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SWITZERLAND GLOBAL ENTERPRISE

Malaysia
Legal Provisions

Compiled by:

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GENERAL REMARKS

The purpose of this document is to give an overview of trade-related legal provisions and regulations, particularly those relevant for small and medium sized Swiss companies operating from outside the target country. It outlines the current state of legislation and, to the extent possible, its practical application.

CONTENTS

CUSTOMS LAW AND DUTIES

Malaysia follows the Harmonised Commodity Description and Coding System (HS Code), a globally standardized system administered by the World Trade Organisation (WTO). All imported and exported goods must be categorized based on the Malaysian customs tariff numbers. Any queries regarding classification or regulations of import and export of goods should be made to the Royal Malaysian Customs Department (RMCD): http://www.customs.gov.my/en or http://mysstext.customs.gov.my/tariff (HS Code Search). Malaysia adheres to the ASEAN Harmonised Tariff Nomenclature (AHTN) for imported and exported commodities from ASEAN member states.

Import duties or customs duties vary depending on the commodity items, the origin of the items and the applicability of FTAs in place, and they range between 0% and 60%. Manufacturers can apply for import duty exemptions as on raw materials and components, and dutiable machinery and equipment, which are used directly in the manufacturing process as is outlined in the Customs Duties (Exemption) Order 2017. Importers can calculate their customs duty by referring to the Customs Duties Order 2022, which is in line with the release of the seventh edition of the Harmonized System ('HS 2022') by the World Customs Organization (WCO), and contains a list of goods and their corresponding customs duty rates. Payment can be made at customs import offices or through third-party platforms like ePayment and eDagangNet, providing convenience and flexibility for importers.

To make exports internationally competitive, export duties are levied only on Malaysia's principal exports such as crude petroleum and palm oil. The rates that do apply range from 0% to 15%, depending on how the items are classified.

As of 2023, the sales tax system in Malaysia encompassed two categories: Sales Tax on Taxable Goods and Sales Tax on Low-Value Goods (LVG). Sales Tax on Taxable Goods applies to both imported and domestically manufactured goods that are sold, used, or disposed of within Malaysia. Companies are required to register with the Royal Malaysian Customs Department for the payment of the Sales and Service Tax (SST) if the sales value of taxable goods exceeds MYR 500,000 (CHF 96,050) for a 12-month period. The tax rate varies depending on the goods' Harmonized Systems Code (HS code), with rates ranging from 10% or 5% to specific rates for certain products. The Sales Tax on LVG is specifically imposed on goods sold online with a value not exceeding MYR 500 (CHF 96), delivered from overseas to customers in Malaysia at a fixed 10% rate.

Exemptions to the sales tax are as stipulated by the Sales Tax (Goods Exempted from Sales Tax) Order 2022 and Sales Tax (Persons Exempted from Payment of Tax) Order 2018.

Excise Duty in Malaysia only applies to seven categories of goods, particularly, motor vehicles, alcoholic beverages, cigarettes, mahjong tiles, playing cards, sugar-sweetened beverages, and premix preparations.

Malaysia has declared Free Zones (FZ) across the country, which are divided into two types:

- Free Industrial Zone (FIZ): Only manufacturing activities are authorised in the FIZ.
- Free Commercial Zone (FCZ): Trade activity (except retail trade), bulk breaking, grading, re-packing, relabelling, and cargo transit are the only activities allowed in the FCZ.

Companies located in the free zones may receive exemptions from customs duty, excise duty, and the SST. Similar benefits are available for manufacturers with facilities outside of a free zone via the Licensed Manufacturing Warehouse (LMW) scheme under the Royal Malaysia Customs Department (RMCD) should they satisfy the necessary requirements.

A Digital Free Trade Zone (DFTZ) has been established by the government with the aim of attracting investment to set up regional e-Commerce fulfilment hubs in Malaysia.

IMPORT REGULATIONS / NON-TARIFF RESTRICTIONS

Dagang Net – http://www.dagangnet.com – serves as Malaysia's single digital window for trade facilitation through the provision of paperless, electronic customs-related services.

Entrepreneurs are required to register with the Companies Commission of Malaysia for starting a business, but other federal and state agencies are also involved in the process of issuing licences, tax registration and social security arrangements. The MalaysiaBiz Portal was launched in 2020 as a one-stop centre for business registration and licensing.

The import of certain goods into Malaysia requires an import permit/licence. The requirements can be found in this publication from the Malaysia Productivity Corporation: https://irp.cdn-website.com/9c99ef26/files/uploaded/Import%20-%20Export%205.0%20Full.pdf. A list of prohibited goods for imports and exports can be found at https://www.customs.gov.my/en/tp/Pages/tp_ie1.aspx.

Malaysia enacted the Countervailing and Anti-Dumping Duties Act 1993 and Safeguard Act 2006 as means to impose trade remedies or trade defence measures against imports to protect their domestic industries from unfair practices such as dumping. In Malaysia, these measures have mainly affected iron and steel products.

To enhance transparency in trade, Malaysia developed the Malaysia National Trade Repository (MNTR) providing a single platform for accessing trade-related information of ASEAN Member States. It is a legally binding repository of all public regulations pertaining to customs, tariff codes, import/export procedures, trade agreements, tariffs and non-tariff measures for goods crossing national borders for import, export, or transit. More details regarding the MNTR can be found here: http://mytraderepository.customs.gov.my/en/Pages/default.aspx.

PRODUCT REGISTRATION AND TECHNICAL STANDARDS

Product registration in Malaysia is compulsory for several categories, such as pharmaceuticals and cosmetics, medical devices, food and beverages, live animals, dairy products, chemicals and electrical equipment, before they can be sold to consumers.

A Swiss company planning to bring their products into Malaysia would have to appoint a local agent to be the holder of the registration or licensing certificate.

In May 2022, the Government of Malaysia announced that approved permits were no longer required by Malaysians to import food products into the country. However, importers are still required to ensure adherence with the Malaysian Food Act 1983 ("Food Act"). Section 29 of the Food Act provides that the importation of any food which does not comply with the provisions of the Food Act or any regulation made thereunder is prohibited. Importers must also ensure strict adherence to the Malaysian Food Regulations 1985 ("Food Regulations") in respect of the type of food to be imported.

Halal certification for the importation of meat and poultry, are regulated through licensing and sanitary controls. Pork and pork products may be imported into Malaysia only if Malaysia's Department of Veterinary Services (DVS) issues a permit authorizing its importation. Each consignment of pork and pork products must have a valid import permit issued by the Malaysian Quarantine and Inspection Services (MAQIS).

Most of the government bodies in Malaysia have implemented online systems to cater for product registration, document submission and approval process, which can be accessed from overseas. Please note that the importation of products into the East Malaysian states of Sabah and Sarawak may require an import permit issued by the relevant agencies of each state, particularly with regards to the import of plant, plant products, live fish and fish products.

Malaysia adheres to the WTO's Standard Code on Technical Barriers to Trade (TBT). SIRIM Berhad, formerly known as the Standards and Industrial Research Institute of Malaysia, is the government-owned company providing institutional and technical infrastructure for the government. The Standards Malaysia accreditation system is in accordance with the international standard, MS ISO/IEC 17011.

Some of the key standards are:

- MS ISO 9001: 2008 – Quality Management Systems
- MS ISO 14001:2004 – Environmental Management Systems
- MS 1722:2011 & OHSAS 18001:2007 – Occupational Health and Safety Management Systems (OHSMS)
- MS ISO 22000: 2012 – Food safety management systems – Requirements for any organisation in the food chain
- MS ISO/IEC 27001: 2007 – Information Security Management Systems
- MS ISO 50001:2011 – Energy Management Systems
- MS 1500:2009 – Halal Food
- MS ISO 1900:2005 – Quality Management Systems –Requirements from Islamic Perspectives
- MS 2424:2012 – Halal Pharmaceuticals-General Guidelines
- MS 2200-1:2008 – Islamic Consumer Goods Part 1
- MS 2200-2: 2013 – Islamic Consumer Goods Part 2

Standards Malaysia has appointed SIRIM Berhad as the agent to develop, distribute and sell Malaysian Standards. SIRIM QAS, a subsidiary of SIRIM Berhad, is the leading certification, inspection and testing body in Malaysia covering major business sectors. More information on SIRIM QAS services is available at: https://www.sirim-qas.com.my.

Under the Trade Descriptions Act 2011, the use of labels on products that are deemed as discriminatory against palm oil (e.g., “palm oil free”) is prohibited in Malaysia and the penalty for the offence is a fine not exceeding MYR250,000 (CHF48,600.00) or imprisonment for a term not exceeding five years.

Please note that the manufacturing, labelling, packaging and marketing guidelines for some product categories such as food, agricultural produce, pharmaceuticals and electrical equipment are developed by different regulatory bodies and certification regimes. It is advisable to consult the local partners before importation.

CURRENCY REGULATIONS AND OTHER TRANSFER RESTRICTIONS

Bank Negara Malaysia (BNM), the central bank, continues to maintain a liberal foreign exchange policy (FEP), which is part of its broad prudential toolkits to support domestic and cross-border economic activities.

A resident is free to make or receive foreign currency payments to or from non-residents for most business purposes, with a few exceptions. A non-resident is allowed to make or receive payments in ringgit to or from a resident or a non-resident.

A non-resident investor is permitted to:

- Undertake any type of investment in ringgit asset or foreign currency asset in Malaysia (direct or portfolio investment) without any restriction;
- Open a ringgit account or foreign currency account with a licensed onshore bank;
- Repatriate divestment proceeds, profits, dividends or any income arising from the investments in Malaysia, as long as the repatriation is made in foreign currency.

In 2022, BNM issued a revised set of Foreign Exchange Policy Notices. For non-residents, amendments ease access to Malaysian financial markets through a large network of licensed onshore banks without the previous requirement of trade settlement. Further details on the new FEPs here: https://www.bnm.gov.my/fep. Application for FEP approvals, notification and enquiries can be submitted online through this website: https://fep.bnm.gov.my/fep-pub/login.

Residents and and non-residents alike are permitted to carry into and out of Malaysia, ringgit notes not exceeding USD 10,000 (CHF 8,600) equivalent per person. There is no restriction on the value of foreign currency notes and traveller’s cheques that can be carried into or out of Malaysia. However, if the total value of the foreign currency exceeds USD 10,000 (CHF 8,600), it must be declared in Customs Form 22.

COMMERCIAL REGISTER AND OTHER SOURCES OF COMPANY INFORMATION

The commercial register in Malaysia is managed by the Suruhanjaya Syarikat Malaysia (SSM), also known as the Companies Commission of Malaysia. Accessing the commercial register involves using several online portals provided by SSM.

To access company information, you can visit the SSM e-Info portal (https://www.ssm-einfo.my/), where you can search for company profiles, obtain certified true copies of business registration documents, and access various company-related data. You can also utilize the MyDATA-SSM portal (https://www.mydata-ssm.com.my/) and SSM Search portal (https://www.ssmsearch.com/) to retrieve detailed business profiles, including information on a company's directors, shareholders, registered addresses, and financial statements. Some services may require registration or the payment of a nominal fee, especially for obtaining certified documents or detailed reports

LEGAL FORMS OF COMPANIES

Businesses in Malaysia are regulated under the Companies Act 2016 (CA) and are required to register with the Companies Commission of Malaysia, also referred to as Suruhanjaya Syarikat Malaysia (SSM). Policies are investment-friendly in general, but foreign equity ownership restrictions remain in certain industries, such as oil and gas, telecommunications and financial services.

Guidelines for the registration of a foreign company with SSM are available at: https://www.ssm.com.my/Pages/Legal_Framework/GUIDELINES/gl6_bi_guidelines_for_registration_of_foreign_company_201117_0.pdf. Before registering a business entity in Malaysia, it is recommended for Swiss companies to consult with a local company secretary or related ministries on business licence requirements, as this might affect the type of company registration, foreign equity quota and the amount of minimum paid-up capital.

The Malaysian Investment Development Authority (MIDA) works closely with investors to expedite licensing and certification requirements. Senior representatives from key agencies are stationed at MIDA's headquarters in Kuala Lumpur to advise investors on government policies and procedures. Through their Invest Malaysia Facilitation Centre which was established in 2023, MIDA also brings together officials from the Department of Labour Peninsular Malaysia, Immigration Department of Malaysia, Royal Malaysian Customs Department, Department of Environment, Tenaga Nasional Berhad (electric utility company) and Telekom Malaysia Berhad (telecommunications company) to increase ease of doing business. This centre also includes the Project Implementation and Facilitation Office, a platform to ensure the smooth implementation of approved investment projects within the specified timeframe.

The business entity set-up options that are relevant to foreign nationals include:

Private Limited Company (Sendirian Berhad/Sdn Bhd):

This is the most common business entity for foreign investors. A private limited company is a separate legal entity from its owners, meaning that it can buy or sell property, enter legal contracts and sue or get sued in courts. It can be 100% foreign-owned, but at least one director must ordinarily reside in Malaysia whilst certain industries may require Malaysian ownership.

Public Limited Company (Berhad):

It has a similar establishment process to that of a private limited company, except that its shares can be sold to the general public. This type of business entity is usually listed on the stock exchange and governed by the Securities Commission of Malaysia. This structure is subject to strict compliance and reporting requirements.

Branch:

A branch is considered an extension of a foreign company; therefore, the foreign parent company is liable and responsible for all the debts and obligations of the branch in Malaysia.

Representative/Regional Office:

A Representative/Regional office is intended for foreign companies looking to gather market information and undertake feasibility studies before committing to set up a business based in Malaysia. It does not have an independent legal standing and is restricted to market research, promotion and liaison activities. It cannot engage in any activities that will generate profit, cannot sign or enter any contracts, sign deals or undertake any trading.

Limited Liability Partnership (LLP):

This business form combines the characteristics of a partnership and a company and has a legal personality separate from its partners. As there is no need for partners to be a resident in Malaysia, foreign investors can set up an LLP in Malaysia. However, the compliance officer needs to be a citizen, permanent resident or should ordinarily reside in Malaysia.

For all entities, post-registration requirements include obtaining a business license, opening a corporate bank account, and registering for tax purposes. It is advisable to consult with a legal expert or business consultant familiar with Malaysian regulations to ensure compliance and smooth business setup.

For both local and foreign companies, while income accrued in or derived from Malaysia is taxable, income derived from sources outside Malaysia and received in Malaysia is exempted from tax (except sea, and air transport businesses, which are taxed on worldwide income). The current Corporate Income Tax (CIT) rates are provided in the following table:

Type of company	CIT rate for year of assessment (%) 2024
Resident company • with paid-up capital of MYR 2.5 million (CHF 556,378) or less, and gross income from business not exceeding MYR 50 million (CHF 9.72 million) • that does not control, directly or indirectly, another company that has paid-up capital of more than MYR 2.5 million (CHF 485,800) • that is not controlled, directly or indirectly, by another company that has paid-up capital of more than MYR 2.5 million (CHF 485,800) and • with no more than 20% of its paid-up capital being owned, directly or indirectly, by a foreign company or non-Malaysian citizen (with effect from year of assessment 2024).	On the first MYR 150,000 (CHF 29,148): 15%
	On the next 450,000 (CHF 87,445): 17%
	In excess of MYR 600,000 (CHF 116,593): 24%
Resident company (other than the company described above)	24%
Non-resident company	24%

Source: PricewaterhouseCoopers (PwC)

Revisions have been made in 2024 to the Companies Act 2016 and the Limited Liability Partnerships Act 2013 relating to the corporate governance framework, with new provisions on the disclosure of information on beneficial ownership. It is advisable to consult the Companies Commission of Malaysia on these amendments as well.

To modernise and streamline the tax administration system, a self-assessment system was implemented for companies, sole proprietors, partnerships, co-operatives and salaried groups, and the assessment of income tax is based on a current year basis. Investors should also note the e-Invoice requirements introduced by the Inland Revenue Board (IRB) in 2024, applicable to all taxpayers undertaking commercial activities in Malaysia. More details regarding this framework can be found on this IRB website: https://www.hasil.gov.my/en/e-invoice/.

REGULATIONS GOVERNING SALES AGENTS AND COMMERCIAL REPRESENTATIVES

In Malaysia, the primary legal framework regulating agency and commercial representatives is established under Part X of the Contracts Act 1950, which governs the relationship between agents and principals as well as their rights and obligations in relation to third parties. The act defines an agent, outlines their fiduciary duties to act in the best interest of the principal and addresses the termination the relationship.

Sales agents and commercial representatives in Malaysia often operate under contracts with their principals that cover the scope of authority granted to the agent, the duration of the agency, and the terms of termination. If a sales agent is considered an employee rather than an independent contractor, provisions under the Employment Act 1955 pertaining to wage protection, working hours and termination benefits may apply.

Certain industries that have specific regulations governing sales agents in Malaysia include the financial services sector, intellectual property and franchising, real estate and insurance sector.

It is essential for businesses to consult with legal professionals when drafting these agreements to ensure they comply with Malaysian laws and adequately protect the interests of all parties involved.

ENTRY CONDITIONS FOR STAFF PERFORMING MAINTENANCE OR REPAIR SERVICES

The Immigration Department of Malaysia (IMI) is the sole authority that regulates and provides immigration services to Malaysian citizens, permanent residents and foreign visitors.

Swiss citizens are permitted to enter Malaysia for a stay of 90 days or less without applying for a visa. Effective 1 January 2024, all foreign nationals need to complete and submit the Malaysia Digital Arrival Card (MDAC) application online as early as three days prior to one's arrival date in Malaysia. Requirements for visa and work permits beyond that period are outlined below:

Professional Visit Pass (PVP):

This pass is suitable for foreign nationals who need to work in Malaysia temporarily, typically for up to 12 months. It allows individuals to provide services such as maintenance, installation, and repair on behalf of a foreign company for a Malaysian company. The sponsor company in Malaysia must apply for the PVP by providing necessary documents such as the application letter, a copy of the employee's passport, a detailed job description, and relevant contracts or agreements. Additional documents like medical certificates and insurance policies may also be required.

Short-Term Social Visit Pass (PLS@XPATS):

Introduced in 2022, this pass allows foreign nationals to work in Malaysia for up to 30 days, specifically for critical work in specifically defined industrial sectors. Private sector industries that come within the ambit of this pass include:

1) Security & Defense
2) Manufacturing
3) Construction
4) Health & Medical
5) Oil, Gas and Energy

6) Finance & Banking
7) Electrical & Electronics
8) Wholesale & Retail
9) Tourism
10) Business Services
11) Commodity
12) Education
13) Agriculture
14) Aviation
15) Information, Technology & Infrastructure

Applicants must provide a letter of application from the company; a copy of their latest passport (all pages, with at least six-month validity period); a Company Registration Certificate with the Companies Commission (e-SSM); project schedule and description; a job description; and round-trip flight ticket (if through air gate). The application is done online, and the pass is issued within three days if all documents are in order. Please note that this pass is only applicable in Peninsular Malaysia and the Federal Territory of Labuan, excluding Sabah and Sarawak.

Employment Pass (EP):

For longer-term assignments, the Employment Pass is necessary. This pass is issued for highly skilled foreign nationals who will be employed in Malaysia for a period longer than 12 months. It is categorized into three types based on salary and contract duration. The hiring company must obtain approval from the Expatriate Committee under IMI and submit documents including the employee's resume, passport, employment contract, educational certificates, and supporting letters from relevant authorities. The various categories of employment passes are as below:

Table 3: Details of different categories of Employment Pass

Employment Pass	Category 1: Expatriate	Category 2: Expatriate	Category 3: Knowledge/Skilled worker
Basic monthly salary	Minimum MYR 10,000 (CHF 1,943)	From MYR 5,000 to 9,999 (CHF 972 to 1,943)	From MYR 3,000 to 4,999 (CHF 583 to 971)
Validity of employment contract	Up to 5 years	Up to 2 years	Must not exceed 12 months
Contract renewal	Renewable	Renewable	Maximum of 2 years. "Cooling-off" period required for 3 consecutive years of employment

Dependents	Allowed	Allowed	Not allowed

Source: Expatriate Services Division, Immigration Department of Malaysia

Each expatriate Employment Pass application will be assessed on an individual basis. The application process involves getting an approval letter from the relevant authorities, submitting required documents, and completing the application through the Immigration Department's online portal.

Expatriates intending to work in Malaysia must have a minimum base salary of MYR 5,000 (CHF 972) per month. For positions earning less than MYR 5,000 per month, the employees may apply for an Employment Pass Category 3. However, companies must first obtain an exemption from the Ministry of Home Affairs prior to the filing of a Category 3 application. Employment Pass guidebooks and the latest updates can be found on the Expatriate Services Division's website:https://esd.imi.gov.my/portal/pdf/LATEST-ESD-online-guidebook-V4-2023.pdf.

Companies intending to hire expatriates to work in Malaysia need to meet minimum paid-up capital requirements. For a 100% foreign-owned company, the requirement is MYR 500,000 (CHF 97,161), and for a Joint Venture with minimum foreign equity of 30%, the requirement is MYR 350,000 (CHF 68,013). For a 100% locally owned entity, there is a minimum capital requirement of MYR 250,000 (CHF 48,580). These paid-up capital requirements do not apply to public limited companies, companies limited by guarantee, associations and organisations incorporated under specific acts. There are also sector-specific paid-up capital requirements for sectors such as Wholesale, Retail and Trade (WRT) and unregulated services.

Employers who wish to hire expatriates are required to advertise the vacancies for a minimum of 30 days on the Ministry of Human Resources (MOHR) portal, MYFutureJobs: www.myfuturejobs.gov.my.

DE Rantau Nomad Pass:

As of 2022, Malaysia Digital Economy Corporation (MDEC) introduced the nation's first digital nomad visa, DE Rantau Nomad Pass under the DE Rantau Program. This is part of Malaysia's effort to promote Malaysia as the preferred digital nomad hub in ASEAN, allowing local and foreign digital marketers, IT professionals and content creators to stay in Malaysia with their dependents for up to 12 months with a possible extension of another 12 months. More details regarding this pass can be found here: https://mdec.my/derantau.

Residence Pass Talent (RP-T):

Foreign nationals who have worked in Malaysia under an employment pass for a minimum of three years can apply for the Malaysia Residence Pass Talent (RP-T), which is issued to foreign nationals that are considered to be high-achieving individuals. Preference is given to industries which form part of the national key economic areas outlined by the government. The talent residence pass is not tied to an employer and is valid for ten years. It is applied for online through the MyXPats centre and is processed within five days of submission. Further information can be found here: https://rpt.talentcorp.com.my.

Due to the unique legal and administrative autonomy granted to Sabah and Sarawak under the Malaysia Agreement 1963, employers in Sabah and Sarawak must comply with additional state-specific regulations to obtain separate permits from the state Immigration Departments. Companies should consult with lawyers to find the relevant state and sector specific regulations.

Legislation governing employment in Malaysia

Employment in Malaysia is primarily governed by the Employment Act 1955 (EA) and the Industrial Relations Act 1967 (IRA). The EA sets out minimum benefits that shall be accorded to applicable employees. It also prescribes other areas of employee benefits, including annual leave, sick leave, public holidays, flexible work arrangements, termination and lay-off benefits, maternity protection, etc. The EA applies to all persons who have entered into a contract of service, with the exception of certain provisions on overtime payments and termination benefits not applying to those whose wages exceed MYR 4000 (CHF 784) monthly. The IRA provides for mechanism related to the recognition of trade unions, regulating collective bargaining and collective agreements between the trade union of the employers and workmen. The IRA also provides for conciliation procedures in trade disputes through the Industrial Court.

For employees who fall outside the purview of EA provisions on overtime benefits, termination, lay-off and retirement benefits, employment is governed by the terms of their respective contracts. Most employers use the EA's benefits as a guideline or minimum requirement in their employment contracts.

With regards to social security protection, the Employees Provident Fund Act 1991, the Employees' Social Security Act 1969 and the Employment Insurance Act 2017 contain regulations on compulsory statutory deductions or contributions in Malaysia. Companies should also consult legal professionals regarding schedular tax deductions from the employee's salary by the employer to the Inland Revenue Board.

Employers should note that Sabah and Sarawak have their own labour regulations. Employers with operations in both Peninsular Malaysia and Sabah/Sarawak must navigate different bureaucratic processes and may need to apply for separate work permits for the same foreign worker if they are to work in different regions.

PROTECTION OF INTELLECTUAL PROPERTY

The intellectual property system in Malaysia is administered by the Intellectual Property Corporation of Malaysia (MyIPO), an agency under the Ministry of Domestic Trade and Consumer Affairs. The intellectual property protection in Malaysia comprises of patents, trademarks, industrial designs, copyright, geographical indications and layout designs of integrated circuits.

Malaysia is a member of the World Intellectual Property Organisation (WIPO), and a signatory to the to the Paris Convention for the Protection of Industrial Property, the Patent Cooperation Treaty (PCT), the Berne Convention for the Protection of Literary and Artistic Works and the Madrid Protocol. In addition, Malaysia is also a signatory to the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and domestic laws are in line with international IP standards.

In view of Malaysia's ratification of the Regional Comprehensive Economic Partnership (RCEP) and the Comprehensive and Progressive Agreement on Trans-Pacific Partnership (CPTPP), legislation regulating patents, copyrights and geographical indications had been amended to promote further harmonization of intellectual property rights protection with international standards.

The below table summarizes relevant legislation in the following areas:

Area of IP Protection	Legislation and Regulations	Scope of Legislation
Patents	Patents Act 1983 and Patents Regulations 1986 (*Latest amendments came into operation as of 2022*)	Protects new inventions by granting exclusive rights to the patent holder for up to 20 years in accordance with TRIPS.
Trademarks	Trademarks Act 2019	Provides protection for trademarks, service marks, and other distinctive signs used in business. The Act replaced the earlier Trade Marks Act 1976 and introduced a more modern framework in line with the Madrid Protocol, including recognition of non-traditional marks.
Copyrights	Copyright Act 1987 (*Latest amendments came into operation as of 2022*)	Protects original literary, artistic, musical and dramatic works during the life of the author and will continue to subsist for 50 years after their death. In sound recordings, broadcasts, and films, copyright protection lasts for 50 years after the works are first published or made.
Industrial Designs	Industrial Designs Act 1996 (*Latest amendments came into operation as of 2013*)	Protects the visual design of objects that are not purely utilitarian, providing the owner with exclusive rights for five years, which may be extended for four further consecutive terms of five years, providing a total protection period of 25 years.
Geographical Indications	Geographical Indications Act 2022	Provides protection to goods following the name of the place where goods are produced, where a given quality, reputation or other characteristic of the goods is essentially attributable to their geographical origin.

Layout Design of Integrated Circuit	Layout Design of Integrated Circuits Act 2000	Provides protection of layout designs of integrated circuits based on originality, creator's own invention and the fact that the creation is freely created.

Source: MIDA Policy Booklet: Safeguarding your Intellectual Property Rights in Malaysia

The Sessions Court (IP) hears only criminal IP matters, whereas the High Court (IP) hears civil cases on IP, appeals from the decisions of the Registrar at the Malaysian IP Office, and criminal IP appeals from the decisions of the Sessions Court (IP). The Enforcement Division of the Ministry of Domestic Trade and Consumer Affairs is responsible for carrying out raids and seizures of counterfeit goods. Parties may also choose to resolve disputes through alternative dispute resolution (ADR) mechanisms like arbitration and mediation, which MyIPO encourages to reduce the burden on the judicial system.

PROCEDURES FOR COLLECTING PAYMENT

Payment can be collected from buyers or users in Malaysia using several methods, such as international bank transfers, letters of credit (L/C), telegraphic transfer (T/T) and via money transfer companies.

The adoption of digital payment platforms has grown significantly in Malaysia, with digital payment platforms and e-wallets gaining popularity. Service providers have facilitated standardized QR code payments across different e-wallets and banks, as well as through mobile numbers or National ID, streamlining processes in Malaysia. The growth of e-commerce has further accelerated the adoption of these digital payment methods. Malaysia is moving towards open banking, which could significantly change how payments are collected by allowing third-party providers to access financial data with customer consent.

The role of credit reporting agencies has been emphasized in helping businesses assess the creditworthiness of their clients before extending credit. These agencies provide comprehensive credit reports that help mitigate the risk of late payments. In the event of late payment, Swiss companies may hire a licensed debt collection and recovery agency in Malaysia to collect the intended amount at a reasonable fee.

ENFORCING COMMERCIAL CONTRACTS AND RESOLVING DISPUTES

The Commercial Code in Malaysia is based on Civil Law and additional laws that guide the functioning of the business and commercial climate in the country. Commercial law in Malaysia is largely based on the English commercial law model.

To resolve commercial disputes through the legal system, companies may opt for litigation. This process is generally handled by the civil courts, which include the Sessions Court, High Court, Court of Appeal, and the Federal Court. The choice of court depends on the amount in dispute, with the High Court handling larger and more complex cases. The primary sources of laws governing litigation in Malaysia are the Federal Constitution, the Civil Law Act 19562, and the Courts of Judicature Act 1964. Once a court judgment is obtained, it can be enforced through various means, including writs of execution, garnishment orders, and insolvency proceedings against the debtor.

Malaysia is a signatory to the New York Convention, which facilitates the enforcement of international arbitration awards. Arbitration in Malaysia is governed under the Arbitration Act 2005. There are several arbitration institutions in Malaysia, including the Asian Arbitration Centre (Malaysia) (AIAC) and the Malaysian Institute of Arbitrators (MIArb). Mediation is a voluntary dispute settlement process and is governed by the Mediation Act 2012 in Malaysia.

The Legal 500 has ranked major law firms in Malaysia based on their strength, specialisations, and capabilities. The list includes top foreign and local legal firms specialising in fields such as antitrust and competition, corporate and M&A, dispute resolution, labour and employment, and intellectual property: https://www.legal500.com/c/malaysia/.

OVERVIEW OF PUBLIC PROCUREMENT SYSTEM

Information related to government procurement is published on the Public Procurement website of the Ministry of Finance: https://myprocurement.treasury.gov.my (note that the site is in Malay) as well as on the respective websites of the different ministries/government agencies under the tender/quotation category.

Malaysia is not a party to the World Trade Organization (WTO) Agreement on Government Procurement (GPA). As a result, foreign companies do not have the same opportunity as some local companies to compete for contracts and in most cases are required to take on a local partner before their bids are considered. In domestic tenders, preferences go to ethnic Malay, or Bumiputra (literally translating to “sons of the soil”, the term is used to describe Malay and indigenous peoples) suppliers over other domestic suppliers. Procurement often goes through intermediaries rather than being conducted directly by the government. The procurement can also be negotiated rather than tendered. International tenders generally are invited only where domestic goods and services are not available.

Swiss companies may partner with Bumiputera companies through partnerships or consortiums and participate in procurement activities. In some instances, international bidders are solicited only in cases when local goods and services are unavailable.

SOURCES OF INFORMATION AND REFERENCES

Bank Negara Malaysia: https://www.bnm.gov.my/

Companies Commission of Malaysia: https://www.ssm.com.my/Pages/Home.aspx

Department of Standards Malaysia: https://www.jsm.gov.my/

Immigration Department of Malaysia: https://www.imi.gov.my/

Inland Revenue Board: https://www.hasil.gov.my/

Malaysia National Trade Repository: http://mytraderepository.customs.gov.my/

Malaysian Investment Development Authority: https://www.mida.gov.my/

Ministry of Finance: https://www.mof.gov.my/ Ministry of Health: https://www.moh.gov.my/

Ministry of Human Resources: https://www.mohr.gov.my/index.php/en/

Ministry of International Trade and Industry: https://www.miti.gov.my/

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