960
3.	Canada	1 October 1971
4.	Netherlands	16 June 1971
5.	France	24 April 1975
6.	Switzerland	1 March 1978
7.	Sweden	3 March 1979
8.	Belgium-Luxembourg	22 November 1979
9.	United Kingdom	21 May 1981
10.	Sri Lanka	16 April 1982
11.	Romania	26 November 1982 (revised 26 June 1996)
12.	Norway	6 November 1994
13.	Austria	12 April 1985
14.	Finland	15 April 1987
15.	Kuwait	21 November 1987
16.	Organization of the Islamic Conference (OIC)	30 September 1987
17.	ASEAN	15 December 1987
18.	Italy	4 January 1988
19.	Korea	11 April 1988
20.	China	21 November 1988
21.	United Arab Emirates	11 October 1991
22.	Denmark	6 January 1992
23.	Vietnam	21 January 1992
24.	Papua New Guinea	27 October 1992
25.	Chile	11 November 1992
26.	Lao People's Democratic Republic	8 December 1992
27.	Chinese Taipei	18 February 1993
28.	Hungary	19 February 1993
29.	Poland	21 April 1993
30.	Indonesia	22 January 1994
31.	Albania	24 January 1994
32.	Zimbabwe	28 April 1994
33.	Turkmenistan	30 May 1994
34.	Namibia	12 August 1994
35.	Cambodia	17 August 1994
36.	Argentina	6 September 1994
37.	Jordan	2 October 1994
38.	Bangladesh	12 October 1994
39.	Croatia	16 December 1994
40.	Bosnia-Herzegovina	16 December 1994
41.	Spain	4 April 1995
42.	Pakistan	7 July 1995
43.	Kyrgyzstan	20 July 1995
44.	Mongolia	27 July 1995
45.	India	3 August 1995
46.	Uruguay	9 August 1995
47.	Peru	13 October 1995
48.	Kazakhstan	27 May 1996
49.	Malawi	5 September 1996
50.	Czech Republic	9 September 1996
51.	Guinea	7 November 1996
52.	Ghana	11 November 1996
53.	Egypt	14 April 1997
54.	Botswana	31 July 1997

Source: Ministry of International Trade and Industry (1996); Malaysia International Trade and Industry Report 1995/96, Kuala Lumpur.

Table AII.6
Malaysia's Bilateral Payments Arrangements/Agreements, October 1996

	Country	Date of signing	Name of Arrangement/Agreement
A.	**Agreement based on the ALADI Model**		
1.	Venezuela	3.8.1990	Bilateral Payment Arrangement
2.	Mexico	24.9.1990	Reciprocal Payments and Credit Agreement
3.	Romania	20.5.1991	Payments Arrangement
4.	Zimbabwe	7.6.1991	Payments Arrangement
5.	Chile	21.6.1991	Reciprocal Payments and Credit Agreement
6.	Peru	13.11.1991	Reciprocal Payments and Credit Agreement
8.	Algeria	31.1.1992	Reciprocal Payments and Credit Agreement
8.	Seychelles	21.9.1992	Payments Arrangement
9.	Tunisia	25.11.1992	Payments Arrangement
10.	Vietnam	29.3.1993	Reciprocal Payments and Credit Agreement
11.	Uzbekistan	28.6.1993	Payments Arrangement
12.	Argentina	3.12.1993	Payments Arrangement
13.	Albania	24.1.1994	Payments Arrangement
14.	Laos	16.4.1994	Payments Arrangement
15.	Turkmenistan	30.5.1994	Payments Arrangement
B.	**Palm Oil Credit and Payments Arrangements**		
16.	Algeria	14.6.1992	Palm Oil Credit and Payments Arrangement
17.	Pakistan	6.8.1992	Palm Oil Credit and Payments Arrangement
18.	Iraq	28.2.1993	Palm Oil Credit and Payments Arrangement
19.	Myanmar	21.1.1994	Palm Oil Credit and Payments Arrangement
20.	Iran	8.2.1994	Palm Oil Credit and Payments Arrangement
21.	Algeria	14.6.1992	Palm Oil Credit and Payments Arrangement
		20.4.1994	Palm Oil Credit and Payments Arrangement
22.	Bosnia-Herzegovina	13.11.1996	Palm Oil Credit and Payments Arrangement
23.	Iraq	28.2.1993	Palm Oil Credit and Payments Arrangement
C.	**Agreements based on the Iranian Model**		
24.	Iran	8.8.1988	Payments Arrangement
25.	Mozambique	27.4.1991	Payments Arrangement
26.	Botswana	6.6.1991	Payments Arrangement
27.	Fiji	12.10.1991	Payments Arrangement
D.	**Memoranda of Understanding**		
28.	Nigeria	7.9.1990	Memorandum of Understanding
29.	Kazakstan	18.7.1996	Memorandum of Understanding
E.	**Revolving Credits**		
27	Sudan	14.1.1992	Revolving Credit
		16.4.1992	Revolving Credit
		18.12.1993	Revolving Credit
		11.10.1996	Revolving Credit

Source: Ministry of International Trade and Industry (1996), Malaysia International Trade and Industry Report 1995/96, Kuala Lumpur.

Table AII.7
Malaysia's Double Taxation Agreements, April 1997

No.	Country	Date of signature
	EUROPE	
1.	Sweden	21 November 1970
2.	Denmark	4 December 1970
3.	Norway	23 December 1970
4.	United Kingdom	30 March 1973
5.	Belgium	24 October 1973
	Belgium (Protocol)	21 November 1995
6.	Switzerland	30 December 1974
7.	France	24 April 1975
	France (Protocol)	31 January 1991
8.	Federal Republic of Germany	8 April 1977
9.	Poland	16 September 1977
10.	Romania	26 November 1982
11.	Italy	28 January 1984
12.	Finland	28 March 1984
13.	USSR[a]	31 July 1987
14.	Netherlands	7 March 1988
15.	Hungary	24 May 1989
16.	Austria	20 September 1989
17.	Albania	24 January 1994
18.	Malta	3 October 1995
19.	Czech Republic	28 June 1996
	ASIA	
20.	Singapore	26 December 1968
	Supplementary Agreement	6 July 1973
21.	Japan	30 January 1970
22.	Sri Lanka	16 September 1972
23.	India	25 October 1976
24.	Thailand	29 March 1982
	Thailand (Protocol)	10 February 1995
25.	Republic of South Korea	20 April 1982
26.	Philippines	27 April 1982
27.	Pakistan	29 May 1982
28.	Bangladesh	19 April 1983
29.	China	23 November 1985
30.	Indonesia	12 September 1991
31.	Iran	11 November 1992
32.	Saudi Arabia (Limited Treaty)	18 July 1993
33.	Sudan	7 October 1993
34.	Turkey	27 September 1994
35.	Jordan	1 October 1994
36.	Mongolia	27 July 1995
37.	Viet Nam	7 September 1995
38.	United Arab Emirates	28 November 1995
39.	Kuwait	6 April 1997
	AUSTRALASIA and PACIFIC	
40.	New Zealand	19 March 1976
	New Zealand (Protocol)	14 July 1994
41.	Australia	20 August 1980
42.	Papua New Guinea	20 May 1993
43.	Fiji	19 December 1995
	AMERICAS	
44.	Canada	16 October 1976
45.	United States (Limited Agreement)	18 April 1989
	AFRICA	
46.	Mauritius	23 August 1992
47.	Zimbabwe	28 April 1994
48.	Egypt	14 April 1997

a This Agreement is now effective with Russia.

Source: Ministry of International Trade and Industry (1996), Malaysia International Trade and Industry Report 1995/96, Kuala Lumpur.

Table AIII.1
Simple average MFN and preferential tariffs by HS Chapter, 1988, 1993, 1997 and 2003
(Per cent)

HS	No. of lines (9-digit 1997)	Description	MFN tariffs: Excluding estimates of AVEs for specific duties 1988	1993	1997	Including AVE estimates for some specific duties[b] 1997	AFTA tariffs[a] 1997	2003
01	30	Live animals	2.3	2.0	0.0	0.0	0.0	0.0
02	59	Meat and edible meat offal	1.3	1.3	0.0	0.0	0.0	0.0
03	127	Fish, crustaceans, molluscs, other aquatic invertebrates	14.3	14.0	6.3	6.3	2.7	1.2
04	54	Dairy prods.; birds' eggs; nat. honey; edible prods.	18.7	20.8	6.4	6.4	4.7	2.4
05	18	Products of animal origin, n.e.s. or included	3.0	3.0	0.0	0.0	0.0	0.0
06	17	Live trees & other plants; bulbs; roots; cut flowers	5.0	5.0	0.0	0.0	0.0	0.0
07	78	Edible vegetables and certain roots and tubers	9.3	7.3	1.4	12.0	0.1	0.7
08	85	Edible fruit and nuts; peel of citrus fruit or melons	5.0	16.4	5.7	20.1	19.7	19.6
09	37	Coffee, tea, maté and spices	10.6	8.4	2.7	2.7	1.5	0.5
10	21	Cereals	1.6	1.4	0.0	0.0	0.0	0.0
11	38	Mill ind. prods; malt; starches; inulin; wheat gluten	5.4	4.8	0.3	0.3	0.2	0.2
12	55	Oilseed, oleagi fruit; misc. grain, seed, fruit, etc.	5.2	5.0	0.5	0.5	0.5	0.5
13	12	Lac; gums, resins and other vegetable saps & extracts	2.2	2.2	0.0	0.0	0.0	0.0
14	13	Vegetable plaiting materials; vegetable prods., n.e.s.	4.8	4.1	0.0	0.0	0.0	0.0
15	158	Animal/veg. fats & oils & their cleavage prods.; etc.	5.0	4.7	2.1	2.4	1.8	1.7
16	77	Preps. of meat, fish or crustaceans, molluscs, etc.	26.5	25.9	11.9	11.9	4.7	2.1
17	30	Sugar and sugar confectionery	4.0	4.6	1.2	1.2	0.6	0.5
18	13	Cocoa and cocoa preparations	32.7	19.6	17.7	17.7	8.6	3.8
19	49	Preps. cereal, flour, starch/milk; pastrycooks' prods.	27.8	20.4	9.7	9.7	6.0	3.5
20	133	Preps. of vegetable, fruit, nuts or other parts of plants	22.4	20.8	9.7	10.5	6.8	3.8
21	33	Miscellaneous edible preparations	21.0	15.3	10.6	10.6	6.5	3.8
22	7	Beverages, spirits and vinegar	33.6	26.7	18.6	296.6	195.5	195.5
23	29	Food ind. residues & waste, preps. animal fodder	5.7	5.7	0.0	0.0	0.0	0.0
24	15	Tobacco and manufactured tobacco substitutes	...	...	5.0	370.9	370.9	370.9
25	82	Salt, sulphur, earth, stone, plastng. mats, lime, cement	5.9	6.5	3.0	3.0	1.6	0.6
26	50	Ores, slag and ash	3.1	2.8	0.1	0.1	0.0	0.0
27	62	Mineral fuels, oils & prods. of their distillation, etc.	6.2	5.9	2.0	8.5	8.2	1.4
28	202	Inorg chems, compds prec mets, radioactive elements	3.8	3.9	1.9	2.3	1.2	0.6
29	368	Organic chemicals	3.9	2.5	0.4	1.0	0.8	0.1
30	196	Pharmaceutical products	0.9	0.8	0.3	0.3	0.1	0.1
31	32	Fertilizers	2.2	1.3	0.4	1.4	1.1	1.0
32	61	Tanning/dyeing extrs., tannin & derivatives, pigments	15.8	15.2	6.1	6.1	3.3	2.1
33	60	Ess. oils & resinoids, perfumes, cosmetic/toilet preps	15.5	11.7	4.3	4.3	2.1	1.0
34	57	Soap, organic surface-active agents, washing preps.	11.3	8.3	5.7	6.2	4.8	2.1
35	19	Albuminoidal substncs; mod. starches; glues; enzymes	15.1	13.6	11.8	11.8	4.4	2.9
36	13	Explosives, pyrotechnic prods., matches, pyrop. alloy	19.9	19.9	12.3	14.4	13.0	3.6

Table AIII.1 (cont'd)

HS	No. of lines (9-digit 1997)	Description	MFN tariffs				AFTA tariffs[a]	
			Excluding estimates of AVEs for specific duties			Including AVE estimates for some specific duties[b]		
			1988	1993	1997	1997	1997	2003
37	65	Photographic or cinematographic goods	5.3	5.2	3.1	3.3	2.3	0.9
38	109	Miscellaneous chemical products	5.5	5.0	3.7	4.7	3.4	2.0
39	368	Plastics and articles thereof	26.7	25.9	16.6	16.6	9.3	3.6
40	258	Rubber and articles thereof	19.9	16.9	14.3	15.2	10.3	3.0
41	37	Raw hides and skins (other than furskins) and leather	19.5	17.2	0.3	0.3	0.3	0.1
42	49	Articles of leather; saddlery/harness; travel goods, etc.	21.0	18.6	15.3	15.3	8.2	4.1
43	19	Furskins and artificial fur; manufactures thereof	7.7	7.7	0.0	0.0	0.0	0.0
44	2063	Wood and articles of wood; wood charcoal	20.5	20.3	1.3	1.3	0.9	0.3
45	7	Cork and articles of cork	9.7	9.7	1.4	1.4	4.3	2.1
46	12	Manfs. of straw, esparto/other plaiting materials, etc.	20.4	20.4	17.5	17.5	8.8	5.0
47	21	Pulp of wood/fibrous cellulosic materials; waste, etc.	3.4	3.4	0.0	0.0	0.0	0.0
48	196	Paper/paperboard; arts. paper pulp, paper/paperboard	12.2	11.9	12.2	12.4	8.6	3.4
49	36	Printed books, newspapers, pictures and other prods.	11.8	11.5	9.2	9.2	5.3	2.4
50	11	Silk	16.8	9.7	5.5	5.5	1.6	1.4
51	36	Wool, fine/coarse animal hair, horsehair yarn & fabric	18.5	3.0	0.0	0.0	0.0	0.0
52	160	Cotton	26.2	15.7	16.3	16.3	11.7	4.8
53	32	Other veg. textile fibres, paper yarn & woven fabric	11.3	2.3	0.5	0.5	0.2	0.2
54	104	Man-made filaments	24.5	14.7	14.5	14.5	7.1	3.9
55	119	Man-made staple fibres	29.3	17.2	14.1	15.6	6.7	4.3
56	46	Wadding, felt & non-woven, yarn, twine, cordage	19.2	16.2	13.3	13.3	9.0	4.1
57	43	Carpets and other textile floor coverings	24.3	23.4	16.6	16.6	6.2	2.8
58	154	Spec. woven fabs., tufted textile fabs, lace, tapestries	32.5	27.6	22.4	22.4	12.1	4.5
59	39	Impregnated, coated, cover/laminated textile fabric	29.2	16.7	14.3	21.0	15.9	2.8
60	18	Knitted or crocheted fabrics	30.9	20.0	20.0	20.0	6.1	5.0
61	114	Art. of apparel & clothing accs, knitted or crocheted	28.0	20.0	20.0	20.0	6.7	5.0
62	134	Art. of apparel & clothing accs, not knitted/crocheted	27.3	21.6	19.5	19.5	7.3	4.7
63	83	Other made-up textile articles, sets, worn clothing	31.6	32.8	25.2	25.2	10.1	4.8
64	48	Footwear, gaiters and the like, parts of such articles	33.7	30.8	23.7	23.7	11.7	4.5
65	13	Headgear and parts thereof	30.0	30.0	18.8	18.8	8.1	4.6
66	13	Umbrellas, walking sticks, seat sticks, whips, etc.	15.7	18.3	15.8	19.2	12.5	4.2
67	11	Preps feathers & down, artif. flowers, arts human hair	22.9	22.9	17.7	17.7	11.4	4.5
68	68	Arts. stone, plaster, cement, asbestos, mica/sim. mats.	17.2	16.6	13.7	13.7	8.6	3.4
69	38	Ceramic products	22.2	23.6	20.9	21.6	16.6	4.1
70	83	Glass and glassware	22.9	22.5	18.9	18.9	14.6	3.4
71	61	Natural/cultured pearls, prec. stones & metals, coins	10.7	9.2	2.9	2.9	1.8	1.5
72	391	Iron and steel	9.4	9.4	4.8	6.1	5.9	2.2
73	195	Articles of iron or steel	21.3	20.3	16.1	16.7	11.1	3.8
74	67	Copper and articles thereof	4.9	4.6	3.3	3.3	2.6	0.8

Table AIII.1 (cont'd)

HS	No. of lines (9-digit 1997)	Description	MFN tariffs				AFTA tariffs[a]	
			Excluding estimates of AVEs for specific duties			Including AVE estimates for some specific duties[b]		
			1988	1993	1997	1997	1997	2003
75	17	Nickel and articles thereof	10.4	2.0	0.0	0.0	0.0	0.0
76	46	Aluminium and articles thereof	22.6	22.5	20.8	20.8	15.0	4.3
78	13	Lead and articles thereof	4.7	4.7	2.3	2.3	1.2	0.8
79	18	Zinc and articles thereof	8.8	8.8	6.4	6.4	2.6	1.7
80	12	Tin and articles thereof	10.0	7.7	6.3	6.3	2.7	1.7
81	75	Other base metals	3.3	3.3	0.0	0.0	0.1	0.1
82	92	Tools, implements and cutlery of base metal, etc.	16.9	13.7	10.8	10.8	7.6	3.9
83	75	Miscellaneous articles of base metal	23.4	21.6	15.9	16.2	11.1	5.0
84	700	Nuclear reactors, boilers, mach./mech. appl., parts	9.9	8.0	5.3	5.5	3.4	1.2
85	515	Elec. mach., equipment, parts thereof, sound recorder	19.6	16.9	11.2	11.9	7.9	3.1
86	24	Rail/tramway locomotives, rolling-stock, parts thereof	5.0	5.0	3.8	3.8	3.1	3.1
87	312	Vehicles o/t rail/tramway rolling-stock, parts & accs	35.3	26.7	35.4	35.6	32.9	4.1
88	18	Aircraft, spacecraft, and parts thereof	9.2	5.8	1.7	1.7	0.6	0.4
89	35	Ships, boats and floating structures	10.1	6.8	4.3	4.3	2.3	0.9
90	201	Optical, photo., cine., measuring, checking, precision	6.3	5.8	2.2	2.2	1.4	0.9
91	59	Clocks and watches and parts thereof	4.3	2.1	1.1	1.1	0.8	0.2
92	23	Musical instruments; parts and access of such articles	15.3	2.3	2.0	2.0	1.0	0.4
93	21	Arms and ammunition, parts and accessories thereof	15.3	15.3	15.0	15.0	11.4	11.4
94	81	Furniture, bedding, mattress, mattr.support, cushion	27.5	21.2	17.4	17.4	7.7	4.2
95	65	Toys, games & sports requisites, parts & accessories	11.6	7.7	8.0	10.7	8.3	3.0
96	88	Miscellaneous manufactured articles	20.1	18.6	17.4	18.1	...	...
97	10	Works of art, collectors pieces and antiques	14.0	14.5	6.5	6.5	...	...

... Not available.

a No AVEs are calculated directly for AFTA rates expressed as specific, mixed or alternative duties. However, some products on the General Exclusion List were expressed as a margin of preference over specific MFN duties for which AVEs were available. For these products as well as for "sensitive" and "highly sensitive" unprocessed raw materials which are not yet included in the AFTA schedules, AVE estimates were included.

b Estimates of *ad valorem* equivalents of 96 specific duties, 157 mixed duties and 62 alternative duties were provided by the Malaysian authorities to the WTO Secretariat (section(2)(ii)(a)).

Source: WTO Secretariat, based on data provided by the Malaysian authorities.

Table AIII.2
Tariff quotas included in Malaysia's WTO Schedule XXXIX

Product	Tariff lines listed in Schedule XXXIX	In-quota tariff bindings (%)	Out-of-quota tariff bindings (%)	Out-of-quota applied tariffs 1996 (%)	Quota limit 1995	In-quota imports 1995
Live swine	0103.91.000 0103.92.000	15	20.7[a]	Nil	17,267 head	Nil
Meat of swine, fresh, chilled or frozen, carcasses and half carcasses	0203.11.000 0203.12.000 0203.19.000 0203.21.000 0203.22.000 0203.29.000	40	138.6[a]	Nil	1,036 mt. s	Nil
Meat of edible offal, salted, dried or smoked, hams, swine shoulders and cuts thereof	0210.11.100 0210.11.900	160	167,87%[a]	Nil	942 metric tons	Nil
Meat of edible offal, salted, dried or smoked, hams. Other swine meat	0210.12.000 0210.19.100 0210.19.200 0210.19.000	120	138.6%[a]	Nil	753 metric tons	Nil
Live poultry fowls of the species gallus domesticus, one day old chicks	0105.11.000	20%	29.7%[a]	Nil	1,399,500 head	1,332,494 head
Live poultry of the species gallus domesticus, ducks, geese and guinea fowls	0105.11.900 0105.19.100 0105.19.900 0105.91.000 0105.99.100 0105.99.900	15-30	23.4-34.2[a]	Nil	1,116,250 head	101,000 head
Chicken, live, eggs, meat and products: meat, fresh, frozen and chilled	0207.10.100 0207.10.200 0207.10.900 0207.21.000 0207.22.000 0207.23.000	50	56.7[a]	Nil	2,799 mt.	1,451.22 mt.
Chicken, live, eggs, meat and products: fatty livers of geese, ducks	0207.31.000 0207.39.210 0207.39.290 0207.41.200 0207.50.000	60	63[a]	Nil	67 mt.	Nil
Chicken, live, eggs, meat and products: other poultry cuts, fresh, chilled	0207.39.11 0207.41.110	70	74.2[a]			
Chicken, live, eggs, meat and products: other poultry cuts, fresh, chilled	0207.39.119 0207.39.190 0207.41.190 0207.42.000 0207.43.000	80	85.0[a]	Nil	600 mt.	Nil
Liquid milk	0401.10.920 0401.20.920 0401.30.192	50	54.5[a]	Nil	600,000 litre	58,986.8 litre

Table AIII.2 (cont'd)

Product	Tariff lines listed in Schedule XXXIX	In-quota tariff bindings (%)	Out-of-quota tariff bindings (%)	Out-of-quota applied tariffs 1996 (%)	Quota limit 1995	In-quota imports 1995
Liquid cream	0401.30.292	5	54.5[a]	Nil	90,000 kg.	Nil
Birds' eggs, in shell, fresh, preserved or cooked	0407.00.111 0407.00.112 0407.00.119 0407.00.192 0407.00.199 0407.00.210 0407.00.220 0407.00.290 0407.00.910 0407.00.920 0407.00.191	50	55.8[a]	5	47,000,000 units	Nil
Hens eggs	0407.00.191	50%	55.8[a]	5%	47,000,000 units	1,994,000 units
Round cabbages	0704.90.110	10%	90	Nil	25,812 mt.	28,000 mt.
Coffee beans, unroasted	0901.11.000	5%	68.7[a]	Nil	9,873 mt.	15,271,98 mt.
Wheat or meslin flour	1101.00.000	5%	95[a]	Nil	13,452 mt.	2,529 mt.[b]
Cane or beet sugar, in sold form	1701.91.910 1701.91.920 1701.91.930 1701.01.940 1701.91.950 1701.99.100 1701.99.200 1701.99.300 1701.99.400 1701.99.500	5% + RM 220.46 per tonne	5% or RM 112.5 per tonne - whichever is the higher[a]	Nil	17,400 mt.	22 mt.[c]
Unmanufactured tobacco; tobacco refuse	2401.10.100 2401.10.900 2401.20.100 2401.20.900 2401.30.000	5% + RM 50.00 per kg.	5% + RM 150.00 per kg.[a]	5% + RM 50.000 per kg.	2,500,000	14,689,340 kg.[d]

a Special safeguard applies.
b 1,031,566 mt. of wheat grain was also imported.
c 10053,303 mt. of raw sugar was also imported.
d 5,035,775 kg. for local consumption and 9,653,565 kg. for re-export.

Source: Government of Malaysia (1995), Customs Duties Order 1996, Kuala Lumpur; WTO (1994), Uruguay Round of Multilateral Trade Negotiations, Volume 12, Schedule XXXIX - Malaysia, Geneva; and WTO document G/AG/N/MYS/4, 10 July 1996.

Table AIII.3
Import duty collection, 1995 and 1996

Item	1995 (RM'000)	1996 (RM'000)
Total	5,626,045	6,198,008
Petroleum products:		
Petrol	1,310,700	1,518,436
Diesel	232,231	180,539
Lubricating oil and grease	569	403
Fuel oil	1,008	289
LPG	106	0
Other petroleum products	1,629	1,4734
Motor vehicles and products:		
CBU cars	519,803	837,780
CKD cars	585,990	545,882
Mother vehicles	185,722	269,863
Vehicles spare parts	190,124	203,493
Tobacco, cigars and cigarettes	250,751	286,583
Machines and spare parts	174,774	244,696
Clothing and textiles	123,757	120,864
Steel	101,279	119,349
Liquor	114,316	114,056
Resin and plastic materials	100,585	105,239
Other construction materials	22,496	55,162
Audio electronic equipment	32,637	52,927
Furniture	21,159	41,269
Household electric appliances	21,616	38,999
Fresh fruits	30,026	36,459
Refrigerators	23,401	29,794
Glass and glassware	23,377	23,356
Passenger duties	12,139	13,390
Canned food	13,258	12,173
Tiles	8,005	7,748
Chemicals	2,754	7,499
Lock and keys	6,786	7,328
Beer	2,265	7,295
Televisions	4,718	6,514
Fertilizer	8,630	6,139
Musical instruments	2,562	2,986
Video players	876	1,641
Preserved and dried fruits	2,002	1,497
Medicines	2,947	980
Animal feed	84	0
Other	1,503,092	1,309,296

... Not available.

Source: Information provided by the Malaysian authorities.

Table AIII.4
Products subject to import licensing requirements, and licensing authority, 1997

Description	Ministry, Department, or Statutory Body issuing licence	Automatic/ non-automatic
Second Schedule (Conditional Prohibition)		
All goods originating from the Federal Republic of Yugoslavia (Serbia and Montenegro)	Ministry of International Trade and Industry	Non automatic
All goods imported from Israel	Ministry of International Trade and Industry	Non-automatic
Rice and paddy	Ministry of Agriculture	Non-automatic as rice imports are a state-trading monopoly (Chapter III(2)(iv)).
Sugar	Ministry of International Trade and Industry	Automatic for all except for cane or beet sugar in solid form for which licensing is non-automatic.
Natural barium sulphate	Ministry of International Trade and Industry	Automatic except for those used in the oil and gas industry.
Magnetic tape webs for video and sound recording	Ministry of International Trade and Industry	Automatic
Rough wood	Malaysian Timber Industry Board	Non-automatic
Safety helmets except as worn by motorcyclists	Ministry of International Trade and Industry	Automatic
Rice milling machinery	Ministry of Agriculture	Non-automatic
Automatic cassette or cartridge loaders and parts	Ministry of International Trade and Industry	Automatic
Single colour copying machines	Ministry of International Trade and Industry	Automatic
Apparatus or equipment to be attached to or connect to a public telecommunications network or system	Telecommunications Department	Automatic (Chapter IV(5)(iii))
Some radio communications apparatus	Telecommunications Department	Non-automatic (Chapter IV(5)(iii))
Motor cycles and passenger cars (including completely-knocked-down units)	Ministry of International Trade and Industry	Automatic for chasis and bodies of motor vehicles, non-automatic for motor vehicles for transport of persons, goods or materials.
High-speed duplicators and parts thereof (Malaysian HS tariff line 8520.90.90)	Ministry of International Trade and Industry	Automatic
Film or tapes for magnetic recording	Ministry of International Trade and Industry	Automatic
Saccharin and its salts	Ministry of Health	Non-automatic
Unmanufactured tobacco	Ministy of Primary Industries	Non-automatic
Road tractors for semi trailors (including comletely knocked-down units)	Ministry of International Trade and Industry	Automatic
Parabolic antennae and equipment, including parts thereof	Telecoms Department	Non-automatic (Chapter IV(5)(iii))
Acelfame K	Ministry of Health	Non-automatic
Substances covered by the Montreal Protocol	Ministry of International Trade and Industry	Non-automatic
Third Schedule (Conditional Prohibition - Protective measures)		
Liquid milk in any form	Ministry of International Trade and Industry	Automatic
Cabbage	Federal Agricultural Marketing Authority	Non-automatic
Coffee, not roasted	Federal Agricultural Marketing Authority	Non-automatic

Table AIII.4 (cont'd)

Description	Ministry, Department, or Statutory Body issuing licence	Automatic/ non-automatic
Cereal flours	Ministry of International Trade and Industry	Automatic
Portland cement imported into Sabah and Sarawak	Ministry of International Trade and Industry	Automatic
Activated clay and bleached earth	Ministry of International Trade and Industry	Non-automatic
Kain sarong batik	Ministry of International Trade and Industry	Non-automatic
Billets of iron or steel	Ministry of International Trade and Industry	Non-automatic
Bars and rods	Ministry of International Trade and Industry	Non-automatic
Some alloy steel and high carbon steel	Ministry of International Trade and Industry	Non-automatic
Non-electric stranded wire, cables, cordage, ropes, plainted bands and the like.	Ministry of International Trade and Industry	Non-automatic
Insulated electric wire, cable, bars and strip an the like	Ministry of International Trade and Industry	Non-automatic
Fourth Schedule (Conditional Prohibition)		
Domestic animals, live or dead or parts thereof	Director General of Veterinary Services	Non-automatic
Pest, includin any invertebrate animal, fungus, bacterium or other organism which is cabable of being injurious to plants	Director General of Agriculture for Peninsular Malaysia or the Director of Agriculture for Sabah and Sarawak	Non-automatic
Any invertebrate animal, fungus, bacterium or other organism	Director General of Agriculture for Peninsular Malaysia or the Director of Agriculture for Sabah and Sarawak and a phytosantiry certificate from the country of export	Non-automatic
Any animal or bird other than a domestic animal or fowl, whether dead or alive	The Wildllife Department and the Department of Veterinary Services	Non-automatic
Live fish	Director General of the Fisheries Department	Non-automatic
Milk and milk products	Director General of the Veterinary Services	Non-automatic
Lard, other pig fat, poultry fat, rendered or solvent extracted	Director General of the Veterinary Services	Non-automatic
Fats of bovine cattle, sheep or goats	Director General of the Veterinary Services	Non-automatic
Lard stearin, oleo stearin and tallow stearin and lard oil, oleo oil, and tallow oil	Director General of the Veterinary Services	Non-automatic
Other animal oils and fats	Director General of the Veterinary Services	Non-automatic
Sausages and the like of meat, meat offal or animal blood	Director General of the Veterinary Services	Non-automatic
Plants for consumption or processing	Director General of Agriculture for Peninsular Malaysia or the Director of Agriculture for Sabah and Sarawak and a phytosantiry certificate from the country of export	Non-automatic
Meat extracts and meat juices	Director General of the Veterinary Services	Non-automatic
Cigaretts	A labelling requirement is enforced by the Customs Department	Automatic
Soil in which plants may be grown, including rooting compost and growing media	Director General of Agriculture for Peninsular Malaysia or the Director of Agriculture for Sabah and Sarawak	Non-automatic
Fertilizers-of animal origin	Director General of the Veterinary Services	Non-automatic
Bullet-proof vests, steel helmets and other articles intended as protection against attack	Chief Police Officer	
All household and agricultural pesticides	Pesticides Board, Ministry of Agriculture	Non-automatic

Table AIII.4 (cont'd)

Description	Ministry, Department, or Statutory Body issuing licence	Automatic/ non-automatic
Some electrical aparatus	Director General of the Department of Electricity Supply Malaysia in the case of Peninsular Malaysia and Sabah or the equivalent counterpart in Sarawak conforming the standard of the equipment.	Non-automatic
Safety seat belts	Certificate from the standard organisation or recognized certificate agency	Automatic
Imitation arms including hand granades toy guns and pistols	Chief Policy Officer	Non-automatic
Toxic and/hazardous wastes	Director General of Environmental quality	Non-automatic
Coral alive or dead except those which have been processed and used as jewellery	Director General for Wild Life and National Parks	Non-automatic
Apparatus or equipment for the brewing of beer in homes	Director-General of Customs	Automatic
Poultry	Director General of Veterinary Services	Non-automatic
Meat and offals, fresh or preserved	Director General of Veterinary Services	Non-automatic
Birds nests; eggs of poultry, birds and testudinate, excluding turtle eggs	Director General of Veterinary Services	Non-automatic
Acetyl bromide	Ministy of Health	Non-automatic
Acetic anhydride	Ministry of Health	Non-automatic
Fireworks, including fire crackers	Police Department	Non-automatic
Explosives	Police Department	Non-automatic
Multicolour photocopying machines and toner for these machines	Ministry of International Trade and Industry	Non-automatic
Equipment able to produce a sound or resembline the sound of a siren	Police Department	Non-automatic
Arms and amunition	Police Department	Non-automatic
Shotgun cartridges	Ministry of International Trade and Industry	Non-automatic
Coin or disc operated amusement machines, including video machines	Ministry of Finance	Non-automatic

Source: Customs (Prohibition of Imports) Order 1988 (P.U.(A)408/1987).

Table AIII.5
Products subject to export licensing requirements, and licensing authority, 1997

Description	Ministry, Department, or Statutory Body issuing licence
Second Schedule	
Domestic animals, alive or dead	Veterinary Department
Poultry, live or dead or any part thereof	Veterinary Department
Eggs of poultry, birds and testudinata, excluding turtle eggs	Veterinary Department
Cockles, whether in shell or not	Fisheries Department
Live prawns/shrimps	Fisheries Department
Live fish	Fisheries Department
Milk and milk products	Ministrie of International Trade and Industry
Some plants	Agricultural Department
Rubber budwood and seeds	Ministry of Primary Industries
Oil palm living tissues	Ministry of Primary Industries
Pineapple slips and pineapple, fresh chilled and preserved by freezing	Lembaga perusahaan Nenas Tanah Melayu
Vegetables in excess of three kg. per consignment	Federal Agricultural Marketing Authority
Rice and paddy	Ministry of Agriculture
Oils and fats of palm oil excluding margerine, initation ghee shortening and palm kernel oil	Ministry of International Trade and Industry
Cocoa beans	Malaysian Cocoa Board
Minerals and ores of all kinds	Ministry of International Trade and Industry
Cement clincker	Ministry of International Trade and Industry
Portland cement	Ministry of International Trade and Industry
Waste and scrap of iron, steel and zinc and other metals	Ministry of International Trade and Industry
Tin slag and hardhead of tin	Ministry of Primary Industry
Zinc dust, powders and flakes	Ministry of International Trade and Industry
Naphtha	Ministry of International Trade and Industry
Acetic anhydride and acethyl chloride	Ministry of Health
Cinematograph film exposed but not developed	Ministry of International Trade and Industry
Roofing tiles	Ministry of International Trade and Industry
Logs and some wood products	Malaysian Timber Industry Board
Waste paper and paperboard	Ministry of International Trade and Industry
Textile and clothing exports to the EU, the United States, Canada, Norway and Turkey	Ministry of International Trade and Industry
Military clothing and equipment	Ministry of International Trade and Industry
Bricks	Ministry of International Trade and Industry
Unwrought tin, unalloyed	Ministry of International Trade and Industry
Sugar	Ministry of International Trade and Industry
Billets of iron or non-alloy steel	Ministry of International Trade and Industry
Bars and rods of iron or steel	Ministry of International Trade and Industry
Star fruit exports to some countries	Federal Agricultural Marketing Authority
Carica papaya L. Bar Eksotika	Federal Agricultural Marketing Authority
All exports to Israel	Ministry of International Trade and Industry
Some exports to Lybia	Ministry of International Trade and Industry
Ephedrine and pseudoephedrine as well as their salts	Ministry of Health

Table AIII.5 (cont'd)

Description	Ministry, Department, or Statutory Body issuing licence
Third Schedule	
Any animal or bird other than a domestic animal or domestic fowl, whether dead or alive	Widllife Department and the Department of Veterinary Services
Skins and other parts of birds	Widllife Department and the Department of Veterinary Services
Lard, other pig fat poultry fat, rendered or solvent extracted	Director General of Veterinary Servivces
Fats of bovine cattle, sheep or goats	Director General of Veterinary Servivces
Lard stearin and oil, olea stearin and oil as well as tallow stearin and oil	Director General of Veterinary Servivces
Oither animal fats and oils	Director General of Veterinary Servivces
Sausage and the like of meat, meat offal and animal blood	Director General of Veterinary Servivces
Meat extracts and meat juices	Director General of Veterinary Servivces
Fertilizers of animal origin	Director General of Veterinary Servivces
Arms and ammunition as defined in the Arms Act 1960	Police Department
Antiquities	Director General of the Museum Department, the Director of the Sabah Museum and the Director of the Sarawak Museum
Collections and collectors' pieces of zoological, botanical, mineralogical, anatomical, historical, archeological, paleontological, ethnographic or numismatic interest	Director General of the Museum Department, the Director of the Sabah Museum and the Director of the Sarawak Museum
Toxic and/or hazardous wastes	Director General of Environmental Quality, Malaysia
Coral alive or dead except those which have been processed and used as jewellery	Director General for Wildlife and National Parks
Wheat or meslin flour of more than 2 kg. per person	Controller of Supplies, Ministry of Domestic Trade and Consumer Affairs
Certain pesticides	Pesticides Board, Ministry of Agriculture

Source: Customs (Prohibition of Imports) Order 1988 (P.U.(A)408/1987).

Table AIII.6
Exports covered under the credit insurance provided by MECIB, 1992-96
(RM million unless otherwise stated)

	1992	1993	1994	1995	1996
Comprehensive policies					
New policies	107	91	53	50	39
New policies (value)	823	485	390	343	278
Policies in force	353	249	192	196	199
Face value insured	2,820	1,701	1,099	946	1,175
Exports insured	507	489	576	699	372
Premium income RM	1.47	1.46	1.48	1.48	1.49
Average rate (sen per RM 100)	0.29	0.3	0.26	0.21	0.4
Exports insured, by region					
Western Europe	125	117	109	88	77
Eastern Europe	30	3	1	2	2
Asean countries	117	88	93	61	72
Other countries in Asia	88	97	196	359	110
Middle East countries	46	43	53	44	42
Australia and New Zealand	36	42	34	18	20
North American countries	42	73	73	58	43
Central and South America	2	4	5	4	1
Africa	19	20	11	85	5
Oceania	2	2	1		
Total	**507**	**489**	**575**	**699**	**372**
Exports insured, by product					
Food	50	43	41	34	64
Beverages and tobacco		1		1	
Crude materials, inedibles, etc.	42	17	18	24	65
Mineral fuel, lubricants, etc.					
Animal and vegetable oils, fats and waxes	35	35	36	30	4
Chemical and related products	8	12	13	20	26
Manufactured goods by materials	117	113	136	156	102
Machinery and transport equipment	118	78	49	224	18
Miscellaneous manufactured articles	136	189	283	209	93
Commodities and transactions n.c.e.	1	1		1	
Repairing ship services					
Total	**507**	**489**	**576**	**699**	**372**

Source: Data provided by the Malaysian authorities.

Table AIII.7
Malaysia's exports receiving GSP treatment, by product category and trading partner, 1993-96
(RM million)

	1993	1994	1995	1996
By product category[a]	19,124	23,127	23,138	24,728
Electrical and electronic products	6,072	7,289	6,119	4,995
Machinery and transport equipment	1,857	2,491	3,392	5,624
Palm oil and related products	1,518	2,069	2,401	2,933
Rubber goods	1,285	1,603	1,686	1,322
Furniture and parts	783	1,158	1,035	1,038
Chemical products	445	731	825	1,521
Metal products	579	772	660	528
Jewellery and precious stones	109	124	660	137
Wood manufactures	634	744	629	595
Plastic products	366	538	593	562
Others	5,477	5,608	5,139	5,472
By trading partner				
European Union	9,494	11,562	12,560	17,074
Austria	71	61	62	73
Belgium	402	722	471	512
Denmark	165	244	262	301
Finland	25	43	37	78
France	811	1,049	990	1,561
Germany	2,252	2,539	2,669	2,879
Greece	65	76	113	134
Ireland	144	148	198	333
Italy	1,268	729	922	1,122
Luxembourg	1	1	1	1
Netherlands	1,431	1,879	2,369	4,854
Portugal	63	71	79	106
Spain	249	322	486	481
Sweden	139	189	201	376
United Kingdom	2,408	3,491	3,701	4,263
Norway	46	45	66	64
Switzerland	84	91	112	105
Bulgaria	0	0	0	2
Czech and Slovak Republics	1	3	16	24
Hungary	18	34	36	78
Poland	0	1	0.4	0
Russia	34	105	142	84
Australia	58	81		21
Canada	477	541	511	216
Japan	2,486	3,050	3,350	3,787
New Zealand	18	15	13.0	5
United States	5,522	5,921	3,979	1,085

a Data include Malaysia's exports which receive preferential treatment under ASEAN Cumulative Rules of Origin (Chapter II(3)(iii)).

Source: Ministry of International Trade and Industry (1996), Malaysia International Trade and Industry Report 1995/96, Kuala Lumpur and data provided by the Malaysian authorities.

Table AIII.8
Investments in the manufacturing sector by tax incentive category, 1990-96

	1990	1991	1992	1993	1994[a]	1995	1996
Total number of applications to MIDA	1,264	877	861	856	1,018	1,116	914
Number of projects approved by MIDA	906	973	874	686	870	898	782
Pioneer status (per cent of total approved projects)	48.6	41.5	19.8	21.4	22.5	20.5	18.7
Investment tax allowance (per cent of total approved projects)	9.3	5.1	3.9	6.9	8.2	7.3	9.0
Without tax incentives (per cent of total approved projects)	42.2	53.3	76.3	71.7	69.0	72.2	72.4
Value of total applications to MIDA (RM million)	48,797	31,581	22,631	18,889	24,363	26,870	41,721
Value of total projects approved by MIDA (RM million)	28,168	30,818	27,775	13,753	22,951	20,869	34,258
Pioneer status (per cent of total approved projects)	79.5	54.6	14.1	13.6	32.8	24.9	30.8
Investment tax allowance (per cent of total approved projects)	11.5	17.8	28.5	39.0	25.8	29.0	26.9
Without tax incentives (per cent of total approved projects)	9.0	27.6	57.4	47.5	41.5	46.1	42.3
Investment per person employed (RM '000)							
Projects with pioneer status	214.4	193.4	193.4	93.5	164.2	132.4	441.9
Projects with investment tax allowance	143.7	285.3	808.1	607.1	503.2	541.5	850.3
Projects without tax incentives	59.2	116.3	220.3	99.2	120.9	143.2	258.2

a In 1994, three projects with a total capital investment of RM 2 million and a potential employment of 200 people, were granted an industrial adjustment allowance.

Source: Calculated from Bank Negara Malaysia (1996), Quarterly Bulletin, Vol. 11, No. 1, First Quarter, p. P-100.

Table AIII.9
Actions taken under the Copyright Act 1987, 1987-97

Year	Work	Complaints received No.	Actions taken No.	Actions resulting in cases No.	Value of goods seized (RM'000)		Concluded cases	
							No.	(RM'000)
1987	Film	68	68	39	125.5	)		
	Music	9	9	8	806.8	)		
	Literary works	0	0	0	0	)	0	0
	Artistic works	0	0	0	0	)		
	Computer	0	0	0	0	)		
	Total	77	77	47	932.2			
1988	Film	667	667	337	830.8	)		
	Music	247	247	151	220.0	)		
	Literary works	12	12	5	79.1	)	1	270.0
	Artistic works	11	11	10	622.0	)		
	Computer	0	0	0	0	)		
	Total	937	937	503	1,751.9		1	270.0
1989	Film	689	689	381	565.6	)		
	Music	137	137	85	744.2	)		
	Literary works	5	5	4	82.3	)	55	73.8
	Artistic works	5	5	5	2.1	)		
	Computer	8	8	6	2.5	)		
	Total	844	844	481	1,396.8		55	73.8
1990	Film	459	459	362	419.4	)		
	Music	111	111	68	496.3	)		
	Literary works	17	17	11	35.8	)	91	72.0
	Artistic works	12	12	11	63.3	)		
	Computer	0	0	0	0	)		
	Total	599	599	452	1,014.9		91.	72.0
1991	Film	366	366	322	720.6	)		
	Music	52	52	47	643.8	)		
	Literary works	5	5	5	45.3	)	100	128.6
	Artistic works	11	11	10	26.3	)		
	Computer	5	5	5	548.0	)		
	Total	439	439	389	1,984.1		100	128.6
1992	Film	446	446	442	2,035.0	)		
	Music	25	25	25	482.9	)		
	Literary works	3	3	3	26.1	)	90	63.1
	Artistic works	3	3	3	7.1	)		
	Computer	2	2	2	50.0	)		
	Total	479	479	475	2,601.1		90	63.1
1993	Film	844	844	831	4,516.1	)		
	Music	80	80	77	859.0	)		
	Literary works	20	20	20	277.4	)	98	56.0
	Artistic works	1	1	1	115.4	)		
	Computer	3	3	3	35.3	)		
	Total	748	748	732	5,688.0	98	56.0	

Table AIII.9 (cont'd)

Year	Work	Complaints received No.	Actions taken No.	Actions resulting in cases No.	Value of goods seized (RM'000)		Concluded cases	
							No.	(RM'000)
1994	Film	505	505	450	1,071.2	)		
	Music	115	115	108	524.8	)		
	Literary works	12	12	10	8.9	)	145	112.8
	Artistic works	17	17	17	172.6	)		
	Computer	11	11	8	133.2	)		
	Total	660	660	633	1,910.8	14 5	112.8	
1995	Film	417	417	417	2,045.8	)		
	Music	49	49	49	356.7	)		
	Literary works	5	5	5	570.0	)	519	240.6
	Artistic works	10	10	10	26.1	)		
	Computer	10	10	10	95.3	)		
	Total	491	491	491	2,524.6		519	240.6
1996	Film	417	414	414	1,747.2	)		
	Music	16	16	16	268.9	)		
	Literary works	16	16	16	29.8	)	279	506.0
	Artistic works	17	17	17	65.7	)		
	Computer	4	4	4	24.2	)		
	Total	470	467	467	2,185.7		279	506.0
1997								
1.1 to	Film	48	48	48	111.0	)		
5.3	Music	0	0	0	0	)		
	Literary works	0	0	0	0	)	42	26.0
	Artistic works	2	2	2	4.9	)		
	Computer	8	8	8	31.4	)		
	Total	58	58	58	117.8		42	26.1
Total		5,002	5,799	4,728	22,087.8		1,878	1,279.1

Source: Data provided by the Malaysian authorities.

Table AIII.10
Country of origin of owners of patent and utility innovation granted, October 1986 - December 1996

Country	1986-90	1991	1992	1993	1994	1995	1996	Total
Australia	19	44	57	41	40	43	52	296
Austria	0	2	5	6	3	3	2	21
Barbados	0	0	0	0	0	0	1	1
Belgium	1	5	8	11	14	17	9	65
Bermuda	1	0	0	0	0	0	0	1
Brazil	0	0	0	0	0	0	1	1
Canada	6	19	12	6	15	14	12	84
China	0	0	0	0	2	2	0	4
Chinese Taipei	6	2	6	10	26	37	68	15
Denmark	1	2	21	3	6	3	2	38
Finland	1	0	1	1	3	1	7	14
France	13	31	29	46	54	82	53	308
Germany	21	47	58	52	83	108	84	453
Greece	0	0	0	0	0	0	1	1
Hong Kong	2	1	1	1	4	1	5	15
Hungary	0	3	2	3	2	5	2	17
India	0	0	4	1	1	2	2	10
Ireland	0	0	0	0	0	1	1	2
Italy	2	6	12	20	33	22	18	113
Japan	173	290	202	293	348	330	309	1,945
Korea, Rep. of	0	2	4	3	48	32	44	133
Liberia	0	0	1	0	0	0	0	1
Liechtenstein	0	4	0	0	0	0	0	4
Luxembourg	0	0	0	1	0	1	0	2
Malaysia	31	29	10	14	21	29	78	212
Mexico	1	0	1	1	3	4	0	10
Netherlands	16	24	24	27	48	52	62	253
Neth. Antilles	0	3	1	3	7	1	0	15
New Zealand	4	4	6	2	6	5	4	31
Norway	4	3	4	3	9	10	15	48
Panama	1	0	2	0	0	0	0	3
Philippine	0	0	0	0	0	1	1	1
Russia	0	0	0	0	4	1	0	5
Singapore	2	2	10	9	4	3	10	40
South Africa	0	0	0	2	0	1	3	6
Spain	0	2	0	2	3	2	1	10
Sri Lanka	0	0	0	0	0	1	0	1
Sweden	11	15	23	21	19	17	33	139
Switzerland	34	55	36	53	39	59	59	335
Thailand	0	1	2	0	0	0	1	4
United Kingdom	74	99	133	120	147	157	138	868
United States	232	355	459	529	637	707	717	3,636
Venezuela	0	0	0	0	0	0	1	1
Total	656	1,050	1,134	1,284	1,629	1,753	1,796	9,302

Source: Data provided by the Malaysian authorities.

Table AIII.11
Trade mark registrations, 1992-96

Country	Year					Total	(%)
	1992	1993	1994	1995	1996		
Argentina	0	0	1	0	0	1	0.004
Australia	41	46	111	194	100	492	1.810
Austria	2	6	24	33	8	73	0.269
Bahamas	1	5	15	28	2	51	0.188
Bahrain	0	0	0	0	1	1	0.004
Barbados	0	0	4	3	2	9	0.033
Belgium	4	17	42	36	15	114	0.419
Bermuda	2	3	11	8	3	27	0.099
Brazil	0	2	7	12	2	23	0.085
British Virgin Islands	0	0	5	17	6	28	0.103
British West Indies	0	3	7	2	1	13	0.048
Brunei D.S.	1	0	1	5	5	12	0.044
Canada	11	9	21	56	28	125	0.460
Canary Islands	0	1	0	0	0	1	0.004
Cayman Islands	0	0	4	2	0	6	0.022
Channel Islands	0	0	2	3	4	9	0.033
Chile	0	3	0	1	0	4	0.015
China	9	50	77	112	42	280	1.067
Chinese Taipei	15	27	120	186	88	436	1.604
Cuba	0	0	1	0	0	1	0.004
Czechoslovakia	2	0	2	2	1	7	0.026
Denmark	15	24	62	72	19	192	0.706
Finland	5	7	27	24	7	70	0.258
France	126	174	527	490	197	1,514	5,570
Germany	95	208	582	468	181	1,534	5.644
Gibraltar	1	0	0	0	0	1	0.004
Greece	1	4	0	2	0	7	0.026
Hong Kong	36	36	84	186	79	421	1.549
Hungary	8	9	25	18	4	64	0.235
Iceland	0	0	0	2	0	2	0.007
India	1	3	17	36	12	69	0.254
Indonesia	2	7	12	22	32	75	0.276
Ireland	2	3	5	7	6	23	0.085
Israel	0	0	0	0	0	0	0.000
Italy	43	65	262	230	108	708	2.605
Japan	215	346	796	976	409	2,742	10.089
Korea (Democratic Republic of)	1	6	15	37	31	90	0.331
Korea (Republic of)	1	21	56	54	12	144	0.530
Kuwait	0	1	5	0	0	6	0.022
Liechtenstein	4	28	9	13	10	64	0.235
Luxembourg	0	0	6	9	3	18	0.066
Malaysia	342	766	1,789	2,399	1,258	6,554	24.114
Mexico	0	2	2	8	3	15	0.055

Table AIII.11 (cont'd)

Country	Year 1992	1993	1994	1995	1996	Total	(%)
Montserrat	0	0	0	0	2	2	0.007
Netherlands	46	95	180	152	67	540	1.987
New Zealand	9	10	35	43	15	112	0.412
Norway	2	0	11	9	13	35	0.129
Panama	2	5	5	4	6	22	0.081
Philippines	0	0	6	11	1	18	0.066
Puerto Rico	0	0	0	0	1	1	0.004
Russia	0	0	2	3	1	6	0.022
Samoa	0	0	0	1	0	1	0.004
Saudi Arabia	1	0	3	3	2	9	0.033
Singapore	77	147	288	448	226	1,186	4.364
Slovenia	0	0	9	0	0	9	0.033
South Africa	0	3	3	5	6	17	0.063
Spain	4	4	20	26	17	71	0.261
Sri Lanka	0	0	1	1	5	7	0.026
Sweden	6	31	80	81	36	234	0.861
Switzerland	64	150	347	277	139	977	3,595
Syria	0	0	0	1	0	1	0.004
Thailand	7	20	22	44	24	117	0.430
Turkey	0	0	1	0	0	1	0.004
United Arab Emirates	0	1	0	0	1	2	0.007
United Kingdom	212	340	680	607	251	2,080	7.653
United States	400	719	1,775	1,945	845	5,684	20.913
Venezuela	1	0	0	0	0	1	0.004
Yugoslavia	0	0	9	0	1	10	0.037
Total	1,817	3,397	8,213	9,414	4,338	27,179	100

Source: Information provided by the Malaysian authorities.

Table AIII.12
Actions taken under the Trade Descriptions Act 1972, 1973-97

Year	Number of cases	Value of goods seized (RM'000)	Fine (RM'000)
1973	110	51.3	42.1
1974	25	30.9	5.5
1975	64	60.1	38.1
1976	68	52.0	29.4
1977	54	64.2	41.9
1978	71	83.6	43.6
1979	151	361.3	97.3
1980	144	16,528.0	77.7
1981	300	2,045.2	156.6
1982	283	455.0	256.2
1983	157	1,255.8	171.4
1984	187	701.3	139.5
1985	192	246.8	211.4
1986	257	384.9	266.7
1987	586	654.3	289.9
1988	924	1,057.4	520.8
1989	736	951.9	561.2
1990	608	918.2	715.9
1991	744	6,854.6	528.6
1992	866	3.987.0	384.1
1993	1,117	3,808.6	507.2
1994	737	2,474.0	498.6
1995	1,218	2,450.5	145.4
1996	1,189	7,805.8	170.3
1997 (until 8.3.97)	279	4,522.7	31.0
Total	11,067	57,805.4	5,930,4

Source: Data provided by the Malaysian authorities.

Table AIII.13
Malaysia's notifications of draft Malaysian standards in accordance with Article 10.6 of the Agreement on Technical Barriers to Trade, January 1995 - March 1997

Notification	Product covered	Objective and rationale
G/TBT/Notif.95.195[a]	Cigarettes	Protection of human health
G/TBT/Notif.96.61	Taps	Safety
G/TBT/Notif.96.92	Meters for cold portable water	Consumer protection
G/TBT/Notif.96.107	Plastic containers	Safety
G/TBT/Notif.96.108	Plastic containers	Safety
G/TBT/Notif.96.168	Bituminous materials	Safety
G/TBT/Notif.96.169	Rubber threads	Consumer protection and safety
G/TBT/Notif.96.170	Bituminous materials	Safety
G/TBT/Notif.96.211	Helmets	Safety
G/TBT/Notif.96.271	Limestone, quicklime and hydrated lime	Not notified
G/TBT/Notif.96.272	Pipes and fittings	Not notified
G/TBT/Notif.96.273	Pipes and fittings	Not notified
G/TBT/Notif.96.274	Pipes and fittings	Not notified
G/TBT/Notif.96.275	Compressed natural gas system	Not notified
G/TBT/Notif.96.276	Bitumens	Not notified
G/TBT/Notif.96.277	White refined sugar	Not notified
G/TBT/Notif.96.278	Pipes and fittings	Not notified
G/TBT/Notif.96.279	White refined sugar	Not notified
G/TBT/Notif.96.280	Palm oil seed	Not notified
G/TBT/Notif.96.281	Bitumens	Not notified
G/TBT/Notif.97.324	Unplasticized PVC pipes	Quality
G/TBT/Notif.97.325	Unplasticized PVC pipes	Quality
G/TBT/Notif.97.326	Unplasticized PVC pipes	Quality
G/TBT/Notif.97.327	Unplasticized PVC pipes	Quality
G/TBT/Notif.97.328	Unplasticized PVC pipes	Quality
G/TBT/Notif.97.329	Unplasticized PVC pipes	Quality
G/TBT/Notif.97.330	Unplasticized PVC pipes	Quality

a This notification concerned a labelling requirement and not a draft Malaysian standard.

Source: WTO documents.

Table AIII.14
Non-financial public enterprises (NFPEs)[a], 1996

Company	Incorporated under the Companies Act or Statutory body
Cement Industries (Sabah) Sendirian Berhad	Incorporated
Felda Oil Products Sendirian Berhad	Incorporated
Golden Hope Plantation Berhad[b]	Incorporated
Keretapi Tanah Melayu Berhad (KTMB)	Incorporated
Kontena Nasional Sendirian Berhad	Incorporated
Kumpulan Guthrie Berhad[b]	Incorporated
Lembaga Letrik Sabah	Statutory body
Lembaga Pelabuhan Kuching	Statutory body
Lembaga Pelabuhan Sabah	Statutory body
Malaysia LNG Sendirian Berhad	Incorporated
Malaysian Rubber Development Corporation Berhad (MARDEC)	Incorporated
Malaysian International Shipping Corporation Berhad (MISC)[b]	Incorporated
Penang Port Commission	Statutory body
Perbadanan Kilang FELDA	Incorporated
Perbadanan Niaga FELDA	Incorporated
Perbadanan Pengangkutan dan Perusahaan Tabung Haji	Statutory body
Pernas Edar Sendirian Berhad	Incorporated
Pernas International Hotels and Properties Berhad[b]	Incorporated
Pernec Corporations Sendirian Berhad	Incorporated
Pernas Trading Sendirian Berhad	Incorporated
Perwaja Terengganu Sendirian Berhad	Incorporated
Petroliam Nasional Berhad (PETRONAS)	Incorporated
Petronas Carigali Sendirian Berhad	Incorporated
Petronas Dagangan Berhad[b]	Incorporated
Petronas Penapisan Sendirian Berhad	Incorporated
Sabah Energy Corporation	Statutory body
Sarawak Electricity Supply Corporation (SESCo)	Statutory body
Sebor (Sabah) Sendirian Berhad	Incorporated
Telekom Malaysia Berhad[b]	Incorporated
Tenega Nasional Berhad[b]	Incorporated
The Road Railer Services Berhad	Incorporated
Urban Development Authority (UDA)	Statutory body

a From the original 56 entities, the current list excludes 24 agencies which were privatized/sold during the 1988-95 period. In 1991, Fima Metal Box, Kedah Cement, Kumpulan Fima, MSE, PNSL, Pinang Shipbuilding and Sabah Shipyard were sold. In 1992, L.P. Keland and Sabah Gas Industries were sold. In 1992, L.P. Bintulu, L.P. Johor and Sabah Forest were sold. In 1994, Mas and Perak Hanjoong were sold. In 1995, Antara Steel Mill, Hicom and Proton were sold. In 1996, 31 NFPEs; Road Railers were sold.

b These companies were listed on the Kuala Lumpur Stock Exchange (KLSE) and the Government is still the majority shareholder.

Source: Information provided by the Malaysian authhorities.

Table AIV.1
Malaysia's most-favoured-nation tariff rates, by ISIC category, 1997

ISIC Code	Description	Number of lines	MFN rate (per cent)[a] 1977			Share of lines subjet to import licensing 1995 (%)	Imports 1995 (US$ million)
			Simple average	Range	Standard deviation		
	Total						
1	Agriculture, hunting, forestry & fishing	1,741	2.9	0-907.4	34.1	78.0	1,952.5
11	Agriculture & hunting	367	11.9	0-907.4	73.3	18.2	1,708.6
12	Forestry & logging	1,298	0.1	0-30.0	1.7	97.1	63.3
121	Forestry	30	4.6	0-30.0	9.3	0.0	24.6
122	Logging	1,268	0.0	0-20.0	0.6	100.0	38.6
13	Fishing	76	6.1	0-20.0	9.2	3.2	180.7
1301	Ocean & coastal fishing	57	6.0	0-20.0	9.2	4.3	169.4
1302	Fishing n.e.c.	19	6.3	0-20.0	9.6	0.0	11.3
2	Mining & quarrying	125	1.0	0-30.0	3.9	10.8	915.2
21	Coal mining	4	0.0	0-0.0	0.0	0.0	84.4
22	Crude petroleum & natural gas production	3	1.7	0-5.0	2.9	0.0	151.7
23	Metal ore mining	36	0.1	0-5.0	0.8	0.0	290.2
2301	Mining of iron ores	4	0.0	0-0.0	0.0	0.0	91.9
2302	Non-ferrous ore mining	32	0.2	0-5.0	0.9	0.0	198.4
29	Other mining	82	1.4	0-30.0	4.7	16.1	388.8
2901	Mining of feldspar	37	2.4	0-30.0	6.0	2.7	76.8
2902	Mining of fertiliser & chemical minerals	13	0.0	0-0.0	0.0	35.7	46.6
2903	Salt mining	1	0.0	0-0.0	0.0	0.0	15.1
2909	Mining & quarrying, n.e.s.	31	0.8	0-20.0	3.7	24.2	250.3
3	Manufacturing excl. food beverage & tobacco	7,592	10.5	0-289.8	16.5	6.3	70,949.6
31	Manufacture of food, beverages & tobacco	850	24.0	0-1,772.4	125.5	15.5	2,280.6
311	Food manufacturing	704	6.2	0-58.2	8.8	15.6	1,698.9
3111	Meat products	114	2.0	0-25.0	5.7	55.2	164.0
3112	Dairy products	40	7.3	0-25.0	9.6	40.5	376.0
3113	Fruit & vegetable canning	197	8.9	0-58.2	10.1	0.0	157.3
3114	Fish products	100	10.4	0-20.0	9.4	0.0	128.8
3115	Manufacture of oil & fats (veg. & animal)	151	2.2	0-30.4	3.9	2.8	270.5
3116	Grain mill products	52	2.8	0-20.0	5.6	32.1	236.7
3117	Manufacture of bakery products	22	13.4	0-20.0	8.4	0.0	22.3
3118	Sugar products	13	0.0	0-0.0	0.0	76.9	309.1
3119	Cocoa & chocolate confectionery	15	17.3	0-30.0	9.4	0.0	34.2

Table AIV.1 (cont'd)

ISIC Code	Description	Number of lines	MFN rate (per cent)[a] 1977			Share of lines subjet to import licensing 1995 (%)	Imports 1995 (US$ million)
			Simple average	Range	Standard deviation		
312	Other food n.e.s. & prepared animal feeds	95	4.7	0-25.0	7.9	14.5	402.0
3121	Other food products, n.e.s.	88	5.1	0-25.0	8.1	16.1	316.9
3122	Manufacture of prepared animal feeds	7	0.0	0-0.0	0.0	7.1	85.2
313	Beverages industries	37	280.4	0-1,735.6	414.1	12.5	116.2
3132	Manufacture of wines	13	460.7	0-1,735.6	620.7	0.0	6.0
3133	Manufacture of malt liquors & malt	4	96.1	0-230.1	115.2	0.0	15.5
3134	Soft drinks & mineral waters	6	20.8	0-35.0	15.0	20.0	4.7
314	Tobacco products	14	375.9	5-1,772.4	457.1	28.0	63.5
32	Textile, wearing apparel & leather industries	1,208	17.4	0-288.5	12.7	2.6	1,983.8
321	Manufacture of textile	945	17.5	0-288.5	13.4	0.1	1,674.0
3211	Textile spinn., weaving & finishing	581	15.5	0-77.1	10.1	0.1	1,182.3
3212	Made-up plastics textile goods	110	25.5	0-30.0	6.8	0.0	49.1
3213	Knitted & crocheted fabrics	132	20.0	20-20.0	0.0	0.0	271.1
3214	Carpets & rugs	43	16.6	0-35.0	15.1	0.0	28.1
3215	Cordage, rope, etc.	16	3.6	0-5.0	2.3	0.0	10.6
3219	Textiles, n.e.c.	63	21.0	0-288.5	36.2	0.0	132.7
322	Manufacture of wearing apparel, except footwear	151	19.1	0-30.0	6.3	22.6	105.3
323	Leather products & fur products except footwear	77	9.1	0-25.0	11.0	0.0	172.6
3231	Tanning & dressing of leather	24	0.4	0-10.0	2.0	0.0	138.5
3232	Fur dressing & dying	10	0.0	0-0.0	0.0	0.0	2.9
3233	Leather products except footwear	43	16.0	0-25.0	10.3	0.0	31.2
324	Footwear (ex. rubber & plastic)	35	23.9	2-30.0	8.5	0.0	31.9
33	Wood & wooden products including furniture	847	4.1	0-40.0	9.2	0.0	218.0
331	Wood & wooden products excluding furniture	806	3.3	0-40.0	8.3	0.0	144.9
3311	Sawmills & woodmills	758	2.6	0-40.0	7.7	0.0	131.3
3312	Wooden case containers & cane ware	14	17.9	5-25.0	6.4	0.0	5.5
3319	Wood & cork products	34	13.4	0-30.0	9.6	0.0	8.1
332	Furniture & fixtures (non mainly in metal)	41	20.6	0-30.0	11.0	0.0	73.1
34	Paper & paper products; printing & publishing	247	10.9	0-30.0	10.5	1.8	1,455.2
341	Paper & paper products	201	10.7	0-30.0	10.6	2.2	1,300.7
3411	Pulp, paper & paperboard	114	8.5	0-30.0	10.3	2.2	886.1
3412	Containers, paperboxes, paperboard	10	19.0	5-25.0	8.4	20.0	39.1
3419	Articles, n.e.s. (stationery)	77	12.9	0-30.0	10.2	0.0	375.5
342	Printing & publishing	46	11.6	0-30.0	10.3	0.0	154.5

Table AIV.1 (cont'd)

ISIC Code	Description	Number of lines	MFN rate (per cent)[a] 1977			Share of lines subjet to import licensing 1995 (%)	Imports 1995 (US$ million)
			Simple average	Range	Standard deviation		
35	Chemicals & chemical, petrol. coal plast. & rub. prod.	1,844	7.5	0-190.5	13.2	6.0	6,803.8
351	Industrial chemicals	1,035	6.7	0-53.3	10.9	4.8	4,580.3
3511	Basic industrial chemicals	587	1.2	0-53.3	4.8	2.9	2,227.7
3512	Fertilizers & pesticides	74	5.4	0-28.3	7.4	34.3	406.8
3513	Synthetic resins, plastic materials except glass	374	15.4	0-30.0	12.5	3.4	1,945.8
352	Other chemical products	564	3.6	0-164.3	10.4	9.8	1,389.9
3521	Paints, varnishes & lacquers	27	9.4	0-15.0	6.6	17.4	153.9
3522	Drugs & medicines	254	1.0	0-164.3	11.0	8.4	356.3
3523	Soaps	81	5.8	0-30.0	9.7	0.0	284.8
3529	Other chemicals, n.e.s.	202	5.2	0-50.0	9.5	13.5	594.8
353	Petroleum refineries	37	13.8	0-115.0	29.1	7.7	140.5
354	Petroleum & coal products	18	5.3	0-25.0	9.3	0.0	24.8
355	Rubber products	148	23.9	0-190.5	17.8	0.0	192.1
3551	Tyre & tube industries	51	23.0	5-30.0	11.2	0.0	48.3
3559	Rubber products, n.e.s.	97	24.4	0-190.5	20.5	0.0	143.7
356	Plastic products, n.e.s.	42	17.4	0-30.0	13.3	10.3	476.3
36	Non-metal mineral except petrol. & coal products	208	16.7	0-60.0	14.0	0.9	972.7
361	Pottery & china	21	17.1	0-30.0	11.1	0.0	213.1
362	Glass & glass products	83	18.5	0-50.00	13.7	0.0	364.6
369	Other non-metallic mineral products	104	15.1	0-60.0	14.6	1.8	395.0
3691	Structural clay products	21	23.0	0-60.0	21.2	0.0	94.5
3692	Cement, lime & plaster	9	14.4	0-25.0	12.6	22.2	153.3
3699	Non-metal. mineral products	74	12.9	0-30.0	11.7	0.0	147.2
37	Basic metal industries	680	5.7	0-37.7	9.6	8.9	7,034.3
371	Iron & steel industries	459	7.0	0-37.7	10.0	10.8	3,338.6
372	Non-ferrous metal basic industries	221	3.0	0-30.0	8.1	5.1	3,695.7
38	Fabricated metal products, machinery & equip.	2,245	12.4	0-289.8	22.3	9.3	49,342.9
381	Fabricated metal products, except machinery & equip.	353	15.0	0-30.0	11.2	2.1	933.4
3811	Manufacture of cutlery & hardware	116	14.1	0-25.0	10.2	0.0	202.0
3812	Metal furnitures & fixtures	22	12.8	0-30.0	12.5	0.0	31.3
3813	Structural metal products	38	15.9	0-30.0	10.3	4.8	182.1
3819	Fabricated metal prod. excpt mach. & equip. n.e.s.	177	15.7	0-30.0	11.8	3.4	518.0
382	Machinery except electrical	689	5.8	0-114.9	10.9	2.9	13,406.2
3821	Engines & turbines	13	0.4	0-5.0	1.4	0.0	814.8
3822	Agricultural machinery	17	3.5	0-25.0	8.2	0.0	60.1
3823	Metal & woodworking machinery	114	1.5	0-25.0	4.1	0.0	2631.0

Table AIV.1 (cont'd)

ISIC Code	Description	Number of lines	MFN rate (per cent)[a] 1977			Share of lines subjet to import licensing 1995 (%)	Imports 1995 (US$ million)
			Simple average	Range	Standard deviation		
3824	Special industrial machinery	163	2.6	0-25.0	6.1	2.9	4,128.4
3825	Office machinery	44	0.1	0-5.0	0.8	0.0	2,743.8
3829	Non-electrical machinery & equipment	338	9.8	0-114.9	13.4	4.5	3,028.1
383	Electrical machinery apparatus	518	12.1	0-289.8	17.2	7.7	26,423.2
3831	Electrical motors & apparatus	111	12.0	0-289.8	29.3	11.0	2,834.8
3832	Radio, television & communication equipment	195	8.3	0-50.0	11.8	11.1	22,101.5
3833	Electrical appliances & houseware	43	15.6	0-30.0	10.4	0.0	119.4
3839	Electrical apparatus n.e.s.	169	15.8	0-36.1	11.2	3.8	1,367.5
384	Transport equipment	409	28.4	0-200.0	40.3	35.9	6,453.9
3841	Ship building & repairing	37	4.1	0-25.0	9.3	0.0	698.3
3842	Railway & tramway	24	3.8	0-5.0	2.2	0.0	115.4
3843	Motor vehicles	247	38.7	0-200.0	46.9	53.5	2,836.6
3844	Motorcycles & bicycles	72	24.7	0-63.4	21.7	32.9	171.7
3845	Aircraft manufacture	21	0.0	0-0.0	0.0	0.0	2,619.4
3849	Other transport equipment n.e.c.	8	3.8	0-25.0	8.8	0.0	12.5
385	Prof. & scientific equipment	276	2.2	0-35.0	6.0	1.9	2,126.2
3851	Prof., scientif., measur. equipt.	136	1.8	0-30.0	5.2	0.0	1,271.5
3852	Photographic & optical goods	81	3.9	0-20.0	7.2	6.4	529.4
3853	Watches & clocks	59	1.1	0-35.0	5.6	0.0	325.4
39	Other manufacturing industries	313	11.7	0-173.1	17.8	6.1	858.3
3901	Jewellery & related articles	19	8.4	0-25.0	7.3	5.0	21.2
3902	Musical instruments	23	2.0	0-25.0	6.5	0.0	21.4
3903	Sporting goods	35	6.1	0-30.0	11.3	2.0	103.3
3909	Other manufacturing n.e.c.	236	13.8	0-173.1	19.4	7.8	712.5
4	Electrical energy	1	0.0	0-0.0	...	0.0	0.0
40	Electrical energy	1	0.0	0-0.0	...	0.0	0.0

... Not available.

a Including *ad valorem* equivalents of specific, mixed and alternative duties as available.

Source: Calculations by the WTO Secretariat based on data provided by the Malaysian authorities.

Table AIV.2
Agricultural production, 1990-96
('000 tonnes unless otherwise indicated)

Product	1990	1991	1992	1993	1994	1995	1996
Paddy	1,885	1,926	2,013	2,104	2,139	2,127	2,128
Fruits	1,444	1,714	1,715	1,897	1,942	2,045	2,173
Vegetables	609	627	737	735	784	791	839
Coconut oil[b]	39.6	29.6	37.2	38.7	35.8	...	...
Marine fisheries	951	911	1,023	1,047	1,065	1,108	1,083
Aquaculture	52.3	64.8	79.7	105.2	114.1	132.7	118.9
Beef	12.2	12.7	13.3	13.7	13.5	15.4	...
Mutton	0.7	0.7	0.7	0.6	0.6	0.5	...
Poultry	348.5	391.0	497.3	560.7	594.4	631.4	...
Eggs (millions)	5,029	5,030	5,780	5,688	5,921	6,145	...
Pork	197.3	204.8	222.4	231.1	249.3	246.6	...
Milk (million litres)	26.2	26.8	27.7	29.2	30.9	31.9	...
<u>Selected industrial agricultural items</u>							
Crude palm oil	6,094.6	6,141.4	6,373.5	7,403.5	7,220.6	7,810.6	8,389.9
Cocoa beans	247.0	230.0	220.0	200.0	177.2	131.5	120.0
Rubber	1,291	1,257	1,173	1,074	1,107	1,089	1,089
Tobacco	10.2	9.2	11.2	9.7	6.1	10.3	11.7
Sawn timber ('000 cubic metres)	9,156	8,926	9,482	9,200	8,793	9,176	9,000[c]

... Not available.

a As reported in Government of Malaysia (1996).
b As reported Bank Negara Malaysia (1996).
c Estimate.

Note: Data are not directly comparable to those presented in Table IV.1 as they are from a different source.

<u>Source</u>: Information provided by the Malaysian authorities; Government of Malaysia (1996), <u>Seventh Malaysia Plan</u>, Kuala Lumpur, page 230; and Bank Negara Malaysia (1996), <u>Quarterly Bulletin</u>, First Quarter, Vol. 11, No. 1.

Table AIV.3
Advisory and review bodies covering agricultural policies

Organization	Organization form	Main tasks
Department of Veterinary Services under the Ministry of Agriculture	Public	An agency under the Ministry of Agriculture in charge of overall regulation and development of the livestock industry. In this capacity also in charge of import and export licensing of livestock (Tables AIII.4 and 5)
Special Committee on administration of import and export licensing of agricultural products	Public	A committee under the Ministry of Agriculture in charge of reviewing of all licensing requirements for agricultural products
Mardi	Semi-public	Research
Putra University of Malaysia	Semi-public	Education and research
Forest Research Institute of Malaysia	Public	Research
Department of Environment	Public	Regulation and protection of environment with regard to pollution control.
Malaysian Veterinary Council	Public	Regulation of veterinary profession
Poultry Consultative Committee	Non-Governmetal Organization (NGO)	Regulation of farming and promotion of better practices in the poutry industry
Malaysian Society of Animal Production	Non-Governmetal Organization (NGO)	Forum for the development of animal production
National Institute of Biotechnology	Semi-public	Promotion and development of new technologies in production and manufacturing
Federation of Livestock Farmers Association of Malaysia	Private	Promotion and welfare of commercial livestock farming
Swine Exporters Association of Malaysia	Private	Assistance and welfare of swine exporters

Source: Information provided by the Malaysian authorities.

Table AIV.4
Overview of Malaysia's mining sector, 1989-93

Item	Year	Oil and gas	Tin	Amang retreatment	Gold	Iron ore	Coal, copper and bauxite	Other non-ferrous metal ore mining
Output (RM million)	1989	11,009.2	652.6	97.0	27.8	4.7	...	...
	1990	14,836.8	428.9	71.9	32.1	7.8	179.8	13.4
	1991	14,872.4	297.6	54.0	32.8	8.2	228.5	16.1
	1992	13,814.8	222.2	58.5	34.9	10.9	181.7	17.1
	1993	12,304.5	133.3	36.4	58.3	7.9	168.2	25.1
Value added (RM million)	1989	10,630.4	365.4	26.9	6.2	4.4	...	...
	1990	14,323.4	187.3	18.1	9.6	5.8	86.4	9.2
	1991	14,025.2	133.4	20.4	10.0	6.4	121.3	9.4
	1992	12,816.2	93.0	25.0	13.9	8.5	96.7	10.0
	1993	11,541.9	58.1	15.9	45.9	6.3	83.2	19.0
Employment	1989	6,041	14,236	1,205	1,061	108	...	...
	1990	6,287	12,341	1,069	1,377	162	1,692	355
	1991	6,693	7,760	902	1,128	221	1,514	330
	1992	8,058	6,407	773	1,032	186	1,426	346
	1993	8,327	3,812	605	931	208	1,574	324
Number of firms	1989	5	270	58	44	6	...	...
	1990	5	240	57	52	6	4	6
	1991	5	114	51	39	7	4	7
	1992	5	82	45	33	6	3	7
	1993	7	59	34	32	8	3	8

... Not available.

Source: Government of Malaysia, Annual Census of Mining, various issues.

Table AIV.5
Performance of selected manufacturing sectors, most recent year available

Industry	Production 1996[a] (1988=100)	Output[b] 1994 (RM b.)	Value added[b] 1994 (RM m.)	Employ-ment[b] ('000)	Exports[c] 1995 (RM m.)	Domestic content[d] 1996 (%)	Capacity utilization[e] 1996 (%)
Total (average)	275.9	180.0	36,615.7	1,084.8	147.5	63.8	76.3
Of which:							
Off-estate processing	...	2.5[a]	339.9	12.7	...	99.5	...
Food manufacturing	162.1	20.4	2,013.7	58.7	3.2	59.9	72.5
Beverages	166.1	1.0	367.5	3.4	0.4	75.9	...
Tobacco	105.6	1.3	371.9	4.6		63	...
Wood and wood products	219.1	4.2	1,000.5	54.4	5	45.9	71.8
Paper and paper products	...	2.2	600.3	17.5	....	63.8	76.5
Rubber products	203.6	7.2	1,686.6	68.8	3.3	70.1	83.7
Industrial chemicals	160	5.0	1,061.9	10.3	6.3	84.6	76.5
Other chemicals	207.4	3.0	777.3	15.4			
Petroleum and refineries	189	4.2	1,059.0	2.2	3.1	99.2	...
Petroleum and cool products	...	0.4	114.3	0.9			...
Non-metallic mineral products	263.8	4.3	1,764.9	26.7	1.7	92.2	88.9
Textiles	...	4.7	1,370.0	43.7	6.5	66	73.2
Wearing apparel	...	3.3	760.3	64.5			
Footwear	...	0.1	22.4	1.7			
Iron and steel	272.6	6.7	668.6	17.5	4.7[f]	54.8[f]	70.6[f]
Non-ferrous metal	163.7	2.0	369.2	7.1			
Fabricated metal	582.3	6.1	1,597.3	45.4	...	47.5	....
Machinery except electrical	356.7	8.6	1,764.9	45.9	...	51.2[i]	
Electrical machinery[g]	385.7	69.7	12,655.4	368.7	96.9[j]	39.3[h]	80[e]
Transport equipment	295.2	2.3	1,871.5	39.2	5.3[j]	67	89[e]

... Not available.

a Malaysian Manufacturers' Digest (1997), Industrial Production Indices of the Manufacturing Sector, Vol.14, No. 1, p. 5.
b National Productivity Corporation (1997), Productivity Report 1996, Kuala Lumpur.
c Government of Malaysia (1996), Seventh Malaysia Plan, Kuala Lumpur, p. 265.
d Data provided by the Malaysian authorities
e Bank Negara Malaysia (1997) Survey of Manufacturing Companies 1996, Economics Department, Kuala Lumpur (mimeo), p. xii.
f Basic metal products only.
g Including electronics.
h Electronics only.
i Machinery and electrical appliances.
j As exports and output are derived from different sources, they are not directly comparable.

Source: As listed above.

Table AIV.6
Investment incentives, factor movements, technological developments and industry concentration by manufacturing sector, 1996

Industry	Share of investment receiving incentives 1996[a] (%)	Factor movements[b]		Technology transfer agreements 1989-95[c] (No.)	Standards (share of firms that fullfils the standard requirements (%)[b]		Industry concentration[d]
		Foreign equity as share of total equity (%)	Foreign labour as share of total labour (%)		ISO 9000	SIRIM	
Total (average)		51	11	985	54	30	...
Of which:							
Off-estate processing	...	15	3	...	29	14	C
Food manufacturing	49.5	11	13	43	54	39	C
Beverages	0.0	64	1	...	50	0	...
Tobacco	0.0	42	1	...	33	0	O
Wood and wood products	82.1	9	17	...	13	25	...
Paper and paper products	85.6	4	17	...	60	0	...
Rubber products	77.8	13	10	54	73	64	...
Chemicals	58.9	54	4	132	58	36	O
Petroleum products	32.9	35	1	...	67	33	...
Non-metallic mineral products	15.4	30	17	51	71	71	C
Textiles and wearing apparel	5.3	76	25	27	8	8	C
Basic metal products	42.0	64	1	...	50	50	O
Fabricated metal	46.6	64	7	50	50	21	O
Machinery and electrical appliances	56.9	71	14	30[c]	52	40	O
Electronics	76.2	96	9	288[a]	89	25	C[e]
Transport equipment	63.4	36	5	125	25	13	C

C = competitive; O = oligopolistic.

... Not available.

a Calculated by the WTO Secretariat from data provided by the Malaysian authorities; including both Pioneer Status and Investment Tax Allowance.

b Bank Negara Malaysia (1997) Survey of Manufacturing Companies 1996, Economics Department, Kuala Lumpur (mimeo).

c Ministry of International Trade and Industry (1996), Malaysian International Trade and Industry Report 1995/96, Kuala Lumpur.

d Markets are considered oligopolistic if the majority of surveyed firms indicate that they were operating in markets with no more than eight competitors as reported in Bank Negara Malaysia (1997) Survey of Manufacturing Companies 1996, Economics Department, Kuala Lumpur (mimeo).

e Companies operating in niche markets of the computer industry (such as manufacturing transformers, disk drives, disks, semi-conductors, silicon wafers, computer monitors, integrated circuits) indicated the existence of oligopolistic market structures in these sectors.

Source: As listed above.

Table AIV.7
Utilization rates of Malaysia exports under quota of the WTO Agreement on Textiles and Clothing, 1993-96

Description of product under quota	Unit value	1993		1994		1995		1996	
		Quota ('000)	Util. (%)	Quota ('000)	Util. (%)	Quota ('000)	Util. (%)	Quota ('000)	Util. (%)
United States:									
Sewing thread and yarn	kg.	212	99	225	94	239	1	257	0
Cotton and synthetic fabrics	sme	78,325	113	93,024	97	98,606	74	106,424	58
Cotton and synthetic playsuits	doz.	286	67	303	90	324	78	346	60
Carded and combed yarns	kg.	2,252	2	2,389	0	2,530	4	2,731	24
Cotton and synthetic gloves	dozen	1,546	86	1,639	73	1,707	83	1,875	81
Coats, jackets and suits	dozen	177	93	1,880	84	199	61	215	49
Cotton and synthetic dresses	dozen	344	60	365	102	390	117	417	110
Knitted shirts (polo and T-), shirts and knitted blouses	dozen	813	103	862	105	968	106	1,035	116
Woven shirts	dozen	994	119	1,054	113	1,074	104	1,206	84
Woven blouses	dozen	1,288	37	1,366	49	1,452	42	1,562	26
Skirts of cotton, synthetic and blended silk and vegetable fibre	dozen	309	53	327	60	350	76	374	77
Cotton sweaters	dozen	118	84	125	91	133	66	144	57
Cotton and synthetic trousers, slacks and shorts	dozen	333	112	383	114	410	110	439	100
Cotton and synthetic dressing gowns	dozen	111	52	118	54	126	51	135	31
Cotton and synthetic pyjamas and nightwears	dozen	192	100	203	110	217	101	232	87
Cotton towels	number	3,000	0	3,180	34	3,371	11	3,638	3
Woollen lady's coats	dozen	15	35	15	57	15	45	15	42
Women woolen knitted shirts	dozen	12	0	12	0	12	36	12	79
Woollen skirts	dozen	18	1	18	26	18	55	18	34
Woollen sweaters	dozen	28	0	28	88	29	82	29	76
Acrylic yarn	kg.	987	64	1,047	60	1,110	78	1,197	31
Synthetic coats	dozen	601	74	637	111	682	92	729	89
Synthetic knitted shirts and blouses	dozen	354	90	376	104	408	104	430	113
Synthetic sweaters	dozen	271	11	287	4	307	0	329	1
Synthetic trousers, slacks and shorts	dozen	1,275	78	1,352	87	1,352	82	1,546	70
Aggregate group of Categories	sme	34,298	84	36,355	88	38,536	83	41,591	94
Canada:									
Jackets, rainwear	pcs	850	79	901	93	964	83	1,031	73
Winter outwear	pcs	140	94	155	89	164	77	173	115
Ensembles, female casual and fine wear	pcs	967	69	949	69	1,015	62	1,085	39
Trousers and shorts	pcs	731	89	775	98	828	101	886	90
Men's shirts	pcs	1,496	56	1,542	70	1,613	57	1,688	29
Woven shirts, blouses, athletic wear, T-shirts	pcs	3,643	97	4,217	99	3,758	92	4,495	84

Table AIV.7 (cont'd)

Description of product under quota	Unit value	1993		1994		1995		1996	
		Quota ('000)	Util. (%)	Quota ('000)	Util. (%)	Quota ('000)	Util. (%)	Quota ('000)	Util. (%)
Underwear	pcs	4,983	115	5,282	115	5,599	89	6,043	66
Sweaters	pcs	600	59	619	68	640	41	663	27
Baby garments	pcs	2,000	65	2,120	69	2,268	58	2,425	59
Acrylic yarn	kg.	387	12	410	10	439	16	469	3
European Union:									
T-shirts and knitted blouses	pcs	8,740	97	9,177	111	11,731	74	11,911	85
Jerseys and pullovers	pcs	4,270	104	4,484	113	5,187	84	5,530	117
Woven shorts, trousers and slacks	pcs	5,715	71	6,001	76	6,571	60	7,006	43
Blouses, shirt-blouses, knitted or crocheted	pcs	27,200	89	2,802	76	29,352	74	3,037	60
Woven shirts	pcs	5,550	78	5,717	65	7,030	58	7,275	44
Woven fabrics of cotton and synthetic	kg.	5,094	80	5,878	94	12,166	105	12,590	91
Synthetic/acrylic yarn	kg.	7,136	26	7,564	30	8,440	39	9,020	14
Norway:									
Jacket	pcs	77	93	90	54	93	78	96	84
Trousers	pcs	185	52	195	49	202	52	208	21
Bed linen	kg	26	53	30	47	31	0	0	0

doz.pr. Dozen pairs
kg. Kilogram.
Nos. Numbers.
sme Square metre equivalent.
Util. Utilization.

Source: Information provided by the Malaysian authorities.

Table AIV.8
Overview of selected service sectors, 1989-92 and 1994

Item	Year	Stock, commodity and foreign exchange brokers	Advertising agencies	Shipping companies	Steva-doring comp.	Shipping agents	Road haulage	Tourist and travel
Output (RM million)	1989	356.1	681.7	2,388.8	134.6	143.8	1,307.7	363.0
	1990	561.8	872.7	2,410.7	145.9	176.6	1,574.5	541.6
	1991	576.4	1,027.1	3,201.1	139.8	204.3	2,005.1	698.4
	1992	882.0	1,045.1	2,915.9	146.2	239.1	2,178.5	1,027.3
	1994	4,838.6	1,281.6	3,342.3	277.3	263.6	3,164.5	1,387.3
Value added (RM million)	1989	341.9	673.1	2,076.3	128.7	134.8	897.2	354.0
	1990	536.5	862.0	1,929.3	138.0	167.5	1,049.7	520.6
	1991	547.7	1,012.7	2,682.5	130.6	191.9	1,431.6	666.9
	1992	844.1	1,030.0	2,437.1	135.9	222.7	1,523.3	983.4
	1994	4,732.0	1,241.2	1,953.0	265.2	242.7	2,371.0	1,326.4
Employment ('000)	1989	4.1	2.5	9.8	10.4	3.0	37.4	5.8
	1990	4.8	3.0	10.9	9.7	3.4	40.5	6.9
	1991	5.8	3.3	11.2	13.1	3.9	46.0	8.8
	1992	6.2	3.5	12.3	11.7	4.5	47.2	9.2
	1994	11.5	3.7	12.0	8.7	4.8	50.3	10.3
Number of firms	1989	83	118	245	152	294	6,923	703
	1990	81	127	253	144	313	7,422	744
	1991	85	129	249	146	346	8,718	875
	1992	93	132	253	144	363	9,045	894
	1994	94	130	256	129	393	9,158	906

Item	Year	Hotels and other lodging places	Accountants	Architects	Doctors	Engineers	Lawyers	Surveyors
Output (RM million)	1989	1,117.4	220.6	136.1	371.2	300.6	365.9	221.8
	1990	1,575.3	252.4	185.5	448.7	394.8	437.7	282.4
	1991	1,847.7	290.5	273.3	566.4	628.7	536.4	337.2
	1992	2,219.9	339.7	300.8	662.6	704.8	605.1	383.6
	1994	2,733.0	458.2	434.0	791.7	1,006.7	835.0	486.2
Value added (RM million)	1989	731.5	205.1	124.3	238.9	279.2	331.3	198.4
	1990	1,078.5	234.3	170.8	290.7	364.5	397.3	256.0
	1991	1,281.7	268.2	252.5	364.9	587.5	491.6	298.0
	1992	1,596.1	313.5	278.5	431.7	663.2	553.0	344.4
	1994	1,921.6	433.1	402.4	513.3	945.7	775.9	436.1
Employment ('000)	1989	33.1	10.3	3.3	11.5	7.4	15.0	7.2
	1990	38.9	12.0	4.0	12.9	9.3	16.5	7.8
	1991	42.4	12.2	4.7	15.3	11.3	17.4	8.6
	1992	46.1	12.8	5.1	16.7	11.7	19.3	9.3
	1994	55.9	14.5	7.0	17.4	13.5	22.1	10.3
Number of firms	1989	1,044	764	340	1,787	376	13,242	361
	1990	1,131	903	342	1,949	394	1,389	365
	1991	1,174	900	380	2,359	419	1,444	377
	1992	1,197	908	401	2,578	445	1,629	422
	1994	1,387	940	549	2,688	484	1,842	450

Note: No census was conducted in 1993

Source: Information provided by the Malaysian authorities.