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AGRICULTURE IN ASEAN: TRADE AND INVESTMENT GUIDEBOOK







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ABOUT THE HABIBIE CENTER

The Habibie Center was founded by Bacharuddin Jusuf Habibie and family as an independent, non-governmental and non-profit organization on November 10, 1999. Our vision is to promote the modernisation and democratisation of Indonesian society based on the morality and integrity of sound cultural and religious values. The missions are:

First, to establish a structurally and culturally democratic society that acknowledges, honors and promotes human rights.

Second, to promote and advance effective human resources management and the socialisation of technology.

The greatest asset and strength of The Habibie Center is in the people that are involved in the Center and their network. The prestigious names listed on our Board fully serve to assist in paving the way to ensure that the research and analyses conducted by the researchers are heard by the right individuals, institutions, and policy makers in Indonesia. The network that has existed since The Habibie Center was established has grown and broadened in the past years giving The Habibie Center an edge in disseminating the research. This has helped The Habibie Center carry out its mission and commit to work in concert with the relevant stakeholders.

The Habibie Center has also made its mark regionally as well as internationally, having several times been given the trust to manage grants and collaborations from and with national and international institutions, such as: the Hanns Seidel Foundation, International IDEA, National Democratic Institute (NDI), the Asia Europe Foundation, The World Bank, Center for Asian Strategic Studies-India, the National Bureau of Asian Research, Taipei Economic & Trade Office, European Union, Yayasan TIFA, USAID-SERASI, USAID-Chemonics, Sasakawa Peace Foundation (SPF), Coordinating Ministry for Human Development of the Republic of Indonesia, Ministry of Law and Human Rights of the Republic of Indonesia, Tides Foundation, Mission of the Republic of Korea to ASEAN, and Harvard Kennedy School.

H.E. Amb. Rob Swartbol

*Ambassador of the Kingdom of the Netherlands
in Jakarta*

“Agriculture
is the
Backbone
of Food
Security.”

FOREWORD



The world needs to produce at least 50 percent more food to feed nine billion people by 2050. With the climate changing, urban areas expanding and fertile land getting scarcer, this will be a phenomenal challenge. Also for the South-East Asian region.

This is why investment in agriculture and rural development to boost food production and nutrition is a top priority for ASEAN and its member states. Governments, knowledge institutions and above all the private sector, each have their role to play in creating an enabling environment, developing new and innovative approaches and getting the results we want: higher and sustainable yields at affordable costs.

This creates many opportunities for both domestic and foreign trading companies and investors. Its ten member countries, a USD 2.4 trillion economy and a population of 626 million make ASEAN one of the largest markets in the world. The ASEAN single market and production are characterized by free flow of goods, services, and investments, as well as freer flow of capital and skills. Through the establishment of the ASEAN Economic Community, the member states are committed to enable businesses to fully tap on the potential of the region.

But where to start or expand your activities? Which country has comparative advantages in growing certain crops? What is the regulatory

framework in each of the ASEAN member states? And what is the economic outlook? This Guidebook produced by The Habibie Centre is an excellent aid for companies to discover potential business opportunities.

We are proud to support this publication. The Netherlands has one of the most innovative agricultural sectors in the world and is keen to share its knowledge with others. And invest in promising areas. As the second global exporter of agricultural products, we also know how important it is to have access to data of export destinations.

I hope this book will help companies from the region and beyond – especially the EU and The Netherlands – to do better business in ASEAN.

Rahimah Abdulrahim

Executive Director of The Habibie Center

“Agriculture plays an important role for the economies of ASEAN

FOREWORD



It cannot be denied that agriculture plays an important role for the economies of ASEAN Member States. For one thing, many countries in the region depend heavily on this sector. Indeed it can be regarded as a crucial sector for ensuring the long-term food security of the region, as well as in promoting intra- and extra-regional trade. As such, improving the agriculture sector remains one of the most important agenda under the umbrella of ASEAN cooperation.

It is with this in mind that the private sector, both from ASEAN and non-ASEAN, should play an important role in further expanding the sector. Whilst awareness about the ASEAN Economic Community (AEC) amongst the private sector – both within and beyond the region - has somewhat improved since the launching of the AEC earlier in 2016, questions remain as to how

economic actors can make effective use of this regional economic integration initiative. We believe that providing sufficient information to the private sector about the business opportunities and challenges in the agriculture sector is therefore highly important.

In this regards, I am very proud that by publishing this guidebook, The Habibie Center is able to play its part in ensuring greater participation of the business sector in the ASEAN Economic Community. We believe socialising the AEC through a sectoral approach would complement ASEAN's AEC goals, on the one hand, and ensure greater participation of sectoral economic actors, both ASEAN and non-ASEAN, on the other. More importantly, socialisation through a sectoral approach would

also complement the newly launched ASEAN Economic Community Blueprint 2025, which highlights agriculture as part of nine sectoral focuses to assist the grouping in attaining its economic integration goal.

Finally, we would like to thank the Embassy of the Kingdom of the Netherlands for the kind support for the project. We hope that the guidebook will be useful for the business sectors – both from within or outside of ASEAN – as it will provide basic information concerning recent outlook, existing rules and regulations, and potential business opportunities in the agricultural sector in ASEAN. The project, therefore, will contribute positively to the potential expansion of trade and investment - especially in the area of agriculture - between ASEAN and the Netherlands and the EU.

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LIST OF ABBREVIATIONS

ACDD	ASEAN Customs Declaration Document	CLMV	Cambodia, Lao PDR, Myanmar, and Vietnam (newer ASEAN Member States)	NSWs	National Single Windows
ACIA	ASEAN Comprehensive Investment Agreement	COO	Certificate of Origin	QIPs	Qualified Investment Projects - of Cambodia
ACRA	Accounting and Corporate Regulatory Authority of Singapore	CPF	Central Providence Fund of Singapore	PER-KESO	<i>Pertubuhan Keselamatan Sosial</i> (Malaysian Social Security)
AEC	ASEAN Economic Community	CV	Commanditaire Vennotschap (Limited Partnership Company) of Indonesia	PIS	Priority Integration Sectors
AEP	Alien Employment Permit – of the Philippines	DICA	Directorate of Investment and Company Administration of Myanmar	PMA	<i>Penanaman Modal Asing</i> (Foreign Investment Company) of Indonesia
AHTN	ASEAN Harmonised Tariff Nomenclature	FAF	Food, Agriculture, and Fishery	PT	<i>Perseroan Terbatas</i> (Limited Liability Company) of Indonesia
AMS	ASEAN Member States	FDI	Foreign Direct Investment	RCED	Royal Customs and Excise Department of Ministry of Finance of Brunei Darussalam
ASEAN	Association of Southeast Asian Nations	FTAs	Free Trade Agreements	RPJM	<i>Rencana Pembangunan Jangka Menengah</i> (Medium-Term Development Plan) of Indonesia
ASW	ASEAN Single Window	HS	Harmonised System, for classification of goods	SEZs	Special Economic Zones
ATR	ASEAN Trade Repository	ISDS	Investor-State Dispute Settlement	SIUP	<i>Surat Izin Usaha Dagang</i> (Trade Licence) of Indonesia
AVA	Agri-Food and Veterinary Authority of Singapore	MFN	Most Favoured Nations	TAP	<i>Tabungan Amanah Pekerja</i> (Employees Savings Trust) of Brunei Darussalam
B.E.	Buddhist Era of Thailand	MIDA	Malaysian Investment Development Authority	TPP	Trans-Pacific Partnership
BKPM	<i>Badan Koordinasi Penanaman Modal</i> (Investment Coordinating Board) of Indonesia	(M) SMEs	Micro-, Small-, and Medium-Sized Enterprises	UMF-CCI	Union of Myanmar Federation of Chambers of Commerce and Industry
BPJS	<i>Badan Penyelenggara Jaminan Sosial</i> (Social Security Organising Agency) of Indonesia	NKEA	National Key Economic Areas of Malaysia	WTO	World Trade Organisation
CDC	Council for the Development of Cambodia	NPWP	<i>Nomor Pokok Wajib Pajak</i> (Taxpayer Identification Number) of Indonesia		

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Agriculture is a vital sector for the Association of Southeast Asian Nations (ASEAN). Aside from being a key engine of growth in the members of the Association, the sector also plays critical role in providing livelihoods to a large segment of its 628.9 million populations. To date, the sector contributes about 25 percent of total ASEAN's GDP, and about 25 percent of total employment in the region. Agricultural sector has also been playing key role in promoting intra- and extra-regional trade. Total ASEAN's exports in agricultural products, for example, rose from USD 29 billion in 2004 to USD 99.8 billion a decade later. Of these, intra-ASEAN exports accounted for about USD 6.4 billion in 2004 and USD 24.7 billion in 2014, an increase of USD 18.3 billion (or 287.7 percent), whilst extra-regional exports rose from USD 22.6 billion in 2004

to USD 75.1 billion in 2014, an increase of USD 52.5 billion (or 232.4 percent).

Despite being one of the most productive agricultural baskets in the world, ASEAN's agricultural sector has yet reached its full potential. Potential investors, whom may leverage against the region's favourable climate, fertile lands, and a mix of lowlands and uplands, forests, rivers, and coastlines, are likely to find opportunities in crop and livestock production, as well as in the management of food supply chain, agriculture infrastructure and safety, and agribusiness.

The publication of this Guidebook is part of the larger project that aims to familiarise business actors from within and beyond ASEAN about business opportunities and challenges deriving from the full implementation of the ASEAN Economic Community, which has been in operation since the end of 2015. Aside from encouraging greater agricultural trade

and investment in the region, this Guidebook is also intended for private sector audience beyond ASEAN, especially those in Europe. In addition to official websites of ASEAN and its Member States, information presented in this Guidebook is also based on available information from credible sources from international organisations (e.g. World Trade Organisation, International Trade Centre, the World Bank, and so on) and private sector bodies or organisations. Whilst it is our intention to present the information in the Guidebook as uniformed as possible, available information from some countries may differ from those available in others. Notwithstanding such challenges, the authors acknowledge the relative increase of transparency across ASEAN that made the completion of this project possible.



About This Guidebook

Agriculture Sector





1. INTRODUCTION AND OVERVIEW

INTRODUCTION AND OVERVIEW

1.1. Overview of agricultural sector in Southeast Asia

Agriculture is one of the most important sectors in the member economies of the Association of Southeast Asian Nations (ASEAN). Aside from being a key engine of growth in the region, the sector also serves as the main source of livelihood for a large segment of the Association's over 600 million people. To date, 25 percent out of the total 432 million ha land area of the region is used for agricultural purposes. Apart from making up about 14.6 percent of the total ASEAN GDP, the sector also contributes about 25 percent of total employment in the region.¹ In some ASEAN Member States (AMS), such as Myanmar, the agricultural sector accounts for about 40 percent of total employment in the country.

Agricultural output in the region has been on the rise since the 1970s, with the dominant form of agriculture being wet-rice cultivation. In some areas, alternative food crops, such as corn and cassava, are also grown. Along with the so-called 1960s 'Green Revolution', which promoted the use of new high-yielding crop strains combined with the use of fertilizers and agricultural chemicals, commercial cash crops have become progressively more important as an increasing number of traditional farmers have been incorporated into national and international market economies directed towards the needs of an expanding urban population.²

To date, ASEAN remains one of the most productive agricultural baskets in the world. In 2016, the region produced about 214.06 million tonnes of rice, 43.21 million tonnes of maize, 40.41 million tonnes of



sugar, 1.54 million tonnes of soybean, and 87.48 million tonnes of cassava.³ Despite its status as one of the leading producers of staple crops and food, the region's agricultural sector is still far from its full potential. Leveraging on its favourable climate, fertile lands, as well as a mix of lowlands and uplands, forest, rivers, and coastlines, investors are likely to find opportunities not only in crop and livestock production, but also in managing food supply chains, agriculture research, infrastructure and safety, and agribusiness.⁴

1.2. Overview of ASEAN cooperation in the agricultural sector

Dated as early back as 1968, agriculture is one of the oldest areas of ASEAN cooperation. Initially concerned with food production and supply, the scope of ASEAN cooperation in the sector has been expanded since to cover greater areas of agriculture and forestry, including but not limited to, food security, food handling, livestock, fisheries, agricultural training and cooperatives, products promotion schemes, and research. In

addition to formulating and implementing regional cooperation activities that are conducive to the competitiveness of the region's food, agriculture, and forestry products, ASEAN cooperation in the sector also aims to enhance the region's food security arrangement and its joint positions in international fora.⁵

ASEAN cooperation in agriculture was further expanded following the ASEAN Leaders' decision in 2003 to launch the ASEAN Community by 2020 (this deadline, however, was later accelerated to 2015 to allow the grouping to keep up with emerging economic challenges facing the region). In line with the

objective of launching the ASEAN Community, which comprises three major pillars (political-security, economic, and socio-cultural), ASEAN decided to accelerate the integration of 11 priority sectors in 2004, in which agri-business was one of them (the Association added logistics as the 12th of the so-called Priority Integration Sectors (PIS) in 2006).⁶

Along with the launching of the ASEAN Economic Community (AEC) in early 2016, which is aimed at making the Association a single market and production base, competitive economic region, equitable economic region, and fully integrated with the global economy, ASEAN issued a new AEC Blueprint 2025 to guide the grouping in attaining the full implementation of the AEC in the next ten years. With the overall aim of improving ASEAN's competitiveness, this new Blueprint, which builds on from the previous AEC 2015 Blueprint, emphasises food, agriculture, and forestry (FAF) as one of the key sectors critical in complementing the Association's efforts towards creating an integrated and sustainable economic region.⁷

In addition, the present ASEAN cooperation on FAF is also governed by the Vision and Strategic Plan for ASEAN Cooperation in Food, Agriculture, and Forestry 2016-2025. This document envisions ASEAN to develop a competitive, inclusive, resilient, and sustainable FAF sector that will be integrated fully with the global economy ten years from now. In order to attain this vision, ASEAN sets seven goals, including: (1) ensuring equitable, sustainable, and inclusive growth; (2) poverty alleviation and hunger eradication; (3) ensuring food security, food safety, and better nutrition; (4) deepening regional integration; (5) enhancing access to global markets; (6) increasing resilience towards climate change, natural disasters, and other shocks; and (7) achieving sustainable forest management.⁸

Table 1.1. Milestones of ASEAN agricultural cooperation

1967	Establishment of ASEAN
1968	Agricultural cooperation in the area of food production and food supply
1977	Broadening of cooperation to include food security, food handling, crops, livestock, fisheries, training, cooperatives, and various joint cooperation and promotion schemes
1979	Agreement on the ASEAN Food Security Reserve (4 th October, in New York, USA)
1980	Declaration of Objectives regarding the ASEAN Agriculture Development Planning Centre
1981	ASEAN Declaration on Specific Animal Disease Free Zone; ASEAN Declaration to Eradicate Food and Mouth Disease
1983	ASEAN Ministerial Understanding on Fisheries Cooperation
1984	ASEAN Ministerial Understanding on ASEAN Cooperation in Agricultural Cooperatives
1992	The strengthening of regional cooperation in the development, production, and promotion of agricultural products at the 4 th ASEAN Summit; ASEAN Free Trade Area/Common Effective Preferential Tariffs, which applies to processed agricultural products
1993	Ministerial Understanding on ASEAN Cooperation in FAF (28-30 October 1993, in Bandar Seri Begawan, Brunei Darussalam)
1994	Programme of Action for ASEAN Cooperation in FAF, 1995-1999
1997	Memorandum of Understanding on ASEAN Sea Turtle Conservation and Protection
2004	ASEAN Framework Agreement for the Integration of Priority Sectors (29 th November, in Vientiane, Lao PDR), which puts agri-based products as one of ASEAN's Priority Integration Sectors
2007	ASEAN Statement on Strengthening Forest Law Enforcement Governance (FLEG) (1 st November, in Bangkok, Thailand)
2008	ASEAN Integrated Food Security (AIFS) Framework and Strategic Plan of Action on Food Security in the ASEAN Region (SPA-FS), 2009-2013
2011	ASEAN Plus Three Emergency Rice Reserve Agreement
2015	Vision and Strategic Plan for ASEAN Cooperation in FAF, 2016-2025; AIFS and SPA-FS, 2015-2020; AEC Blueprint 2025 where FAF is included as one of ASEAN's 'Enhanced Sectoral Cooperation'
2016	Launching of ASEAN Community

Source: ASEAN Secretariat (n.d.a.)

Table 1.2. Major achievements of ASEAN cooperation in agriculture

Areas of agricultural cooperation	Key objectives/ areas of concern	Major achievements
AGRICULTURE		
Crops	Food safety and agricultural products marketability	<ul style="list-style-type: none"> The harmonisation of 802 maximum residual levels (MRLs) for 63 pesticides traded in ASEAN (http://asean.org/asean-economic-community/asean-ministerial-meeting-on-agriculture-and-forestry-amaf/other-documents/); Establishment of ASEAN Pesticides Regulatory Authorities (ASEANPEST), which is a pesticide database and network amongst AMS; The development of various guidelines and manuals, such as: <ul style="list-style-type: none"> Food Safety Module on Good Animal Husbandry Practices for Layers and Broilers; Guidelines for Pest Risk Analysis; Guidelines for Biological Control Agents; Manual Good Manufacturing Practices for Animal Vaccine; Guidelines for Food Import Control Systems (2014).
	International competitiveness	<ul style="list-style-type: none"> Elimination of phytosanitary measures; The development of guides, manuals, and standards on: <ul style="list-style-type: none"> The Harmonisation of Import Procedures for rice-milled, citrus, mango, potato-tuber, and dendrobium orchids cut-flowers; Good Agricultural Practices for Fresh Fruits and Vegetables; ASEAN Standards for Various Fruits and Vegetables; ASEAN Common Food
Livestock	Infectious diseases (e.g. FMD (food and mouth disease), classical swine fever, Newcastle disease, etc.)	The establishment of the ASEAN Animal Health Trust Fund to facilitate and support long-term sustainability of animal disease control in ASEAN
	Sustainable fisheries development	<ul style="list-style-type: none"> Partnership with the Southeast Asian Fisheries Development Centre since 1988; Harmonisation of Hatchery Production of <i>Penaeus monodon</i> (Tiger Prawn) in ASEAN.
Fisheries	Sustainable aquaculture	Development of guides and manuals on: <ul style="list-style-type: none"> Good Shrimp Farm Management Practices; Development of Standard Operating Procedures for Health Certification and Quarantine Measures for the Responsible Movement of Live Food Fish; Identification & Control of Food Safety Hazards in the Production of Fish and Fisheries Products ; Guidelines on ASEAN Good Aquaculture Practices for Food Fish; Guidelines for Preventing the Entry of Fish and Fishery Products from Illegal, Unreported, and Unregulated Fishing Activities into the Supply Chain.

Areas of agricultural cooperation	Key objectives/ areas of concern	Major achievements
Biotechnology	Sustainable food production	The development of a Guidelines on the Risk Assessment of Agriculture-related Genetically Modified Organisms
Agriculture and forest products promotion		<p>The signing of:</p> <ul style="list-style-type: none"> Memorandum of Understanding on ASEAN Cooperation in Agriculture and Forest Products Promotion Scheme (2004-2009); Under consideration: New Memorandum of Understanding on 11 products, such as carrageenan and other seaweeds, cocoa, coconut, coffee, forest products (timber and non-timber), palm oil, peas and beans, pepper, tapioca, tea, and tuna.
Other achievements	Agricultural cooperatives	<ul style="list-style-type: none"> Strategic alliances in issues such as: data and information, agricultural production and marketing, agro-ecotourism, beef farming, carrageenan, and marketing of beans and pulses; The establishment of the ASEAN Cooperative Business Forum in 2006 to promote business linkages and trading amongst potential agricultural cooperatives across ASEAN.
	Agricultural training, research, and development	<ul style="list-style-type: none"> The development of training modules and regional trainings on Integrated Pest Management; The establishment of various training, research, and development networks, directories, and guidelines, such as: <ul style="list-style-type: none"> Training Workshops on Safety and Risk Assessment of Agriculture-related Genetically Modified Organisms; ASEAN Genetically Modified Food Testing Network; The Integrated Pest Management Knowledge Network; ASEAN Agricultural Research and Development Information System; ASEAN Directory of Agricultural Research and Development Centres in ASEAN; Standard for Organic Agriculture; Standard for Horticultural Produce; Regional Guidelines for Promoting Climate Smart Agriculture; Guidelines for the Use of the Digital Information System.

FOOD

Food security	Food security and stability	<ul style="list-style-type: none"> The signing of the Agreement on ASEAN Food Security Reserves (1970) that facilitates each AMS to establish an ASEAN Emergency Rice Reserve; Cooperation under the ASEAN Plus 3 framework (China, Japan, and Republic of Korea), including: <ul style="list-style-type: none"> East Asia Emergency Rice Reserve; ASEAN Food Security Information System; Global food crises-related policies, including: <ul style="list-style-type: none"> ASEAN Integrated Food Security (AIFS) Framework (2008); Strategic Plan of Action on ASEAN Food Security (SPA-AFS) (2008); 2016-2025 AIFS and SPA-AFS.
	Food handling	The development of ASEAN General Guidelines on the Preparation and Handling of Halal Food.
	Food safety	The establishment of the ASEAN Food Safety Network (2003 – www.aseanfoodsafetynetwork.net).

Areas of agricultural cooperation	Key objectives/ areas of concern	Major achievements
Forestry	Sustainable forest management	The establishment of various indicators, monitoring and assessment, guidelines, and institutional frameworks, such as: <ul style="list-style-type: none"> • ASEAN Criteria and Indicators for Sustainable Management of Tropical Forests; • Monitoring, Assessment, and Reporting Format for Sustainable Forest Management in ASEAN; • ASEAN Guideline for the Implementation of the Intergovernmental Panel on Forest and the Intergovernmental Forum on Forest; and • ASEAN Forest Clearing House Mechanism.
	Cross-cutting issues	Identification of major issues in ASEAN forestry and agricultural cooperation, including: <ul style="list-style-type: none"> • Climate change • Sanitary and Phytosanitary (SPS); • Etc.

Source: ASEAN Secretariat (n.d.b.).

1.3. Agricultural trade and investment in ASEAN

Whilst considered as one of the most productive agricultural baskets of the world, ASEAN has yet to reach its full agricultural potential. The sector has been traditionally treated with great sensitivity by the majority of AMS, particularly since a third of employment in the region is in agriculture. Unlike trade liberalisation under the World Trade Organisation that typically involves market access, domestic support, and export subsidies, various ASEAN-led Free Trade Agreements

(FTAs) usually only deal with market access, with extended timelines for market liberalisation is given in the sector.⁹ In ASEAN's 2004 Priority Integration Sectors (PIS) initiative, where natural resource-based sectors, such as agriculture, fisheries, rubber, and wood-based products were included, the coverage of agricultural products was relatively narrow, covering a small number of vegetables, fruits and nuts, a range of oilseeds, and a small number of grains and flour.¹⁰ Non-tariff measures, especially sanitary and phytosanitary, are also rampant in these sectors.¹¹

Table 1.3. Average agricultural exports and imports of ASEAN, 1984-2014 (in USD million)

Country	Export/Import	1984-89 (1)	1990-99	2000-09	2010-14 (2)	% change
Brunei	Export	9	5	4	18.6	106.6
	Import	139	229	260	510.8	266.9
Cambodia	Export	n.a.	n.a.	70	489.4	n.a.
	Import	n.a.	n.a.	250	559	n.a.
Indonesia	Export	3,678	6,702	15,882	43,167.6	1,073.6
	Import	1,521	4,454	7,786	20,538.6	1,250.3
Lao PDR	Export	n.a.	n.a.	n.a.	n.a.	n.a.
	Import	n.a.	n.a.	n.a.	n.a.	n.a.
Malaysia	Export	6,617	9,353	14,714	32,371.2	389.2
	Import	1,821	3,882	7,863	19,750.2	984.5

Table 1.3. Average agricultural exports and imports of ASEAN, 1984-2014 (in USD million)

Country	Export/Import	1984-89	1990-99	2000-09	2010-14	% change
Myanmar	Export	n.a.	376	2,477	2,755.4	n.a.
	Import	n.a.	91	n.a.	701.2	n.a.
Philippines	Export	1,692	2,030	2,684	5,598.8	230.8
	Import	918	2,544	4,134	7,382.8	704.2
Singapore	Export	3,447	4,852	4,739	10,119.2	193.5
	Import	3,774	5,734	6,620	13,501.8	257.7
Thailand	Export	5,526	11,207	19,290	40,973.2	641.4
	Import	1,491	4,391	7,036	15,383	931.7
Vietnam	Export	n.a.	3,202	8,029	22,461	n.a.
	Import	n.a.	654	3,956	13,836.6	n.a.
ASEAN Total	Export	20,968	37,727	67,890	157,954.4	653.3
	Import	9,895	21,979	37,905	92,164	831.4
ASEAN Average	Export	3,494.6	4,715.9	7,543.3	17,550.5	402.1
	Import	1,649.2	2,747.4	4,738.1	10,240.4	520.9
World Total	Export	326,852	511,728	861,703	8,181,330	2,403.1
	Import	353,489	545,593	906,604	8,480,053	2,298.9
ASEAN/World	Export	6.42%	7.37%	7.88%	1.9%	
	Import	2.80%	4.03%	4.18%	1.1%	

Source: WTO Statistics Database (n.d.).

Despite this, ASEAN's agricultural trade performance has been showing an upward trend. The average value of the grouping's agriculture exports, for instance, grew 653.3 percent from USD 20.7 billion between 1984 and 1989 to nearly USD 158 billion between 2010 and 2014. The same goes for the average value of the Association's agricultural imports, which rose 831.4 percent from USD 9.9 billion between 1984 and 1989 to USD 92.2 billion between 2010 and 2014. Indonesia, where trade in agricultural products is often subject to discretionary permits or implicit quotas, also saw significant growth in its agricultural export and import

over the same period. Despite the relative decline of the share of ASEAN's agricultural exports and imports against the world's total, as well as persistent protectionism in the sector, ASEAN's agricultural sector remains open for business.

As in the case with trade in agricultural products, foreign direct investment (FDI) in ASEAN's agriculture, forestry, and fisheries (FAF) sector has also been showing an upward trend in the last few years. FAF is, in fact, the only sector that has been consistently showing an upward trend in attracting FDI into the region over the 2012 and 2015 period. The flow of

FDI into the sector reached USD 1.7 billion in 2012, and went up 62.1 percent in 2015 to USD 4.8 billion. Indonesia, the largest economy in the region, took up the largest share, or about 84 percent, of FDI in the sector over this period. Despite increase tightening of restrictions in the sector, the Indonesian agricultural sector still offers plenty of business opportunities for foreign investors. In light of increasing domestic consumption and demand from other countries, the Indonesian government has been improving itself in ensuring sustainable growth of the sector, including in the area of investment agriculture.

Table. 1.4. Foreign direct investment to ASEAN by economic sectors (in USD million)

Economic sectors	2012	2013	2014	2015
Agriculture, forestry, and fishing	1,746.86	2,331.13	4,715.77	4,830.96
Mining and quarrying	6,461.77	8,079.71	7,660.14	7,253.01
Manufacturing	5,311.97	38,272.40	18,012.46	29,014.95
Electricity, gas, steam, and air conditioning supply	192.19	1,183.57	428.79	1,982.49
Water supply, sewerage, waste management, and remediation activities	247.69	597.53	89.08	-29.98
Construction	49.24	682.63	1,779.24	1,000.32
Wholesale and retail trade; Repair of motor vehicles and motorcycles	17,207.79	16,892.13	20,526.51	11,188.01
Transportation and storage	4,735.49	2,787.89	2,742.69	3,281.18
Accommodation and food service activities	148.74	21.23	199.10	470.68
Information and communication	2,407.64	1,801.88	1,297.96	1,825.33
Financial and insurance activities	50,209.31	27,662.74	45,624.46	39,322.17
Real estate activities	10,210.59	9,466.28	10,088.14	9,207.42
Professional, scientific, and technical activities	5,506.39	414.81	898.32	247.50
Administrative and support service activities	244.86	74.13	266.71	261.40
Public administration and defence; Compulsory social activities	0.00	0.00	0.04	0.00
Education	2.26	66.52	52.92	1.82
Human health and social work activities	293.36	129.93	209.23	134.30
Arts, entertainment, and recreation	119.14	221.24	-35.88	-14.34
Other services activities	10,246.64	10,527.24	11,224.16	6,070.62
Unspecified activity	1,462.98	3,197.01	4,215.22	3,927.00
Total	117,099.31	124,864.51	129,995.08	119,974.83

Source: ASEAN Monitoring Integration Department of the ASEAN Secretariat (n.d.).

1.4 Key regional trade and investment agreements

As far as trade and investment are concerned, three ASEAN-level agreements are particularly important to observe by companies wishing to conduct their business in the region. These include: the ASEAN Trade in Goods Agreement (ATIGA), the ASEAN Framework Agreement on Services (AFAS), and the ASEAN Comprehensive

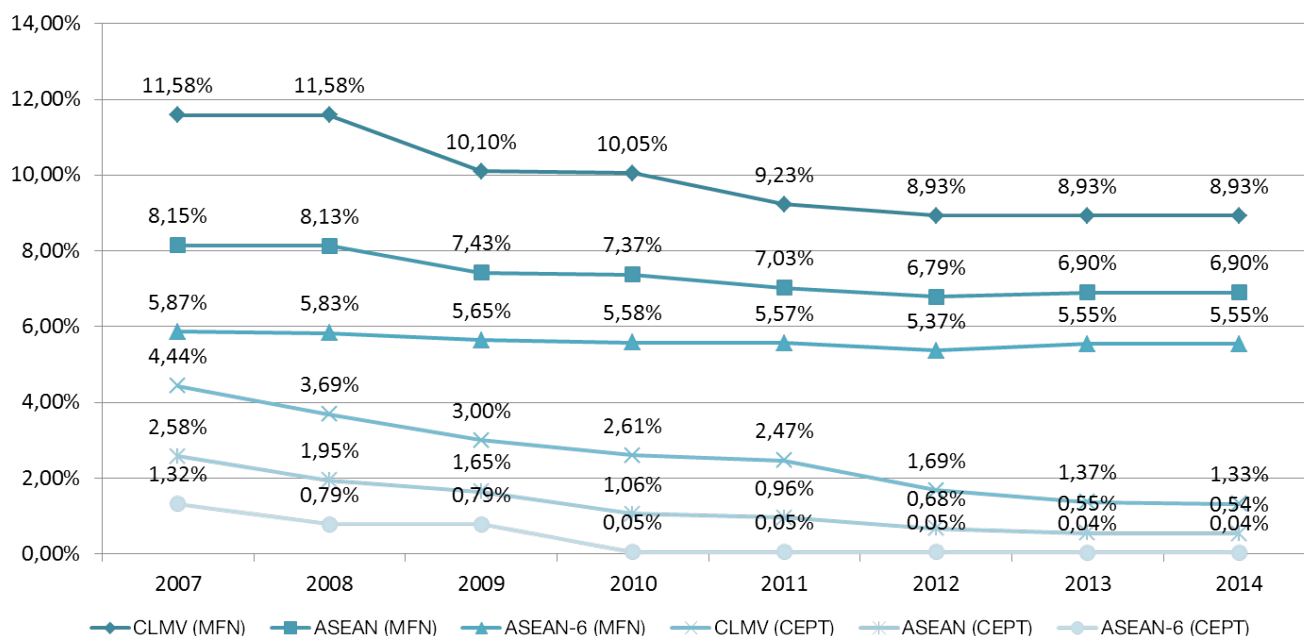
Investment Agreement (ACIA). Although made operational prior to 2015, the implementation of these agreements was further strengthened through the official launching of the AEC in early 2016.

ASEAN Trade in Goods Agreement

Signed in 2009 and put into effect a year later, the ASEAN Trade in Goods Agreement (ATIGA) governs intra-ASEAN trade in goods. The

signing of this agreement was primarily an effort to consolidate all existing initiatives, obligations, and commitments of ASEAN into a single document. The agreement covers nearly all goods traded amongst ASEAN countries, and only allows few exceptions, particularly on sectors where restrictions are necessary to protect public morals, the health of human, animal, and plant life, as well as the preservation of national cultural treasures.¹² The agreement also obligates AMS to eliminate all import duties by 2010

Figure 1.1. ASEAN's CEPT/ATIGA rates and applied MFN rates



Note: CEPT stands for Common Effective Preferential Tariff, which is the tariff reduction mechanism under the ASEAN Free Trade Area, whereas MFN stands for Most Favoured Nations, which is a status that is given by one state to another in international economic relations.

Source: ASEAN Secretariat (2015c: 9)

for the ASEAN-6, and 2015 for the CLMV countries.¹³ The latter is also given extensions until 2018 to remove tariffs on the remaining goods imported from other ASEAN countries.

In 2014, the average ATIGA rate stood at just 0.54 percent for all ASEAN Member States (or 0.04 percent for ASEAN-6 and 1.33 percent for CLMV countries). The share of tariff lines with 0 percent rate has also increased over time. By 2014, for example, the share stood at 99.2 percent for the ASEAN-6, and 72.6 percent for the CLMV countries (refer to Figure 1.1.).

In addition to tariff reduction, the ATIGA also deals with non-trade barriers in ASEAN trade. The agreement, for instance, prohibits AMS to charge higher-than-necessary import or export fees. It also requires all AMS to publish all regulations that affect trade flows in the region.

ATIGA's rules of origin

Articles 27, 28, and 29 of ATIGA specify rules of origin for this trade regime. A product is said to originate from an AMS if it meets one of these two conditions: (1) it is wholly produced in an AMS; or (2) it is partially produced in an AMS. As a rule of thumb, a product is said to originate from an AMS, and can thus make use of the ATIGA facility, if the said good has an 'ASEAN regional value content' of at least 40 percent. Article 29 of ATIGA specifies the specific formula to calculate a product's regional value content.

Further information about the ATIGA

For further information on the ATIGA, visit: <http://www.asean.org/storage/images/2013/economic/afta/atiga%20interactive%20rev4.pdf>.

ASEAN Comprehensive Investment Agreement

Signed in 2009 and put into effect in 2012, the ASEAN Comprehensive Investment Agreement (ACIA) was set up to create a liberal, facilitative, transparent, and competitive investment environment in ASEAN. It replaces and builds upon two investment-related agreements, namely the 1987 ASEAN Investment Guarantee Agreement and the 1998 ASEAN Investment Area. The ACIA is seen as a far better improvement than its two predecessors in that it:

- Adopts international best practices to protect investors and their investments;
- Promotes a less restrictive investment regime;
- Introduces broader definitions of investors and investments, as well portfolio investment and intellectual property;
- Allows non-ASEAN countries to benefit from the agreement;

- Promotes higher level transparency in investment rule-making;
- Adopts the investor-state dispute settlement mechanisms, as well as other alternative dispute resolution methods.

ACIA's benefits for potential investors?

The ACIA offers at least five key benefits to potential investors, and these include investment liberalisation, non-discrimination, transparency, investor protection, and Investor-State Dispute Settlement (ISDS) mechanism.

Investment liberalisation

The ACIA liberalises cross border investment in initially five key sectors, including manufacturing, agriculture, fishery, forestry, mining and quarrying and their related services, and will be expanded in the foreseeable future. Article 9 of the agreement calls for each AMS to submit within six months after the signing of the ACIA a reservation list for the aforementioned sectors. Accordingly, sectors that are not included in the reservation list are open for liberalisation for ASEAN investors. Each AMS, in turn, is required to reduce or eliminate its reservation list in line with the three strategic phases of the Strategic Schedule outlined in the AEC 2009-2015 Blueprint.¹⁴ Although progressive elimination of restrictions on investment remains an ongoing work, some progress is evident since the ACIA took effect in 2012, such as with the introduction of more liberalised provisions by some AMS, including Brunei Darussalam, Lao PDR, and Myanmar.

Non-discrimination

The ACIA adopts the principles of National Treatment and Most-Favoured-Nation (MFN) treatment (refer to Article 5 and 6 of ACIA respectively), which are to be accorded to both domestic and ASEAN investors. This means each AMS is obliged to treat all investors equally. Aside from allowing ASEAN investors to select senior management, irrespective of their nationalities, to manage their investments, the ACIA also allows investors to seek the best talents in their field and work with the people they can trust. Moreover, this agreement also ensures that AMS do not impose performance requirement that may put investors and their investment at a disadvantage compared to local investors or other third country investors.

Transparency

The ACIA promotes improvements in transparency and predictability of investment rules, regulations, and procedures to increase investment amongst AMS (refer to Article 21 of the ACIA). The agreement serves as a platform to do this through harmonisation of investment policies across AMS, the streamlining and simplification of procedures for all investment applications, and by making publicly available all relevant laws, regulations, and administrative guidelines that affect investments in each AMS.

Investor protection

Enhanced protection for investors and their investments in ASEAN is part of the main objectives of the ACIA (refer to Article 1 of the ACIA). It does so by offering investors fair and equitable treatment, full protection

and security, no unlawful expropriation, and free transfer of funds.

ISDS mechanism

Disputes between investors and AMS are regulated under Section B, Article 28-41 of the ACIA. In the case of disputes, ASEAN investors may use either alternative dispute resolution methods (e.g. mediation, conciliation, and consultation and negotiation), domestic courts, or a binding international arbitration (e.g. through the International Centre for Settlement of Investment Disputes, the United Nations Commission on International Trade Law, etc.).

Further information

For further information on the ACIA, visit: http://www.asean.org/storage/images/2013/economic/aia/ACIA_Final_Text_26%20Feb%202009.pdf for official text, and <http://aadcp2.org/file/ACIA-Guidebook2012-23.07.13.pdf> for official guidebook for official guidebook.

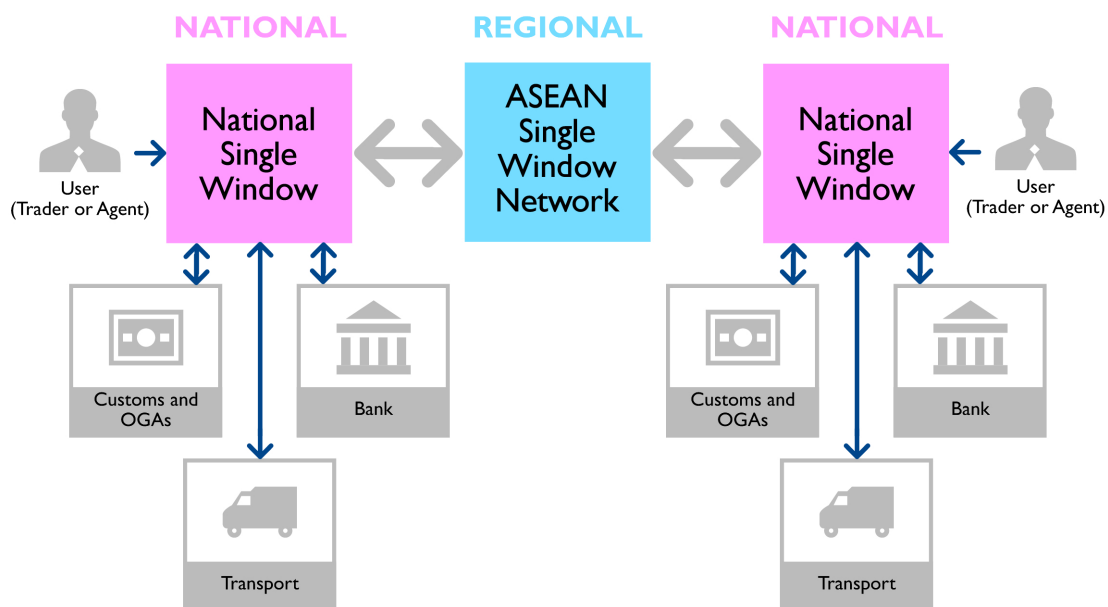
1.5. Other relevant ASEAN's trade and investment initiatives

In addition to the above-mentioned trade and investment agreements, a number of initiatives have been introduced by ASEAN to facilitate greater trade and investment in the region. These include: (1) ASEAN Single Window (ASW); (2) ASEAN Trade Repository (ATR); (3) ASEAN Tariff Finder; and (4) ASEAN Solution for Investment, Services, and Trade (ASSIST).

ASEAN Single Window

The ASEAN Single Window (ASW) is an initiative that connects and integrates together all National Single Windows (NSWs) of individual AMS. It has the objectives

Figure 1.2. ASEAN Single Window



Source: ASEAN Single Window (n.d.).

of expediting cargo clearance, ensures that all AMS's NSWs are in line with open communication standards, as well as facilitating secure and reliable data exchanges amongst AMS. Currently, the ASW only supports the exchange of the intra-ASEAN certificate of origin, known as ATIGA Form D, as well as the ASEAN Customs Declaration Document (ACDD). In the future, the facility could also facilitate the exchange of certificate of origin and advanced cargo information with non-ASEAN trading partners.

Further information

For further information on the ASW, visit: <http://asw.asean.org/>.

ASEAN Trade Repository

The ASEAN Trade Repository (ATR) is a region-wide information technology interface that links together all National Trade

Repositories of AMS. It serves as a single point of access for all trade-related information of AMS. Information provided in this portal is in line with the nine topics of Article 13 of the ATIGA, including: (1) tariff nomenclature; (2) MFN tariffs; (3) rules of origin; (4) non-tariff measures; (5) national trade and customs laws and rules; (6) procedures and documentary requirements; (7) administrative rulings; (8) best practices in trade facilitation; and (9) list of all authorised economic operators.

Further information

For further information on the ATR, visit: <http://atr.asean.org/>.

ASEAN Tariff Finder

The ASEAN Tariff Finder is a search engine tool that assists businesses, especially micro-, small-, and medium-sized

enterprises (MSMEs), to obtain the latest information on the preferential tariffs applied by AMS. This tool is expected to reduce time and resources needed by businesses in their transaction process, particularly since all tariff information they need are easily available via this electronic portal. Tariff information provided in this search engine includes those in the ATIGA, as well as key free trade agreements between ASEAN and major trading partners (e.g. Australia, New Zealand, China, India, Japan, and Republic of Korea).

Further information

For further information on ASEAN Tariff Finder, visit: <http://tariff-finder.asean.org/>.

ASEAN Solution for Investment, Services, and Trade

The ASEAN Solution for Investment, Services, and Trade (ASSIST) is a free, non-binding, and consultative mechanism to solve problems encountered by ASEAN-based enterprises on cross-border issues related to the implementation of ASEAN economic agreements and within the framework of the AEC. It

works based on a simple and streamlined process that is largely carried out electronically. The system allows any ASEAN-based enterprises confronted with AEC-related problems – such as tariff and non-tariff measures affecting goods –, issues in the area of cross-border services, as well as measures limiting investment in various sectors of ASEAN integration, to submit a formal complaint electronically. ASEAN-based enterprise, in turn, can expect practical solutions within

40 to 60 working days maximum. Should the said enterprise not be satisfied with the outcome, it may refer the case to the ASEAN Compliance Body or to the ASEAN Enhanced Dispute Settlement Mechanism.

Further information

For further information on ASSIST, visit: <http://assist.asean.org/>.

Tips for doing business in the AEC

The economies of AMS are increasingly more integrated with the launching of the AEC in early 2016. Whilst increasingly harmonised, rules and regulations across AMS are still very diverse. The AEC, however, offers facilities to allow potential investors easier access across ASEAN markets. Aside from the tariff-free facility for goods moving across the ASEAN market, the AEC also encourages, amongst other things, transparency and harmonisation of rules, regulations, and standards across the region. As to which AMS is better to do business with or invest in, this depends entirely on the business or sector, regulatory environment (e.g. rules, regulations, bureaucracy, etc.), infrastructures and other factors in which such a potential investment is to be made. Where AMS stand in the different global governance rankings is indicative of the right place in which trade and investment are best made (refer to Table 1.5).

Table 1.5. ASEAN in various global governance rankings

Ease of Doing Business Index 2016		Global Competitiveness Index 2016		Corruption Perception Index 2016	
Country (ranking by AMS)	World Ranking	Country (ranking by AMS)	World Ranking	Country (ranking by AMS)	World Ranking
Singapore	2	Singapore	2	Singapore	7
Malaysia	23	Malaysia	25	Brunei	41
Thailand	46	Thailand	34	Malaysia	55
Brunei	72	Indonesia	41	Indonesia	90
Vietnam	82	Philippines	57	Philippines	101
Indonesia	91	Brunei	58	Thailand	101
Philippines	99	Vietnam	60	Vietnam	113
Cambodia	131	Cambodia	89	Lao PDR	123
Lao PDR	139	Lao PDR	93	Myanmar	146
Myanmar	N.A.	Myanmar	N.A.	Cambodia	156

Source: World Bank (2016), World Economic Forum (2016), and Transparency International (2017).

ENDNOTES

1. CEIC (2016).
 2. Capistrano and Marten (1986: 7).
 3. AFSIS (2015).
 4. Invest in ASEAN (n.d.).
 5. ASEAN Secretariat (n.d.a.).
 6. The 12 PIS included electronics, automotives, e-ASEAN, healthcare, wood-based products, agro-based products, rubber-based products, textiles and apparels, fisheries, air travel, tourism, and logistics.
 7. ASEAN Secretariat (2015a).
 8. ASEAN Secretariat (2015b).
 9. Pasadilla (2007: 75-78).
 10. ASEAN Secretariat (2015c: 116-117).
 11. Ibid, p. 16-17.
 12. See Article 8 of ATIGA.
 13. ASEAN-6 comprises Brunei Darussalam, Indonesia, Malaysia, the Philippines, Singapore, and Thailand, whereas CLMV represents the newer ASEAN member countries, which include Cambodia, Lao PDR, Myanmar, and Vietnam.
 14. The three phases included: (1) progressive reduction or elimination of investment restrictions for eight AMS by 2010, and by 2011 for Lao PDR and Myanmar; (2) by 2012 for eight AMS and 2013 for Lao PDR and Myanmar; and (3) the realisation of free and open investment regime by 2015.
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FURTHER READING

- AFSIS – ASEAN Food Security Information System





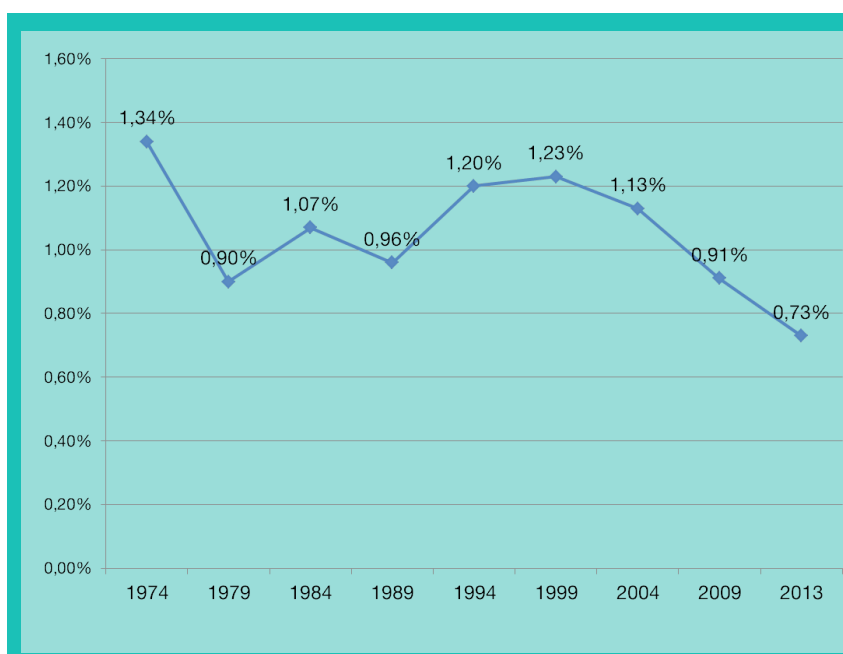
2. BRUNEI DARUSSALAM

BRUNEI DARUSSALAM

2.1. Brief Country Profile

With a population of 423,188 and total land area of 5,765 km², Brunei Darussalam is the smallest country in Southeast Asia. Despite its small size, the country commands the second highest GDP per capita in ASEAN after Singapore, which reached USD 30,942.10 in 2015. Relying heavily on oil and gas, both of which make up about 60 percent of the country's total GDP, Brunei is vulnerable to fluctuations in world prices. As a result of a significant drop in oil prices, Brunei's economy contracted by 1.5 percent in 2015 (though this marked an improvement on the 2.3 percent increase by 1 percent decline registered a year earlier and the 2.6 percent year-on-year contraction recorded in the first six months of 2015), whilst the government's revenue reportedly declined 70 percent over the past few years.² In 2016, however, the country's economy increased by 1 percent, whilst 2.5 percent economic growth is expected for 2017. In order to regain its prosperity, the Bruneian government is currently pursuing efforts to diversify the country's economy, with agriculture as one of most promising alternatives.³

Figure 2.1. Share of agricultural sector in Brunei Darussalam's GDP, 1974-2013



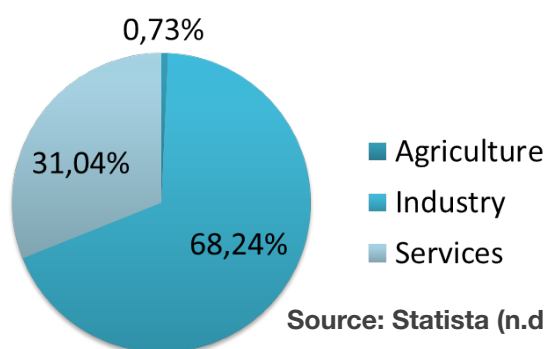
Source: The Global Economy (n.d.).

2.2. Agricultural Sector in Brunei Darussalam

Development in Brunei's agriculture sector is very much constrained by the country's geographical condition. With a total land area of 577,000 ha, only 7,193 ha can be used for agricultural production. In 2014 alone, it was estimated that only 0.6 percent of the country's population worked in the agriculture, forestry, and fisheries sectors. As a result



Figure 2.2. Share of economic sectors in Brunei Darussalam's GDP, 2013



Source: Statista (n.d.).

of these constraints, Brunei has tended to rely heavily on food imports where up to 80 percent of its food supplies come from overseas.⁴ Despite its small contribution to the country's GDP and the aforementioned

constraints, the agricultural sector in Brunei continues to develop, particularly as the added value per worker in the sector has been increasing in the past ten years. In 2010, gross agricultural output reached only USD 163.6 million, but it gradually increased to USD 260.4 million in 2015. The country's agricultural production is dominated by livestock, followed by crop and agri-food processing.

2.3. Policy Context

Agricultural policy

Generally speaking, the key objective of the Bruneian government's agricultural policy is to ensure food security and achieve food self sufficiency by increasing local production of crops, livestock, and agri-food.⁵ To meet this objective, the government launched the so-called 'Vision (Wawasan) 2035', also known as the 'National Vision 2035', as the country's Long-Term Development Plan in 2008. This piece of strategic thinking is divided into several, shorter, development plans, which currently stands at the Tenth National Development Plan 2012-2017. Based on the present Development Plan, the government intends to achieve 60 percent rice self-sufficiency by 2015 by providing incentives to agricultural producers to plant local strains of rice and boost the mechanisation of rice production, including through the use of planting machines. Another initiative pursued by the government to increase rice and crop outputs is to improve the country's irrigation networks, which is also in line with the government's 2009 National Irrigation Plan. In recent years, Brunei has also increased its efforts to promote itself as a centre for global halal industry. Though many countries

in ASEAN are also pursuing similar efforts, it has been reported that relevant authorities in the country imposes much tougher halal standards, both in terms of religious observance and overall food quality, compared to their counterparts in the region.⁶

Agricultural trade policy

Import tariffs

The Bruneian government applies relatively low tariffs. As a result of the country's adoption of the ASEAN Harmonised Tariff Nomenclature (AHTN) in 2012, Brunei's tariff is now more simplified than before, and currently comprises 9,916 lines, as opposed to 10,689 in 2007. Specific tariff lines were also reduced from 131 in 2007 to 55 in 2014, and this helped enhance the country's transparency.⁷ As of 2014, Brunei's MFN applied tariff for agricultural products stood at 23.1 percent, or lower than the country's overall bound average of 25.4 percent.⁸

NTMs/NTBs and other export/import restrictions

Given its relatively low tariff rates, the imposition of non-tariff measures (NTMs) is common in Brunei. In 2015, 58 NTM regulations with 516 coded NTMs, which affected 5,613 products (or 56.6 percent of total products traded in Brunei), were found in the country. At the time, the top three government institutions that often issued NTMs included the Ministry of Health (57.5 percent), the Ministry of Industry and Primary Resources (8.63 percent), and the Department of Agriculture and Agrifood (6.58 percent). NTMs in Brunei were dominated by technical barriers to trade (TBT), which accounted for 55.8 percent of the country's total NTMs, followed by sanitary and phytosanitary (SPS) measures (31.2 percent), and price control measures (3.5 percent). The most affected products by NTMs were transportation (11.8 percent), vegetable products (11.1 percent), animals and animal products (8.9 percent), and foodstuffs (7.4 percent).⁹



Table 2.1. Investment opportunities in Brunei's agricultural sector

Investment policy

No.	Broiler industry	Proposed tender
1	Invest, Develop, Operate And Produce Poultry Meat And Table Eggs And Its Value-added Processed Products In Semabat Agriculture Development Area (Site A), Temburong, Brunei Darussalam' @100 Ha	January 2017
2	Invest, Develop, Operate And Produce Poultry Meat And Table Eggs And Its Value-added Processed Products In Semabat Agriculture Development Area (Site B) Temburong, Brunei Darussalam' @100 Ha	January 2017
3	Invest, Develop, Operate And Produce Poultry Meat And Table Eggs And Its Value Added Processed Products In Merangking Agriculture Development Area (Site A) Belait, Brunei Darussalam' @100 Ha	February 2017
4	Invest, Develop, Operate And Produce Poultry Meat And Table Eggs And Its Value Added Processed Products In Merangking Agriculture Development Area (Site B) Belait, Brunei Darussalam' @100 Ha	February 2017

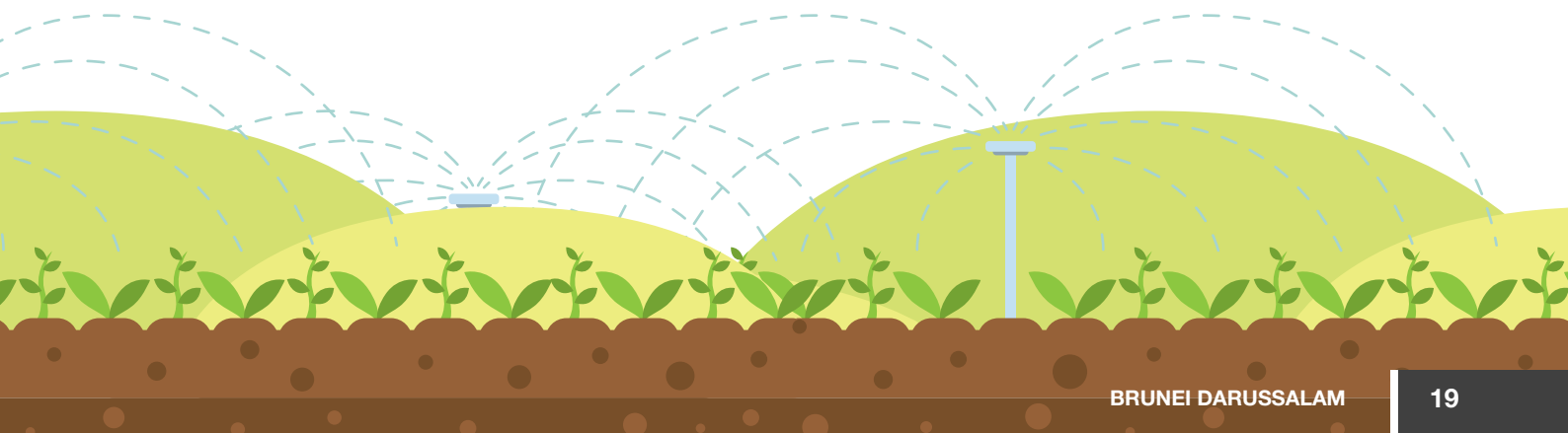
No.	Vegetable production	Area (in ha)
1	Invest, Develop, Operate and Produce Vegetable Production in Tungku Agriculture Development Area: Agrotechnology Park (Site B), Brunei Darussalam	40 (Issued)
2	Invest, Develop, Operate, Maintain and Produce High Value crops in Tungku Agriculture Development Area: Agrotechnology Park (Site E), Brunei Darussalam	70
3	Invest, develop, operate and produce vegetable production in Site B Sinaut, Tutong, Brunei Darussalam	20
4	Invest, develop, operate and produce vegetable production in SiBongkok, Kg. Parit-Masin, Brunei Darussalam	20

No.	Floriculture industry	Area (in ha)
1	Invest, Develop, Operate, Maintain and Produce High Value Ornamental Plants in Agrotechnology Park Greenhouses, Brunei Darussalam	1.11 (Issued)
2	Invest, Develop, Operate and Produce High Value Ornamental Plants in Agriculture Development Area, Batumpu (10ha), Pengkalan Batu, Brunei Darussalam	10 (advertised closing date 10 Jan 2017)
3	Invest, Develop, Operate and Produce High Value Ornamental Plants in Agriculture Development Area, Mumong (21ha), Belait, Brunei Darussalam	21



No.	Agri-food industry	Area (in ha)
1	Invest, Develop, Operate and Produce Dairy Goat Production and Its Value Added Processed Products In Tungku Agriculture Development Area: Agrotechnology Park (Site D), Brunei Darussalam	40 (Issued)
2	Invest, develop, operate and produce fruit production in Batang Mitus, Tutong, Brunei Darussalam	121 (Issued)
3	Invest, develop, operate and produce miscellaneous crops in Site A, Site B and Site C, Merangking, Belait, Brunei Darussalam	20 for each site
4	Invest, develop, operate and produce fruit production in Merangking, Belait, Brunei Darussalam	120
5	Invest, develop, operate and produce paddy and its downstream products in Panchor Murai Paddy Area 'A', Brunei Darussalam	50 (advertised closing date 24th Jan 2017)
6	Invest, develop, operate and produce paddy and its downstream products in Panchor Murai Paddy Area 'B', Brunei Darussalam	50 (advertised closing date 24th Jan 2017)
7	Invest, develop, operate, maintain and produce mushroom spawn bags and fresh mushroom in Brunei Agriculture Research Centre (BARC), Kilanas	
8	Invest, Develop, Operate and Produce Beef and Its Downstream Products In Agriculture Development Area: Batang Mitus Livestock Area 'A', Tutong, Brunei Darussalam	75
9	Invest, Develop, Operate and Produce Beef and Its Downstream Products In Agriculture Development Area: Batang Mitus Livestock Area 'B', Tutong, Brunei Darussalam	75
10	Invest, Develop, Operate and Produce Beef and Its Downstream Products In Agriculture Development Area: Batang Mitus Livestock Area 'C', Tutong, Brunei Darussalam	80.5
11	Invest, develop, operate and produce value-added products based on fruits and vegetables in Tungku, Brunei Darussalam	4
12	Invest, develop, operate and produce meat based agrifood products in Batang Mitus, Tutong, Brunei Darussalam	6.5

Source: Department of Agriculture and Agrifood (n.d.).



Brunei's National Vision 2035 emphasises the importance of FDI as an important source of growth. Accordingly, the government actively encourages investors to invest in Brunei by providing generous incentives. The Investment Incentives Order 2001, for example, provides guidelines for granting pioneer status and tax relief for local and foreign investment.¹⁰ Moreover, companies producing goods and services for export can apply for a renewable ten years tax exemption. Corporate tax relief of up to 5 years is also available for companies that invest between

BND 500,000 to BND 2.5 million (roughly USD 385,000 to USD 1.9 million), and up to eight years for amounts exceeding BND 2.5 million (USD 1.9million).¹¹ In addition to these incentives, the Bruneian government also does not apply restriction on total foreign ownership of a company. Table 2.1. presents some potential investment opportunities in the agricultural sector that are promoted by the government, whilst Table 2.2. highlights agriculture-related 'pioneer' industries that are eligible for investment incentives in Brunei.

Table 2.2. Pioneer industries eligible for investment incentives and types of investment incentives

Pioneer industries	
Agribusiness	Agricultural, construction, building & heavy equipment
Chemicals, petrochemicals, plastics & composites	Consumer goods & home furnishings
Environmental technologies	Food processing & packaging
Health technologies	Information & communication
Industrial equipment & supplies	Marine technology
Metal manufacturing & products	Services
Textiles, apparel & sporting goods	
Incentives	
Exemption from the 30 percent corporate tax depending on the fixed capital expenditures	
Fixed capital expenditure (in BND)	Tax exemption period (in years)
500,000-2.5 million	5
2.5 million or above	8
Other incentives	
Exemption from taxes on imported capital goods; and exemption from taxes on imported raw materials.	

Source: U.S. Department of State (2016).

Land policy

Land and property in Brunei is regulated under the Land Code (Strata) Cap 189, which came into effect in 2009. According to the law, residents of Brunei (including citizens, permanent residents, or foreigners with work permits) are able to purchase buildings with 'strata' title and they can lease for up to 99 years.¹² Foreigners and permanent residents are not allowed to own land property in Brunei.¹³

Table 2.3. Tax rates in Brunei Darussalam

Individual income tax	
There is no personal income tax on individuals, resident or non-resident, in Brunei (note: remunerations paid to non-residents company director are subject to a 20 percent withholding tax)	
Corporate income tax	18.5 percent
Withholding tax	<ul style="list-style-type: none"> Dividends are not subject to withholding tax in Brunei; Royalties paid to a non-resident are subject to 10 percent withholding tax (though this may be reduced under a tax treaty); Interests payments made to a non-resident are subject to 15 percent withholding tax; Other withholding taxes on payments to non-residents include technical assistance, management fees, and director's remuneration (20 percent), rent of movable property (10 percent).
Withholding tax for foreign payment	10-15 percent
Value added tax	n.a.
Other taxes	Customs duty, excise duty, stamp duty, property taxes (the rate decided by local municipal board), vehicle tax (BND 4.50 per 100 c.c.), building tax (up to 12 percent).

Source: KPMG (2015) and World Bank (n.d.a.).

2.4. Export-import procedure

Business registration

All companies must be registered as a legal entity in the form of either a sole-proprietorship, partnership, or a company with the Registry of Companies and Business Names at the Ministry of Finance.¹⁴



	Sole proprietorship	Partnership	Company
Definition	A business owned by one person	A business firm or organisation of two or more business partners	A business form which is a legal entity separate and distinct from its shareholders and directors
Ownership	One person	Generally between 2 to 20 partners. A partnership of more than 20 partners must incorporate	Private company having 50 members
Legal status	<ul style="list-style-type: none"> • Not a separate legal entity; • Owner has unlimited liability; • Can sue or be sued in individual's own name; • Can also be sued in business' names; • Owner personally liable for debts and losses of business. 	<ul style="list-style-type: none"> • Not a separate legal entity; • Partners have unlimited liability; • Can sue or be sued in firm's name; • Cannot own property in firm's name; • Partners personally liable for partnership's debts and losses incurred by other partners. 	<ul style="list-style-type: none"> • A separate legal entity from its members and directors; • Members have limited liability; • Can sue or be sued in company's name; • Can own property in company's name; • Members not personally liable for debts and losses of company.
Registration requirements	<ul style="list-style-type: none"> • Age 18 years or above; • Brunei citizens and permanent residents only; • Undischarged bankrupt cannot manage business without court or official receiver's approval. 	<ul style="list-style-type: none"> • Age 18 years or above; • Brunei citizens and permanent residents only; • Undischarged bankrupt cannot manage business without court or official receivers' approval. 	<ul style="list-style-type: none"> • Age 18 years or above; • Minimum of two directors (if two, at least one of the directors shall be Ordinarily Resident in Brunei); • Undischarged bankrupt cannot manage business without court or official receivers' approval; • At least two shareholders.
Formalities and expenses	<ul style="list-style-type: none"> • Quick and easy to set up; • Easy to administer and manage; • Registration cost is minimal; • Less administrative duties to adhere to. 	<ul style="list-style-type: none"> • Quick and easy to set up; • Easy to administer and manage; • Registration cost is minimal; • Less administrative duties to adhere to. 	<ul style="list-style-type: none"> • More costly to set up and maintain; • More formalities to comply with; • Annual returns must be filed as Statutory Requirement of General Meetings, directors, share allotments, etc.
Continuity of the business entity	Exists as long as the owner is alive and desires to continue the business	Exists subject to partnership agreement	A company has perpetual succession until wound up or struck off
Closing of the business	By owner – cessation of business	By partners – cessation of business or dissolution of partnership	Winding up – voluntarily by members, compulsory by the High Court

Source: Ministry of Finance of Brunei Darussalam (n.d.).

Restricted or prohibited goods

Agriculture-related products that are prohibited to enter Brunei Darussalam are plant pests and diseases declared dangerous to agriculture, all host plants to the dangerous pests and diseases, and specific plant or plants materials of which plant diseases are known to be endemic in the country of origin.¹⁵ In addition, some agriculture products may require additional permits from the relevant government agencies (refer to the discussion under 'SPS, TBT, and quarantine requirements for further details concerning specific requirements attached to the importation of some agricultural products)

SPS, TBT, and quarantine requirements

- The Subsidiary Legislation of the Quarantine and Prevention of Disease Act Chapter 47 (Regulation under Section 91 and 92) regulates animal imports, exports, and quarantine. The institution responsible for the prevention of dangerous pests and diseases from animals is the Animal Quarantine Services of the Department of Agriculture;
- The Agricultural Pests and Noxious Plants Act Chapter 43, Section 24 (1) (f) Revised edition 1984 regulates all plants, plant products, and plant materials imports, exports, and quarantine. The institution responsible for the prevention of dangerous pests and diseases from plants which may cause harm to the agriculture industry is the Plant Quarantine Unit of the Department of Agriculture.
- Plant Phytosanitary Certificates: Importers should confirm the health of imported plants and planting materials, which can be proven by the phytosanitary certificates from the country of origin. The failure to present appropriate documentation to relevant government agencies will result in import products being detained for inspection and treatment. Plant Phytosanitary Certificates is issued by the Plant Quarantine Unit, Department of Agriculture and Agrifood, Ministry of Primary Resources and Tourism.
- Animal Quarantine Services and Plant Quarantine Unit, Department of Agriculture and Agrifood, Ministry of Primary Resources and Tourism, Bandar Seri Begawan BB3510 Old Airport, Berakas - Negara Brunei Darussalam. Ph: +6732388000 / +6732388075 / +6732288076. Fax: +6732382226 / +6732382559 Email: info@

agriculture.gov.bn, Website:
<http://www.agriculture.gov.bn/Theme/Home.aspx>

Halal permit (applicable for importer)

The Bruneian government advises companies involved in food-related businesses to apply for Halal Certification and/or Halal Permits. In order to obtain such a document, the importer can make an application to the Halal Food Control Division under the Department of Syariah Affairs of the Ministry of Religious Affairs. To complete the application process, the applicant is required to go through oral and written test, as well as inspection and audit. The fee to obtain halal certification is BND 90 for certificates (issued to companies), and BND 50 for permits (issued to products).¹⁵

Figure 2.3. Brunei's Halal Logo



Source: The Religious Council Brunei Darussalam (2007)

Customs declaration

According to Chapter 43, Agricultural Pests and Noxious Plants Act Section 24 (1) (F) Revised edition 1984, importers shall obtain three documents as follows:

- **Registration of Importers:** Only applies to commercial importers of plant materials and plant products. Application for import permit can only be submitted if the importers have been registered with the Department of Agriculture;

- **Import Permits:**

Import permits will indicate type and quantity of the plants and plant materials permitted to enter Brunei. It will be issued by the Department of Agriculture. The issuance of the permit will require three working days;

- **Plant Phytosanitary Certificates:**

Importers should confirm the health of imported plants and planting materials, which can be proven by the phytosanitary certificates from the country of origin. The failure to present appropriate documentation to relevant government agencies will result in import products being detained for inspection and treatment.

Meanwhile, the Department of Agriculture requires importers of vegetables and fruits to complete a prescribed form and disclose information on the description of import items and their amount as well as the name and address of the source of supply (both documents have to be prepared in original copies).

Import/Export procedure

Importers and exporters shall go through the following steps:

- Register at the Royal Customs and Excise Department (RCED) of the Ministry of Finance, or appoint a registered agent. The registration can be done through the National Single Window of Brunei Darussalam (at <https://login.bdsw.gov.bn/bdswsso/login>);
- Apply permit for controlled items (these are for items that require permits from the RCED in addition to permits issued by other relevant government agencies);
- Online declaration, which can be done through the National Single Window of Brunei Darussalam

(refer to electronic address above). Exporters or importers also need to submit other documents, such as special licences or permits, commercial invoices, bills of lading or airway bills, Certificates of Origin, etc., when making customs declaration;

- Payment of dutiable goods, which can be done at the Customs Payment Counter (either at the Customs headquarters or at any entry points) or bill payment over banking channels (either through over the counter systems or internet or online banking);
- Inspection and clearance (especially for imports).

All restricted and controlled goods imported into Brunei will be subject to customs inspection. During the inspection, the importer is required to produce Approved Customs Import Declaration and other supporting documents (e.g. licence or permit from relevant agencies, bill of lading or airway bill, etc.) for further verification.

2.5. Setting up business in Brunei Darussalam

Table 2.5. below summarises the process of setting up a business, including the length of time and cost required, in Brunei. The procedure is slightly different between men and women.

Table 2.5. The process of setting up a business in Brunei Darussalam

No.	Procedure	Time to complete (day)	Cost to complete (in BND)
1.	Obtain permission from husband to leave home in order to start a business (for women)	1 day	No charge
2.	Check uniqueness of company name and reserve the name	1 day on average	5 (for name application) and 15 (for name reservation)
3.	Submit incorporation documents and pay registration fees	7 days	300 (for an industrial company) and 30 (for Sole Proprietorship)
4.	Certify the Memorandum of Articles of Association and the Articles of Association	1 day	4 per page of Memorandum of Articles and Articles of Association
5.	File the Return of Allotment Shares	1 day, simultaneous with previous procedure	10
6.	Stamp share certificates at the Ministry of Finance	1 day, simultaneous with previous procedure	No charge
7.	Make a company seal or stamp	3 days	185
8.	Register for Employees Provident Fund	1 day, simultaneous with previous procedure	No charge

Source: World Bank (n.d.).

2.6. Infrastructure

Existing infrastructures in Brunei are summarised in Table 2.6.

Infrastructure	Length / number / geographical scope / generation (of power) / network spectrums	Notes
Roads	2,976.12 km	Existing roads consists of: 310.08 km primary roads, 425.50 km secondary roads, 741.33 km distributors, and 1,499.21 km local access roads.
Airports	1 airport	Brunei Darussalam International Airport is Brunei's only airport.
Ports	1 port	The only deepwater port in Brunei is Muara Port
Energy and power	3,930 GWh	Primary energy supplies include: 3,929 GWh from thermal (oil and natural gas), and 1.2 GWh from other sources. As of 2013, 100 percent of population has access to electricity in Brunei.
Telecommunications	<p>(1) Radio frequency:</p> <ul style="list-style-type: none"> • Spectrum allocation between 9KHz and 275 GHz; • Spectrum allocation below 7 GHz; <p>(2) Mobile services:</p> <ul style="list-style-type: none"> • GSM with frequency range of 900-910 MHz/945-955 MHz; • 3G with frequency range of 1920-1980 MHz and 2110-2170 MHz <p>(3) Fixed services: Including 4GHz band, lower 6 GHz band, upper 6 GHz band, 7.2 GHz band, 7.5 GHz band, 8 GHz band, 13 GHz band, and 15 GHz band.</p>	As of 2015, the level of internet penetration in Brunei reached 71.2 users per 100 people, while mobile phone subscribers reached 108.1 subscribers per 100 people.

Source: Various.



2.7. Other relevant information

Labour condition landscape and employment system

Due to its small population, Brunei faces serious shortage of skilled and unskilled workers, and is forced to recruit them in large number from overseas. More than half of the country's total workforce consists of lower-skill workers, most of whom work in construction, wholesale, retail trade, and other professional and support services. Meanwhile, consisting mainly of Bruneian citizens and permanent residents, as well as foreign workers (usually staying in the country on short-term visa), the skilled labour pool of the country usually prefers public sector works as they offer generous benefits, such as bonuses, housing allowances, etc.¹⁷

As far as the employment system is concerned, there are at least five key regulations worth noting, and these include the Workmen's Compensation Act of 1957, the Employment Information Act of 1974, the Employment Agencies Order of 2004, the Employment Order of 2009, and the Workplace Safety and Health Order of 2009.¹⁸

Employment of foreign nationals is controlled by a Labour Quota System of the Labour Department, as well as the issuance of employment passes by the Immigration Department. The country also allows for new companies to apply for 'special approval' to expedite the requirement of foreign nationals in select positions for essential jobs (up to seven days may be required

to obtain such an approval). This special approval is applicable to new companies operating in urban and suburban areas for six months, and covers businesses such as restaurants and shops.¹⁷

According to the 2009 Employment Order, an employee in Brunei shall work not more than 44 hours a week, and is not allowed to work more than 12 hours each day (inclusive of overtime work). Employees are entitled to have paid annual leave depending on their years of services. As for maternity leave, local and foreign female employees are entitled to have 15 weeks of maternity leave.

Social Security System

Social security system in Brunei is administered by the Employees Savings Trust (TAP - *Tabungan Amanah Pekerja*), which covers benefits such as old age, disability, and survivors, sickness and maternity, and work injury. Unfortunately, social security system in Brunei only covers those who are citizens of the country and permanent residents.¹⁸

Commercial dispute settlement

In the case of dispute settlements related to contracts, export and import of goods, purchase and sale of commodities, and other business cases, the Supreme Court in Brunei just recently established the Commercial Court in 2016 to resolve the aforementioned issues. The use of alternative dispute mechanisms is also common and is very much rooted in Brunei's local tradition.¹⁹

2.8. Electronic links to relevant trade and investment portals and government agencies

- National Trade Repository of Brunei Darussalam: <http://www.bdntr.gov.bn/SitePages/home.aspx>
- Brunei Darussalam National Single Window: <https://login.bdsw.gov.bn/bdswsso/login>
- Agriculture and Agrifood Department of the Ministry of Primary Resources and Tourism: <http://www.agriculture.gov.bn/Theme/Home.aspx>
- Ministry of Foreign Affairs and Trade of Brunei Darussalam: <http://mofat.gov.bn/site/Home.aspx>
- Trading Across Borders: <http://tradingacrossborders.gov.bn/SitePages/Home.aspx>
- Brunei Economic Development Board: <http://www.bedb.com.bn/>
- Royal Customs and Excise Department of the Ministry of Finance: <http://www.mof.gov.bn/index.php/about-royal-customs-a-excise-dept>
- Business Brunei: <http://www.business.gov.bn/>



AEC business tip for Brunei Darussalam

Brunei Darussalam is an open economy, with a relatively stable political environment. The government also offers a wide range of investment and tax incentives to attract foreign investors to do business in the country. Despite this, Brunei is a small economy. The country's participation in the AEC allows Bruneian businesses better access to larger ASEAN markets. Taking advantage of Brunei's relatively relaxed regulatory environment, ASEAN and non-ASEAN companies could consider establishing a base in Brunei not only to exploit market opportunities in the country, but also the wider ASEAN region.

ENDNOTES

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3. Ibid.
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5. WTO (2014).
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19. Bureau of Economic and Business Affairs of the State Government (2015).
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3. CAMBODIA

CAMBODIA



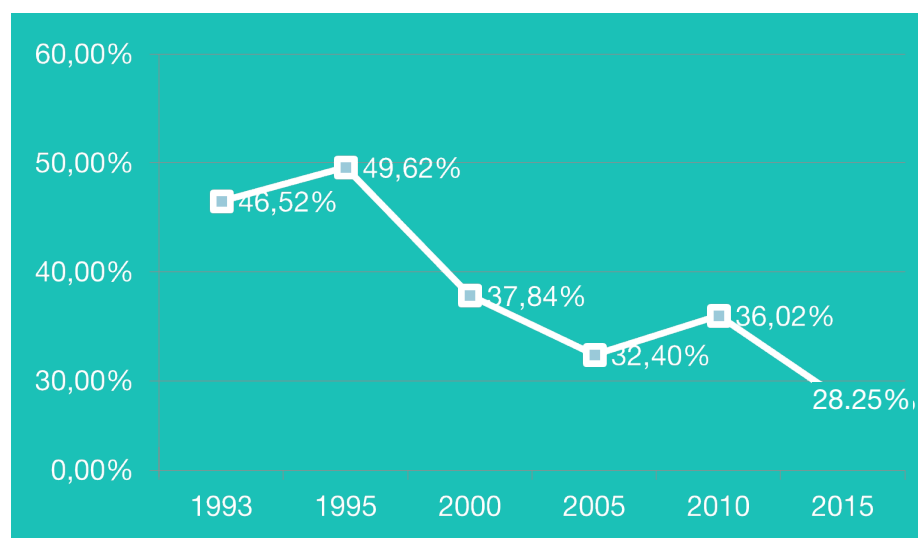
3.1. Brief country profile

The continuous changes in the political, economic, and social landscapes of Cambodia since it gained its independence from France in 1953 has influenced the way the economy works in the country. It was in 1989 that Cambodia, then known as the People's Republic of Kampuchea, decided to open up its economy, with major reforms taking place since then. With a population of around 15 million and GDP per capita of around USD 1,198.50 in 2015, Cambodia attained a lower-middle-income country status in 2015. Despite the decline in its economic growth from 7.1 percent in 2014 to 7 percent in 2015, Cambodia experienced a growth of 6.9 percent in 2016, which was relatively higher compared to other ASEAN Member States. Government spending, has helped secure robust economic growth in the country, whilst, at the same time, solid performances in the garment, construction, and services sectors have also contributed well to the economy.¹

3.2. Agricultural Sector in Cambodia

Agriculture plays an important role in Cambodia's economy.

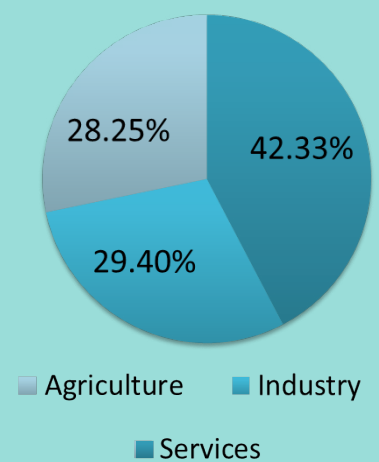
Figure 3.1. Share of agricultural sector in Cambodia's GDP, 1993-2015



Source: The Global Economy (n.d.).

The sector makes up about 28.25 percent of GDP, and contributes an approximately 67 percent of total employment in the country.² It is also estimated that more than 70 percent of Cambodians rely on agriculture for their livelihood.³ Millions of people were lifted out of poverty when the sector grew 5.3 percent between 2004 and 2012. Cambodia's poverty rate was slashed from 50 percent in 2007 to 21 percent in

Figure 3.2. Share of economic sectors in Cambodia's GDP, 2015



Source: Statista (n.d.).



2011, with 60 percent of poverty reduction made possible by the growth and development of the agriculture sector.⁴ Amongst a diverse variety of agricultural products produced in the country, food crops remain the largest output, and this is followed by fisheries, livestock and poultry, and forestry.⁵

Despite the lower share of agriculture in the country's GDP, the sector's productivity has actually risen, though not as significantly as productivity levels in industry and services sectors

3.3. Policy context

Agricultural policy

The Cambodian government has been implementing the so-called 'Rectangular Strategy' since 2004, which is the country's main socio-economic policy agenda that emphasises four growth components, including: (1) agriculture development; (2) infrastructure rehabilitation and

development; (3) private sector development and employment creation; and (4) capacity building and human resource development. In the context of the agricultural sector, the government intends to modernise the sector through the use of new techniques and technologies, which takes into account environmental sustainability. The implementation of this strategy is further strengthened by the Agricultural Sector Strategic Development Plan 2014-2018, which targets annual agricultural growth of 5 percent. Although attaining this growth target also means the fall of agriculture's share in the country's GDP, land productivity can be expected to increase from USD 1,300/ha to USD 2,700/ha, whilst labour productivity would rise from USD 1,200/person to USD 3,700/person.⁶

Two other policies support the development of Cambodia's agricultural sector, including the Cambodia Industrial Development Policy 2015-2025 and the Agricultural Extension

Policy. Under the 2015-2025 Industrial Development Policy, the government identifies four agricultural sector priorities, including the development of agro-industry, small and medium-sized enterprises, transport and logistics, and skills training and worker development.⁷ Meanwhile, announced in 2015, the Agricultural Extension Policy is aimed at making knowledge and technology accessible to farming communities so as to allow increase productivity in the sector. The policy, whose implementation is being overseen directly by officials from the Department of Agricultural Extension, will be carried out in partnership with development partners and the private sector.⁸

Agricultural trade policy

Import tariffs

Cambodia's agricultural trade policy is characterised by increasing liberalisation, with the country gradually reducing its MFN tariff on agricultural imports from an average of 20.6 percent in 2003 to 14.5 percent more recently. Import duty on milled rice is roughly at 7 percent plus a 10 percent value added tax. During the last global food crisis, Cambodia reduced import duties on food items, such as pork, and lifted import restrictions. The 2010 Rice Export Policy also helped in removing restrictions on key agricultural inputs and machinery, whilst license requirements for rice exporters were removed.⁹

NTMs/NTBs and other export/import restrictions

In 2015, up to 243 coded NTMs were in existence in Cambodia, which affected 9,558 products, or 100 percent of total products traded in Cambodia.¹⁰ At the time,

the Cambodian government also put into effect 52 regulations that contain NTMs. Out of these regulations, only three were notified to the World Trade Organisation, and these included the Law on Bio-Safety and Protected Areas, Anukret (Sub-decrees) No. 42 on Industrial Standards of Cambodia, and the Law on the Management of Quality and Safety of Products and Service. The majority, or 49 percent, of NTMs in the country at the time were issued by the Ministry of Agriculture, Forestry, and Fishery, whilst about 114 NTMs were issued by a combination of government-related institutions. The most common measures found in Cambodia included technical barriers to trade (at 49.8 percent), export-related measures (at 28.8 percent), and Sanitary and phytosanitary measures at (14.8 percent).

Investment policy

The 2004 Law on Investment lays the basic foundation for an open and liberalised investment regime in Cambodia. Generally speaking, laws and regulations governing foreign investment in Cambodia are investor-friendly where all investors are treated equally, except on matters related to land ownership, which can only be owned or controlled by local companies. There are virtually no restrictions on investment sectors, and companies can be wholly foreign owned, though participation arrangements may exist on occasion.¹¹

Investment incentives

Qualified Investment Projects

Based on Cambodia's Investment Law, incentives are to be given to Qualified Investment Projects (QIPs). There are three types of QIP, including: (1) domestically

oriented QIPs; (2) export-oriented QIPs; and (3) supporting industry QIPs. In order to obtain the QIPs status, investors are required to register their investment projects to either the Council for the Development of Cambodia (CDC) or the Provincial-Municipal Investment Sub-Committee if the amount of investment capital in the project is less than USD 2 million. In addition, investors are also required to obtain a Final Registration Certificate, which is also issued by the CDC.

Investors granted with QIPs status are entitled to receive incentives if their investments meet the requirements set by the Cambodian government. These incentives include: (1) tax exemption of up to nine (9) years; (2) accelerated depreciation on manufacturing assets;¹² (3) exemption from import duty on production equipments, raw materials, and inputs manufacture; and (4) the right to employ foreign labour. The QIP is required to obtain the Certificate of Compliance if it wishes to continue receiving these incentives.

Investors granted with QIP status should carry out their investment activities in the sectors approved by the government, and must meet the minimum amount of investment requirement. For instance, investment projects related to food products and beverages must meet the minimum amount requirement of USD 500,000 to be eligible for incentives.¹³

Special Economic Zones

Introduced in 2005, Cambodia's Special Economic Zones (SEZ) were set up to provide 'One-Stop Service' and various fiscal and tax incentives for investors within the zones. Through this facility, investors are offered with a number of incentives, such as nine (9) years tax holidays,

0 percent rate of value-added tax, full import duty exemption, permanent visas for investors and their families, long-term leases of up to 99 years, and free repatriation of profits. These SEZs also have a Special Economic Zone Administration, which provides services such as company registration and investment licensing, export/import permit, work permit and labour books (both workers and expatriates), and on-site immediate legal and administrative assistance.¹⁴ There are currently two types of SEZs across Cambodia, including: (1) SEZs that are located near the official checkpoint, or between 20 km from inland or coastal border of Custom Zone; and (2) SEZs that are not located near the official checkpoints or between 20 km from inland or coastal border of Custom Zone.

Table 3.1. Special economic zones in Cambodia

Location	SEZs
Phnom Penh	Phnom Penh
	Manhattan
Bavet	Tai Seng Bavet
	Dragon King
	Sihanoukville SEZ 1
Sihanoukville	Sihanoukville SEZ 2
	Sihanoukville Port SEZ
PoiPet	Poi Pet O'Neang
Koh Kong	NeangKokKoh Kong
Total	9

Source: Warr and Menon (2015: 6)

Land policy

Since the pursuance of a free market system in the early 1990s, Cambodia has been implementing a series of unprecedented land reforms. Although the April 1989 land policy confirmed the state as the default owner of the country's land, the law also acknowledged citizens' rights to acquire private ownership of residential land and private possession of agricultural land. The government also issued a White Paper on Land Policy in 2012, which was aimed at promoting land use, land management, and natural resource management for sustainable and equitable socio-economic development.¹⁵

As far as foreign investment is concerned, the Law on Investment,

which has been implemented since 2011, allows foreigners to lease for up to 50 years, and this can be renewed either for short- or long-term period.¹⁶ The government also adopted a Sub-Decree on Economic Land Concessions in 2005, which facilitated the granting of land concessions to foreign and local investors.¹⁷ The same Sub-Decree also stipulates that land can be used for the cultivation of food or industrial crops, including tree planting, the raising of animals and aquaculture, construction, such as plant or factory and facilities for the processing of domestic agricultural raw materials, or a combination of some or all of these activities.¹⁸

Year established	No. of firms operating	Total employment	Employees per firm (average)
2008	50	17,000	340
2006	26	28,051	1,079
2007	17	7,968	469
2013	2	280	140
2009	2	424	212
2008	40	8,967	224
2012	2	416	208
2011	2	830	415
2005	4	3,953	988
	145	67,889	468



Various tax rates in Cambodia are highlighted in Table 3.2.

Table 3.2. Tax rates in Cambodia

Individual income tax	
Income (in KHR)	Progressive rates (in percent)
Up to 800,000	0
800,001-1,250,000	5
1,250,001-8,500,000	10
8,500-001-12,500,000	15
12,500,001-upwards	20

Corporate taxes	
Type of taxes	Tax rates (in percent)
Corporate tax standard rate or tax on profit	20 for large taxpayers or 0-20 for small tax payers

Industry-specific tax rates	
Oil, gas, and mineral exploitation	30
Insurance	5 on gross premium income and 20 on other income derived from non-insurance activities.
Value added tax	0-10
Withholding taxes	14 for dividends, 14 and 15 for non-resident and resident interests respectively, 14 and 15 for non-resident and resident royalties respectively, and 14 for technical service fees.
Other taxes	Real property tax (0.1 percent per year on immovable property with value not exceeding KHR 100 million, 10 percent on land and house rentals, and 2 percent of market value of land per metre square of unused land), social security, stamp duty, as well as various taxes on vehicles.

Source: General Department of Taxation of Ministry of Economy and Finance (n.d.), Deloitte (2016), and PWC (2016).

3.4. Export-import procedure

Business registration

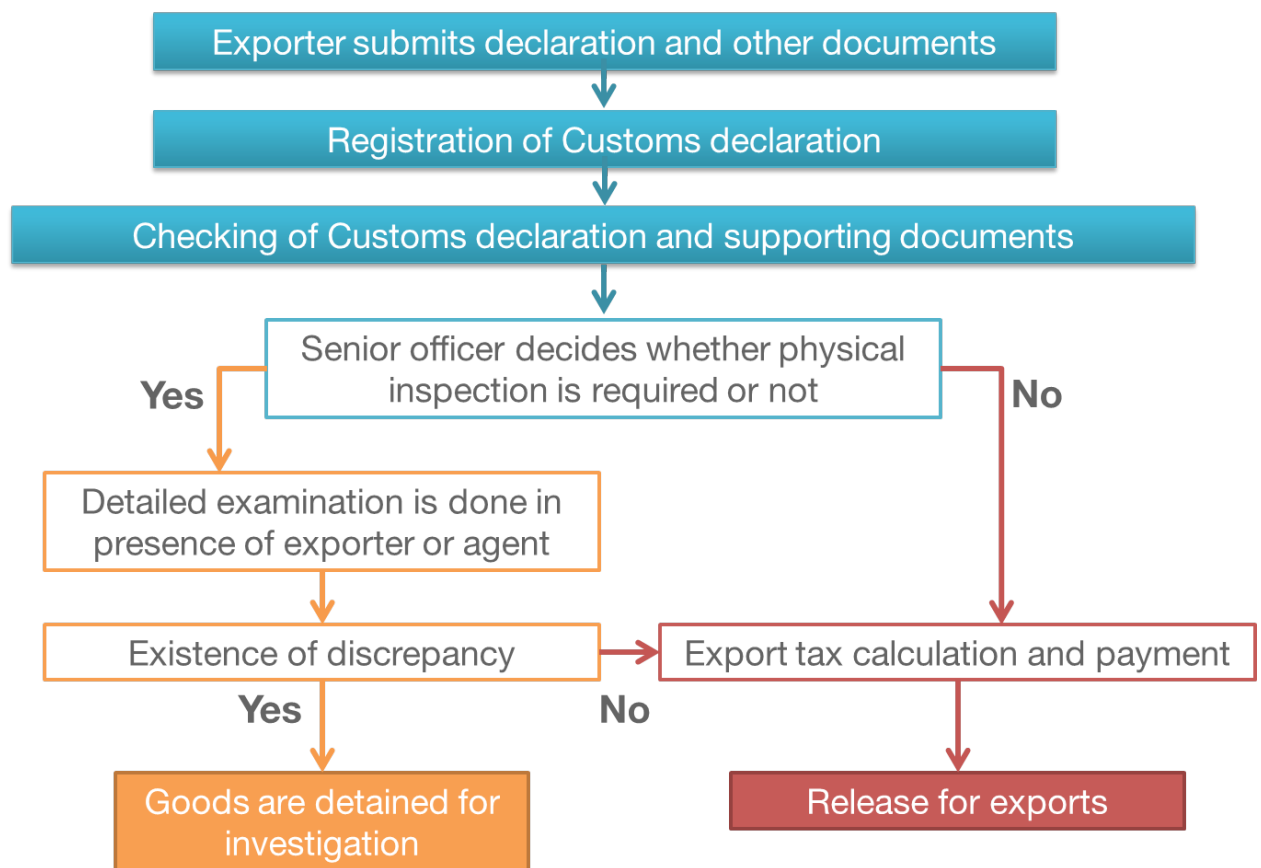
Prior to exporting or importing goods from or to Cambodia, a company must register with the Department of Business Registration of the Ministry of Commerce, and obtain a Taxpayer Identification Number from the General Department of Taxation of the Ministry of

Economy and Finance. The exporting/importing company, subsequently, is required to make Customs Declaration through the Automated System for Customs Data. In addition to these institutions, registration may also be required with other government agencies to allow export and import of restricted or controlled goods. Other specific measures may also apply for these goods.²⁰

Restricted or prohibited goods

Whilst prohibited goods are not allowed to enter and exit Cambodia, the export or import of restricted goods may be subjected to special licences, permits, or certificates from relevant government agencies. For details concerning special permits and/or certificates for agricultural exports and imports, please refer to

Figure 3.3. Export procedure in Cambodia



Source: CDC, CIB, and CSEZB (n.d.c.).

the discussion under the 'SPS and TBT requirements' section of this chapter.

SPS and TBT requirements

- Exported or imported goods may be subject to SPS and/or TBT requirements.
- With regard to goods that are subject to SPS measures, exporter/importer may need to acquire a licence to export or import such goods. To check if exported/imported goods are subject to SPS measures, you can visit the following website: <http://www.cambodiantr.gov.kh/index.php?r=SearchMeasures/index>.
- Some products may also be required to conform to certain standards. Such technical regulations are administered by the Ministry of Industry

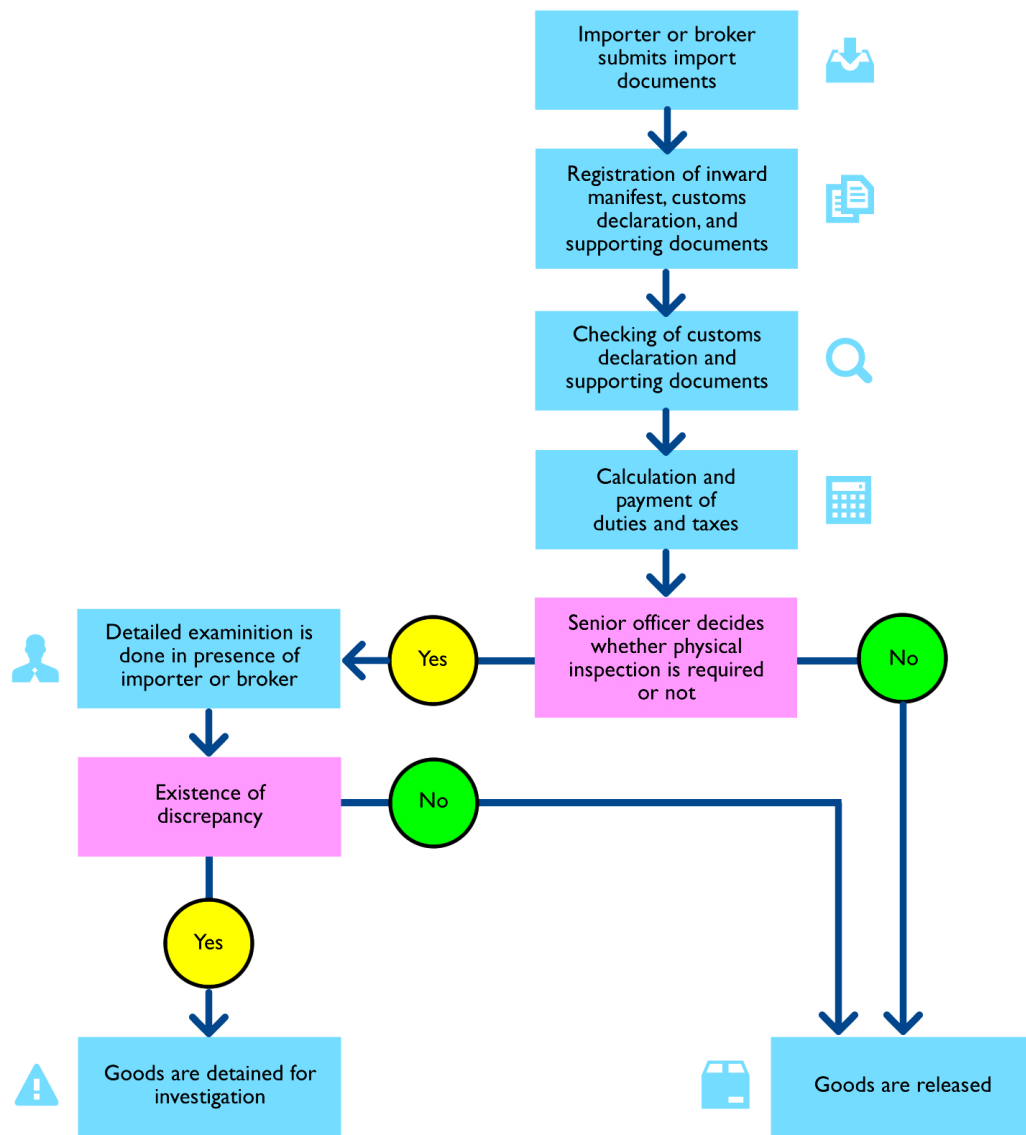
and Handicrafts. To check if exported/imported goods are subject to technical requirements, exporter or importer can visit the following website: <http://www.cambodiantr.gov.kh/index.php?r=SearchMeasures/index>.

- Exporter or importer can also find out more about SPS/TBT by contacting SPS/TBT Enquiry Point:
 General Department of CAMCONTROL
 Department of Technical Information and Public Relations, Ministry of Commerce
 #50Eo, St. 144, Phnom Penh, Cambodia
 Ph: +855 12 908 080 / 23 426 166, Fax: +855 23 426 166
 Email: camcontrol@camnet.com.kh or ccd@camcontrol.gov.kh, Website: <http://www.camcontrol.gov.kh>

Classification and valuation verification (for import)

- Commodities classification in Cambodia uses the 8-digit Harmonised System Code, which is maintained and amended, from time to time, by the World Customs Organisation, and conforms with ASEAN's Harmonised Tariff Nomenclature.
- Customs duty is payable on imported goods as a percentage of their declared value, and may vary according to their country of origin. For further detail on Cambodia's tariff classification and tariff rates, importer may wish to check the following website: <http://www.cambodiantr.gov.kh/index.php?r=tradeInfo/index>.

Figure 3.4. Import procedure in Cambodia



Source: CDC, CIB, and CSEZB (n.d.c.).

Customs declaration

- Customs declaration can be done by submitting a completed and signed Customs Declaration Form, also known as the Single Administrative Document, electronically through the ASYCUDA World (at: <http://awlive.customs.gov.kh:8081/awclient/>), with hardcopy to be submitted to the Custom Clearance Office, along with the following supporting documents:
 - A commercial invoice or contract of sale document from the supplier of the goods;
 - Transport documents, such

as Bill of Lading or Air Way Bill;

- Packing list;
- Other documents, such as manifest, licenses/permits/certificates issued by Customs or other relevant agencies; and
- Certificate of Origin.
- For the export or import of goods related to private and public sector investment projects, exporter/importer may be required to obtain a Customs Permit, which can be obtained from the Customs Procedure Department at the General Department of Customs and Excise in Phnom Penh. Further information on the procedure to obtain

Customs Permit is available at the following website: <http://www.cambodiantr.gov.kh/index.php?r=searchProcedure/view1&id=10>.

- In case of exported or imported goods in SEZ areas, a SEZ Customs Permit is also required, and this can be obtained from the Free Zone Management Department of the General Department of Customs and Excise in Phnom Penh.
- With regard to export, most exports leave Cambodia duty-free, except for a handful of commodities, including natural rubber, uncut precious stones, processed wood, fish, crustaceans, and molluscs.

3.5. Setting up business in Cambodia

Table 3.3. summarises the process (including estimated time and cost required) of setting up business in Cambodia.

Table 3.3. The process of setting up a business in Cambodia

No.	Procedure	Time to complete (day)	Cost to complete
1.	Conduct an initial check for uniqueness of the company name and obtain company name approval at the Business Registration Department	7	USD10
2.	Incorporate the company with the Business Registration Department in the Ministry of Commerce	30	USD420
3.	Make a company seal	1	USD15
4.	Open a bank account, deposit the legally required initial capital or KHR 4,000,000 and obtain deposit evidence	1	No charge
5.	Have registration documents stamped, approved, and registered for Tax Identification Number, Patent Tax, and VAT Tax	30	USD 100
6.	Notify the Ministry of Labour of the start of the operations and hiring of employees	30	KHR 280,000 (8-100 employees)
7.	Submit company original statutes and capital deposit evidence at the Business Registry	1*	No charge
8.	Receive inspection from Labour Inspector	1*	Included in procedure 6
9.	Register at the National Social Security Fund	14*	No charge

Notes: *Take place simultaneously with another.

Source: The World Bank (2017: 22-25).

3.6. Infrastructure in Cambodia

Table 3.4. below summarises existing infrastructures in Cambodia.

Table 3.4. Existing infrastructures in Cambodia

Infrastructure	Length / number / geographical scope / generation (of power) / network spectrums	Notes
Roads	47,263 (including 33,014 km paved roads)	Existing roads consist of: 34,974.6 km rural and provincial roads, and 12,239 km of national roads, with 33.014 km paved. As of 2016, there were 3.2 million vehicles registered, including 2.7 million motorcycles.
Railways	652 km	Cambodia has two main railway lines, including 386 km connecting Phnom Penh and Poi-pet on the Thai border via Pursat and Battambang, and 266 km southern line that connects Phnom Penh and Sihanoukville.

Table 3.4. Existing infrastructures in Cambodia

Infrastructure	Length / number / geographical scope / generation (of power) / network spectrums	Notes
Airports	11 airports	Cambodia has three international airports (Phnom Penh, Siem Reap, and Sihanoukville) and eight domestic airports. Currently, international airports in both Phnom Penh and Siem Reap are undergoing substantial upgrading.
Ports	1 commercial and international deep seaport	The Sihanoukville Autonomous Port is Cambodia's only commercial and deep seawater port. It is currently undergoing substantial development due for completion in 2017.
Energy and power	1,220 GWh	Primary energy sources include: 590 GWh (48 percent) from oil, 420 GWh (34 percent) from hydroelectric, 160 GWh (13.1 percent) from geothermal, 30 GWh (2.5 percent) from coal, 20 GWh (1.6 percent) from biomass and other waste. As of 2016, only 31.1 percent of population had access to electricity in Cambodia.
Telecommunications	n.a.	As of 2015, Cambodia had up to 24.2 million subscribers, and 25 percent internet penetration level. With regard to internet, a new submarine telecoms cable is expected to be due for completion in 2017. The cable will connect Cambodia with Rayong in Thailand and Kuantan in Malaysia, and is expected to increase the capacity of existing networks.

Source: Various.

3.7. Other relevant information

Labour condition landscape and employment system

As a lower middle income country, Cambodia suffers a lack of depth in skilled worker pool. It has been noted, for instance, that four out of every ten Cambodian youth lack sufficient education to adequately perform their jobs.²² With around 90 percent of workers operate in the informal economy, as well as a growing emigrating outflow to find jobs with higher wages, Cambodia is in dire need to make adequate investment to improve its workforce, especially as it seeks to move its economy beyond basic manufacturing jobs.²³

As far as employment system is concerned, labour relations and employment are regulated by the

Constitution and the 1997 Labour Law. Locally hired employees are entitled to a minimum wage of USD 80 per month, 18 days annual leaves, and 25 days public holidays. In the case where required skills are not available in Cambodia, companies may hire foreign workers. No foreign nationals, however, can work in the Kingdom unless s/he possesses a valid work permit and employment card issued by the Ministry of Labour and Vocational Training. The work permit is usually valid for a period of one year, and may be extended as long as the validity of extension does not exceed the stay period in Cambodia.²⁴

Social Security System

Social security system in Cambodia is administered by the National Social Security Fund and regulated under the Law on Social Security (Royal Kram NS/RKM/0902/018). The National Social Security Fund consists of three main schemes, including: (1) employment injury scheme; (2) health insurance scheme; and (3) pension scheme. The social security system covers all persons in Cambodia, regardless of their nationality, race, religion, social origin, and membership of trade union.²⁵

Commercial dispute settlement

Cambodia adopted a Commercial Arbitration Law in 2006, whilst the National Commercial Arbitration Centre was established four years later to serve as the country's alternative dispute resolution mechanism to facilitate companies in resolving commercial disputes more quickly and cheaper than through the conventional court system. International arbitration is also available for commercial disputes involving parties in Cambodia. The Kingdom is a member of the World Bank's International Centre for Settlement of Investment Disputes since 2005.²⁶

3.8. Electronic links to relevant trade and investment portals and government agencies

- Cambodian National Trade Repository: <http://www.cambodiantr.gov.kh/>
- Cambodian Ministry of Agriculture, Forestry, and Fisheries (only available in Khmer): <http://www.maff.gov.kh/>
- Ministry of Commerce: <http://www.moc.gov.kh/en-us/>
- Council for the Development of Cambodia: <http://www.cambodiainvestment.gov.kh/welcome-cib.html>
- General Department of Customs and Excise: http://www.customs.gov.kh/en_gb/

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AEC business tip for Cambodia

Fuelled by domestic consumption and foreign investment, the Cambodian economy has been seeing a relatively robust economic growth in the past few years. The government is also making serious efforts to create a favourable business and investment climate in the country. Along with traditional sectors, such as manufacturing and garment, foreign investment has been flowing in to assist the country to develop new industries, such as auto-parts manufacturing and agricultural products processing. Although continuously liberalising its economy, Cambodia's participation in the AEC provides an additional boost to reduce trade and investment impediments in the country. The AEC's trade facilitation initiatives, such as the ASEAN Single Window and the ASEAN Trade Repository, for instance, help expedite trade and investment procedure with and in Cambodia.

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4. INDONESIA

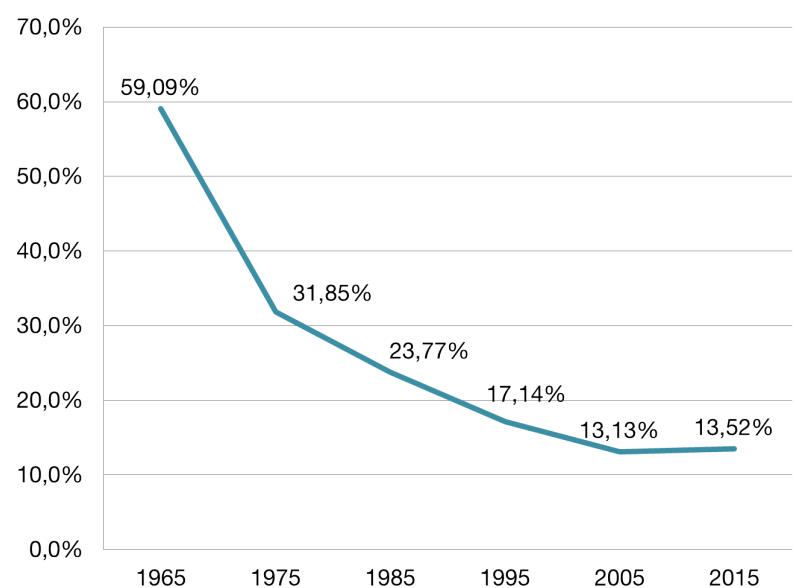
INDONESIA



4.1. Brief country profile

Located between the Indian and the Pacific Oceans, Indonesia is the largest archipelago in the world, consisting 17,508 islands, although only 6,000 of them are inhabited. As of 2015, the country's population numbered around 258 million, making it the largest country and economy in Southeast Asia. Indonesia is currently accorded a status of lower-middle income country with GDP per capita of around USD 3,357.10. With 42 percent of the country's population aged below 25 years, Indonesia is currently blessed with a strong demographic dividend. Of its 122 million strong labour force, 39 percent work in agriculture, 13 percent in manufacturing and industry, whilst the rest are in the services sector. The majority of Indonesia's population live in urban areas, with around 30 million people living in the Greater Jakarta area. With an average GDP growth of 5.8 percent in the last ten years, Indonesia is predicted to become one of the world's ten largest economies in 2030. Given its sheer size, Indonesia, however, does not rely on world trade as much as its immediate ASEAN neighbours. The country's

Figure 4.1 Share of Agricultural Sector of Indonesia's GDP, 1960-2015

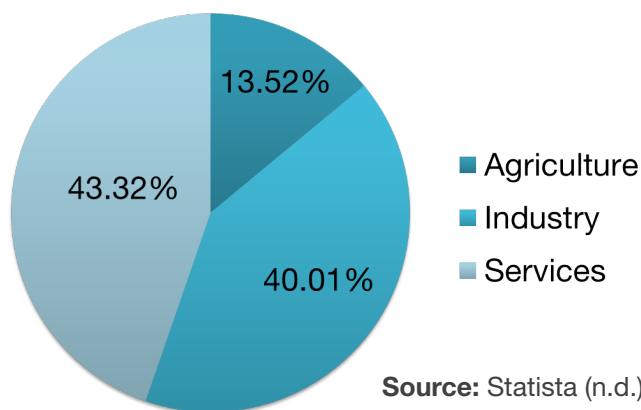


Source: World Bank (2016).

exports and imports account for only about 20 percent of its GDP, whilst domestic consumption make up for almost 60 percent of GDP, rivalling that of major developed countries. Yet, thanks to Indonesia's relatively open



Figure 4.2. Share of economic sectors in Indonesia's GDP, 2015



Source: Statista (n.d.).

trade policy, Indonesia remains an active economic player in the regional and global arena.

4.2. Agricultural sector in Indonesia

Despite a decline of its share of GDP over the last five decades, agriculture, along with fisheries and livestock, still account for 13.52 percent of GDP in Indonesia. The sector serves as the main source of employment in rural areas. In 2015, for instance, around 40.12 million people, or 33 percent of the country's total labour force, were employed in the

agricultural sector. With around 7 percent per annum increase in smallholder productivity, it is estimated that Indonesia's agriculture revenues could increase by USD 50 billion by 2030 to around USD 450 billion.¹ Although the country is a net importer of grains, horticulture, and livestock produce, it remains a major supplier of rubber, palm products, coffee, cocoa, and various spices and herbs to the world, with Japan, the US, China, the European Union, and other ASEAN countries as its main trading partners.

4.3. Policy context

Agricultural policy

Given its importance to the economy, agricultural policy has

been and remains a significant priority for successive governments in Indonesia. Generally speaking, the Indonesian government places four priority objectives in its agricultural policy, including: (1) the achievement of food self-sufficiency; (2) diversification of production and consumption; (3) competitiveness and value added of production; and (4) the increase welfare of farmers.² Since taking office at the end of 2014, President Joko Widodo has also been pursuing an aggressive move to revamp the country's agriculture and food sectors. Framed within the narrative of food sovereignty, the present government's priorities are twofold, including the boosting of rice production to achieve 100 percent self-sufficiency, and to become a rice exporting nation in the near future.³

At present, Indonesia's agricultural policy is guided by the Strategic Plan for 2015-2019, which is part of the country's Medium-Term Development Plan (RPJM – *Rencana Pembangunan Jangka Menengah*) 2005-2025. Indonesia's policy direction, strategy, and target is summarised in Table 4.1.



Item	Remarks
Public policies	<ol style="list-style-type: none"> (1) Improving rice self sufficiency and increasing the production of key commodities (e.g. corn, soybean, sugar, meat, chilli, and onion); (2) Developing competitive, export, and import substitution products, as well as bio-industry raw materials; (3) Strengthening the institutional seed/seedling, farmer, technology, extension, quarantine, and food security system; (4) Developing the agricultural cluster area; (5) Focusing on strategic commodities; (6) Developing facilities, infrastructures, and rural agro-industry as the basis for sustainable bio-industry development; and (7) Implementing good governance and bureaucratic reforms.
Technical and operational policies	<ol style="list-style-type: none"> (1) Climate change adaptation and mitigation, post natural disaster management, and plant protection; (2) Agricultural multi-product re-orientation; (3) Subsidy and agricultural financing application and management; (4) Thematic programme management supporting agricultural development; and (5) Biodiversity utilisation and management.
Policy strategies	<ol style="list-style-type: none"> (1) Increasing the availability and land use; (2) Improving agricultural facilities and infrastructures; (3) Developing and expanding seed/seedling logistics; (4) Strengthening farmers-related institutions; (5) Developing and strengthening agricultural financing; (6) Developing and strengthening bio-industry and bio-energy; (7) Strengthening the agricultural product market networks; (8) Strengthening the capacity building of agricultural human resources; (9) Improving support for innovation, technology, and quarantine; (10) Providing information services; and (11) Other internal management strategies.
Development programmes	<ol style="list-style-type: none"> (1) Increase production, productivity, and quality of food crops; (2) Increase production, productivity, and quality of environmentally friendly horticulture; (3) Increase production and productivity of sustainable estate crops; (4) Accomplish food-based animal and smallholder livestock agribusiness; (5) Improve value-added, competitiveness, quality, marketing product, and agricultural investment; (6) Provide agricultural facility and infrastructure developments; (7) Generate sustainable agricultural-based bio-industry technology and innovation; (8) Improve agricultural extension, education, and training; (9) Increase diversification and community food security; (10) Improve quality of agricultural quarantine and bio-security supervision; (11) Monitor and improve agricultural government apparatus accountability; and (12) Support management and implementation of other related technical tasks.
Control operational measures	<ol style="list-style-type: none"> (1) Production improvements of rice, corn, soybean, sugarcane, and meat; (2) Food diversity improvements; (3) Agricultural product value-added and competitiveness; (4) Bio-industry and bio-energy availability and improvement; and (5) Farmer welfare improvement.

Source: Rafani (2015).

Agricultural trade policy

Import tariffs

Although its role as a source for tax revenue is declining, tariff remains an important trade policy instrument for Indonesia. Generally speaking, Indonesia's simple average applied tariff is relatively low, standing at around 6.9 percent. Its average applied MFN tariff for agricultural products, however, is still at 11.4 percent, as opposed to the industrial sector's 9.2 percent. At the moment, the average bound tariff for 1,341 agricultural products is 47.7 percent, which is considerably higher than the average bound tariff on all goods of 37.5 percent. The vast gap between applied and bound tariffs provides authorities with considerable scope to increase applied tariffs within bindings. Moreover, as a leader of the Group of 33 in the negotiations under the World Trade Organisation, Indonesia has also been advocating for the exemption of certain agricultural commodities, such as rice, sugar, soybeans, and corn, from tariff liberalisation.⁴

In order to support the local industry, the Minister of Finance recently issued Regulation No. 132/PMK.010/2015 on the Third Amendment to Regulation of the Minister of Finance No. 213/PMK.001/2011 on the Stipulation of the Classification System of Goods and Import Duty on Imported Goods. The new regulation amended tariff rates on some value-added goods. The summary of the changes is presented in Table 4.2.

Table 4.2. New tariff for selected food and agricultural imported goods

HS Code	Goods	Previous tariff (in percent)	New tariff (in percent)
0901	Coffee	5	10
0902	Tea	5	10
1601	Sausages	5	30
1602	Processed meat	5	30
1604	Processed fish	5-10	15-20
1605	Processed fish other than fish (molluscs, crustaceans, etc.)	5	15
1704	Sugar confectionary not containing cacao	10	15-20
1806	Chocolate and food containing cacao	10	15-20
1902	Pasta	5-10	20
1904	Prepared foods	5	10
1905	Bread, pastry, cakes, biscuits	5-10	20
2101	Extracts, essences and concentrates, of coffee, tea, or mate	5	20
2103	Sauces and preparation	5	15
2106	Food preparation not elsewhere specified or included	5	15
2202	Waters, including mineral waters, aerated waters, containing added sugar or other sweetening matter or flavour	5	10-20

Source: Ministry of Finance of Republic of Indonesia (2015).

NTMs/NTBs and other export/import restrictions

Despite significant achievement in tariff liberalisation, NTMs/NTBs remain rampant in Indonesia. As of 2015, there were a total of 199 NTM-related regulations and 638 coded NTMs in Indonesia that affected 6,466 tariff lines, or 57 percent of the country's total 10,013 tariff lines.⁵ Nearly 100 percent of tariff lines in animal and animal products and foodstuffs are covered and subject to NTMs. Of 638 coded NTMs mentioned earlier, 88.4 percent are applied to imports, whilst the remaining NTMs were applicable for exports. The Ministry of Trade, which has the responsibility to protect consumers and implement trade safeguards, was responsible for most of the country's NTMs. The country's import NTMs were mostly technical measures, such as technical barriers to

trade (at 50.6 percent), sanitary and phytosanitary measures (at 19.6 percent), and pre-shipment inspection and other formalities (at 8.62 percent).

Investment policy

Indonesia recognises two types of investments, including direct, where investors making direct investment in a company, both to establish a presence and participate in management, and indirect, or portfolio, investments. Direct foreign investment is regulated under Law No. 25/2007 concerning Capital Investment (or 'Investment Law'), and must be carried out in the form of a limited liability company where a foreign investor holds shares in a so-called 'PMA Company or PT. PMA (*Perseroan Terbatas Penanaman Modal Asing*)' incorporated in Indonesia. In other words, an investor is required to go in partnership with an Indonesian person or entity as shareholders, with the former able to have between 30-95 percent ownership in various sectors, or even up to 100 percent, though this varies within sectors and business fields.⁶ Incorporated companies are subject to Law No. 40/2007 concerning Limited Liability Companies.

Approval for all forms of foreign investment is carried out by the Investment Coordinating Board (BKPM – *Badan Koordinasi Penanaman Modal*), except in banking and other financial services, oil, gas, and portfolio investments. Foreign investors are also required to submit periodic investor activity reports to the BKPM, summarising their investment progress or obstacles in pursuing their activities.

Land policy

The Indonesian constitution rules that all land, water, air space, and natural resources are controlled by

the state, and must be used for the welfare of the general population. The Basic Agrarian Law, or Law No. 5/1960, further reiterates that land is controlled by the state on behalf of the people, and should be made available for distribution to citizens under various forms of land tenure. The National Land Agency, or the Badan Pertanahan Nasional, is the main agency responsible for the formulation and implementation of land-related policies, including, but not limited to, land surveys and mapping, land registration and ownership, and so on.

Foreigners, in principle, are not eligible to own land in Indonesia, but they can be granted some other types of land use rights. The above-mentioned Basic Agrarian Law sets six forms of land rights, including:

- Right of ownership (*hak milik*), which is the most solid land rights of all. It is a freehold title that can be bought, sold, mortgaged, and inherited. Unfortunately, this form of land rights is only applicable for Indonesian individuals and corporations;
- Right to cultivate or exploit (*hak guna usaha*), which is the right to use state-owned land for agricultural and aquaculture purposes for a period of up to 35 years with 25 years extension. This type of land rights is also only applicable to Indonesian citizens or corporate bodies incorporated under Indonesian law and domiciled in Indonesia;
- Right to build (*hak guna bangunan*), which is the right accorded to both domestic and foreign companies and individuals to construct a building on a plot of land for a period of up to 20-30 years, which is extendable through the approval of the National Land Agency;
- Right to use (*hak pakai*), which is the right for land use for a specific and agreed purpose for a defined amount of time.

This type of right is applicable for Indonesian nationals, foreigners domiciled in Indonesia, foreign investment companies and their representative offices;

- Right to lease (*hak sewa bangunan*), which is the right to rent land for building purposes within an agreed time period by the parties involved. The user of this right is obliged to make rental payments to the land owner. This type of right can be held by a foreigner residing in Indonesia, or an Indonesian branch of a foreign company. However, the right to lease is basically an informal agreement that is neither certified nor registered with the land authorities. Accordingly, legal protection of those engaged in this is relatively unclear; and
- Right to clear the land and to collect forest products (*hak untuk membuka tanah dan memungut hasil hutan*), which is only applicable for Indonesian citizens.

Along with the increasing number of high rise apartment buildings in Indonesia, the concept of strata title is becoming quite popular in the country. It is basically the right of use of an apartment (vertical space as opposed to land), which can be purchased by a foreigners who resides in or has a regular presence in Indonesia.

Taxes

Table 4.3. below summarises various tax rates and facilities in Indonesia.

Table 4.3. Tax rates in Indonesia

Personal income tax		
Taxable income (in IDR)	Rate (in percent)	Taxed amount (in IDR)
First 50 million	5	2.5 million
Next 200 million	15	30 million
Next 250 million	25	62.5 million
Next over 500 million	30	162.5 million

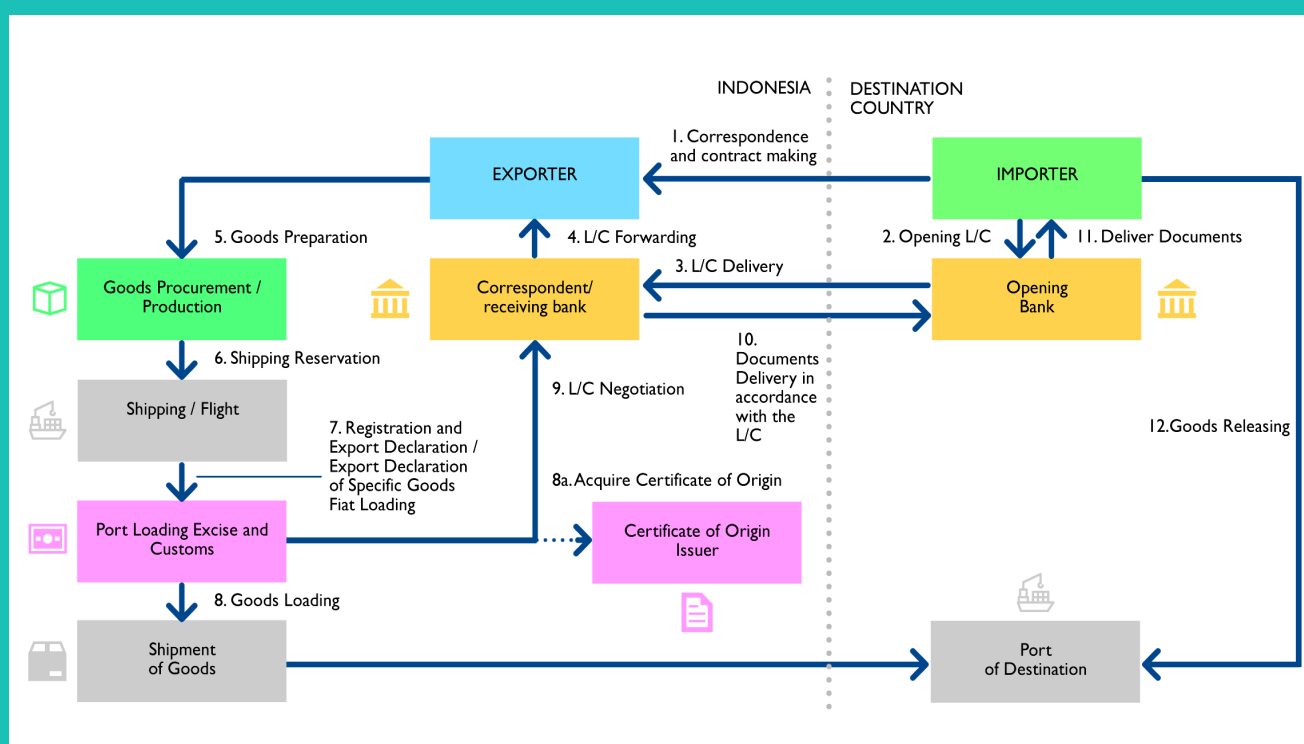
Corporate income tax	25 percent (flat rate)
Value added tax	Generally 10 percent, but 0 percent VAT may be applicable to: (1) export of taxable goods; (2) export of intangible taxable goods; (3) export of certain taxable services (e.g. toll manufacturing, repair and maintenance services related to movable goods utilised outside the customs zone, or construction service related to immovable goods that are located outside the customs zone.
Withholding tax	Between 0.3 to 7.5 percent of import values or selling prices.
Luxury goods sales tax	Between 10 to 125 percent for motor vehicles, and between 10 to 75 percent for taxable goods other than motor vehicles.
Tax holidays	To be eligible for this facility, a company must be incorporated in Indonesia no earlier than 14 th August 2010, and should have legalised new capital investment plan of minimum IDR 1 trillion, 10 percent of which should be deposited in local banks.

Source: PWC (2015); Deloitte (2015).

4.4. Export-import procedure

Export procedure⁷

Figure 4.3. Export-import procedure in Indonesia



Source: Directorate General for National Export Development, Ministry of Trade, Republic of Indonesia (n.d.)

Business registration

For a company to be able to carry out export activity, it should be registered as a legal entity in the form of either limited partnership company (CV – *Commanditaire Vennotschap*), firm, Limited Liability Company (PT – *Perseroan Terbatas*), Public Corporation, Departmental Company, or cooperative.

SPS and TBT requirements

The import of plants requires Phytosanitary Certificates from the country of origin and transit country, whereas the export of plants requires Phytosanitary Certificates or Phytosanitary Certificates for Re-export. These official documents can be obtained from the Indonesian Agricultural Quarantine Agency of the Ministry of Agriculture. Original Health Certificate/Sanitary Certificate, meanwhile, is required for the exportation or importation of live animals. For the exportation of live animals, such a document can be obtained from veterinarian of the area of origin of the said animals and the quarantine veterinarian.⁸

As for retailed packaged food products, these should be registered at the National Agency for Drug and Food Control (BPOM – *Badan Pengawas Obat dan Makanan*). BPOM also regulates the labelling information on the product, which should contain product name, ingredients list, weight or net volume, name and address of the manufacturer or importer, halal marking (if required), date or production code, use by date, BPOM registration number, and the source of certain food products. Besides the BPOM registration number, additional documents from relevant government agencies, such as import permit from the Ministry of Agriculture or the Ministry of Trade may be required for some imported products.⁹

Export licences

After conducting business registration, the exporter is required to obtain a taxpayer identification

number (NPWP – *Nomor Pokok Wajib Pajak*), and must acquire one of the following business licences: trade licence (SIUP – *Surat Izin Usaha Perdagangan*) from the Ministry of Trade, manufacturing licence from the Ministry of Industry (or other relevant agencies), Foreign Investment Company (PMA) licence issued by the BKPM, or Exporter Identification Number.

Prohibited goods to export

Trade Ministerial Decree No. 01/M-DAG/PER/1/2007, dated 22nd January 2007, stipulates goods that are prohibited to be exported out of Indonesia, including:

- Agricultural products, such as fry and Arowana fish, eel fish seed, botia ornamental fish, lobster of 8 cm, and paneadae shrimps;
- Forestry products, such as roundwood, flakes materials, rail pads made of wood or sawn timber; and
- Maritime products: sea sands.

There are also special goods that can only be exported by registered exporters (or goods that are subject to an export trade system) based on considerations, such as goods that help increase foreign exchange and competitiveness of the country, is related to international trade agreements, nature preservation, or other issues related to the availability of raw materials in the domestic market. Such goods include: roasted or not roasted coffee, processed coffee (plantation products), rattan or wood products (forestry products), as well as a range of other industrial and mining products.

Meanwhile, there are also so-called **export-controlled goods**, or goods that are critical in the balancing of domestic supply, and may create disruption to domestic consumption if availability of such products are low. A number of

agriculture-related products, such as livestock products (e.g. cow seeds, non-seeds cow, buffalo, crocodile skin, wild animal and plants), fishery products (e.g. Napoleon fish, wirasse, milkfish seeds), and plantation products (e.g. palm kernel) are included in this goods category.

Export declaration

Once the payment (e.g. consignment, letter of credit, etc.) and the eligibility of goods are confirmed, the exporter is required to submit Exporting Goods Notification, or *Pemberitahuan Ekspor Barang*, along with other accompanying documents (e.g. invoice, packing list, licenses or documents from relevant agencies, etc.) to the Customs and Excise Office no earlier than seven days prior to the export schedule, or no later than the moment the goods enter the customs area. Upon approval, the exporter will receive a notice of export approval.

Customs clearance

Physical inspection is required for export-bound goods categorised as one of the following: (1) export goods for future re-import; (2) export goods which upon re-import are intended for future re-export; (3) export goods which upon re-import are intended for processing, assembling, or installation on other goods whilst having obtained import duty exemptions or refunds; (4) export goods with levied duties; (5) export goods which, upon information from the Directorate General of Taxation, may potentially violate or have violated applicable regulations regarding taxation; and (6) export goods which based on an analysis of information obtained from other sources are indicated to potentially violate or have violated applicable laws.

Import procedure⁸

Business registration

An importing company must have a legal entity in the form of foreign

investment limited liability company (PT. PMA). The registration process to set up a PT. PMA may take up to three months. Prior to setting up an importing company, the investor needs to check whether the type of company they wish to establish is allowed under the present government's rules and regulations. For instance, distributor companies are listed under the Negative Investment List, and are not allowed to sell directly to consumers in the country. The importing company is also required to obtain tax identification number (NPWP) from the Tax Office.

Import licences

The following are import licences that are relevant to agricultural importers in Indonesia:

- **Importer Identification Number**, which is a mandatory proof of identification that is valid for five years, and may be extended. There are two types of such Identification Number, including:
 - **General Importer Identification Number**, which is granted to importers that import only for trading purposes (issued by the Ministry of Trade or related Head of Provincial Services);
 - **Producer Importer Identification Number**, which is given to importers that import goods for their own use, such as raw materials, and that are intended to support their production process. There are three types of such an identification document, including one for production sharing (issued by the Directorate General of Foreign Trade of the Ministry of Trade), one for foreign and local liability companies (issued by the Investment

Coordinating Board), and one for other purposes (issued by the Ministry of Trade);

- **Customs Identification Number**, or *Nomor Identitas Kepabeanan*, which is a personal identity number used to access the importer's record file in the system of the Directorate General of Customs and Excise, which can be obtained from the said Directorate General. This identification number can only be obtained from the Directorate General of Customs and Excise, and remains valid unless cancelled by a relevant authorities;
- **Special Importer Identification Number**, or *Nomor Pengenal Importir Khusus*, which is applicable for the importation of certain commodities, such as rice, sugar, corn, soybeans, as well as a range of manufacturing products, and can be obtained from the Ministry of Trade. It is important to note that those accorded with this identification number must report the realisation of their imports every 15th day of the month;
- **Registered Importer Number**, or *Importir Terdaftar Produk Tertentu*, which is mandatory for an importer wishing to import goods related to food and drink products, as well as various manufacturing products; and
- **Company Master Number**, or *Nomor Induk Perusahaan*, which is a registration certification number that is required for entitlement to the exemption or drawback of import duties, value added tax, and sales tax on luxury goods.

Prohibited goods to import

Generally, items such as narcotics and drugs, pornographic materials, politically sensitive materials, firearms and explosives are prohibited to enter Indonesia. The importation of some foods or drinks may either be subject to import duty or are entirely prohibited. The latter normally includes foods that are generally unfit for human consumption and/or harmful to human health.

Customs declaration

Once the imported goods are cleared, the importer is required to complete and submit a Customs Declaration Form to the Directorate General of Customs and Excise in order to obtain Customs Clearance Approval, or *Surat Persetujuan Pengeluaran Barang*. The submission of the Customs Declaration Form must be accompanied by other relevant documents, such as payment evidence, API, NPWP, Customs Registration Letter, Letter of Deposit of Customs Duty, Excise and Taxation, Commercial Invoice, Bill of Lading or Airway Bill, and insurance letter.

Customs clearance

Imported goods are usually subject to physical inspection, which is normally done in the presence of the importer or his or her representative during office hours. Although only up to 10 percent of imported goods are normally inspected, a more thorough examination of imported goods may be carried out if a potential offence is detected by Customs officials.

4.5. Setting up business in Indonesia

Table 4.4. below summarises the process of setting up a business, including the length of time and cost required, in Indonesia.

Table 4.4. The process of setting up a business in Indonesia

No.	Procedure	Time to complete (day)	Cost to complete (in IDR)
1.	Obtaining standard form of the company deed and clearance for company's name at the Ministry of Law and Human Rights	4	200,000 (name reservation and clearance)
2.	Notarise company's documents before a public notary	4	2,526,816 (notary fee)
3.	Pay the State Treasury for the non-tax state revenue fees for legal services at a bank	1	200,000
4.	Apply to the Ministry of Law and Human Rights for approval of the deed of establishment	7	1,580,000 (1 million for validation of company as a legal entity, 30,000 for publication in the State Gazette, and 550,000 for publication in the Supplement to the State Gazette)
5.	Apply at the One Stop Service for the Business Trading Licence (SIUP) and the Company Registration Certificate	15	500,000
6.	Registration with the Ministry of Manpower (this procedure can be completed concurrently with other post-registration procedures by filing the manpower compulsory report and company regulations with the Ministry of Manpower)	14	No charge
7.	Apply for the Workers Social Security Programme, also known as the Program Jamsostek	7	No charge
8.	Obtain a taxpayer identification number (NPWP) and a value-added tax collector number	1	No charge

Source: World Bank (n.d.).

4.6. Infrastructures in Indonesia

Existing infrastructures in Indonesia are summarised in Table 4.5.

Table 4.5. Existing infrastructures in Indonesia

Infrastructure	Length / number / geographical scope / generation (of power) / network spectrums	Notes
Roads	508,060 km	Existing roads consists of: 38,570 km national roads, 53,642 km provincial roads, and 415,848 km regency/municipal roads. As of 2014, there were a total of 85.6 million motor vehicles in Indonesia, consisting of 9.5 million passenger cars, 2.2 million buses, 4.9 million trucks, and 68.8 million motorcycles. More recently, it is estimated that the total number of motor vehicles throughout the country is about 124.3 million units.
Railways	8,529 km	Although Indonesia's rail infrastructure is relatively much better than its road, port, and air infrastructure, more investment is currently made on this infrastructure to improve connectivity within the main islands of the country.
Airports	296 airports (including 24 international airports)	With over 54.1 million passengers in 2015, Jakarta's Soekarno-Hatta International Airport is the busiest airport in Indonesia, followed by Surabaya's Juanda International Airport and Bali's Ngurah Rai International Airport, each with around 17.1 million passangers.
Ports	1,700 seaports	Despite large number of seaports in Indonesia, the country only has 111 commercial ports, with 11 of them being container ports.
Energy and power	233,981.9 GWh	Energy sources include: 10,004.48 GWh (4.2 percent) from hydroelectric, 95,815.29 GWh (40.9 percent) from steam, 3,444.9 GWh (1.4 percent) from gas turbine, 38,705.5 GWh (16.5 percent) from combined cycle, 4,391.5 GWh (1.8 percent) from geothermal, 3,032.75 GWh (1.3 percent) from diesel, 1,232.8 GWh (0.5 percent) from diesel gas, and 5.28 GWh (or 0.002 percent) from solar. As of 2016, the electrification rate of Indonesia was 86.2 percent.
Telecommunications	n.a.	The number of mobile phone subscribers in Indonesia is estimated at around 161.4 million in 2016, and is expected to rise to 193.4 million in 2019. Furthermore, with a total of 88 million subscribers, the country's internet penetration level is 34.1 percent.

Source: Various.

4.7. Other relevant information

Labour condition landscape and employment system¹¹

Despite its improved standing in global economic community, Indonesia is finding it more difficult to respond to the skills needs of its workforce in a time of increasing globalisation, new technology, and changing patterns of work. Aside from out-migration, the shortages of skilled labour in the country is also due to ageing workforce and the lack of capacity to provide adequate training to the country's 120.1 million workforce.¹² To date, the country's workforce consists largely of people with lower than an upper-secondary education (around 45 percent), though the proportion of people with high-school diploma and university degree has steadily risen over the years (to around 22 and 8 percent of people aged over 25 in 2015 respectively).

In terms of employment system, foreign nationals are allowed to work in Indonesia providing that the work to be performed cannot be performed by Indonesian nationals, and is not prohibited by prevailing laws and regulations of the country. This requirement, however, may be subject to additional regulations in a number of sectors. Indonesian labour laws and regulations apply to both Indonesian and foreign workers. Law No. 13/2003 on Manpower provides guidelines on employment relationship, employment terms and conditions, and employment termination.

Regions	Minimum wages (in IDR)
Special autonomous region of Aceh	2,118,500
Northern Sumatra	1,811,875
Western Sumatra	1,800,725
Southern Sumatra	2,206,000
Riau	2,095,000
Riau Islands	2,178,710
Jambi	1,906,650
Bangka-Belitung Islands	2,341,500
Bengkulu	1,605,000
Special capital region of Jakarta	3,100,000
Banten	1,784,000
Western Lesser Sunda Islands	1,482,950
Eastern Lesser Sunda Islands	1,425,000
Western Borneo	1,739,400
Southern Borneo	2,085,050
Central Borneo	2,057,550

Table 4.6. Minimum wages in Indonesia, 2016

Regions	Minimum wages (in IDR)
Eastern Borneo	2,161,253
Moluccas	1,775,000
Northern Moluccas	1,681,266
Gorontalo	1,875,000
Southeastern Sulawesi	1,850,000
Central Sulawesi	1,670,000
Western Sulawesi	1,864,000
Southern Sulawesi	2,250,000
Northern Sulawesi	2,400,000
Papua	2,435,000
Western Papua	2,237,000
Lampung	1,763,000
Western Java	2,250,000
Central Java	1,100,000
Eastern Java	1,283,000
Special Region Yogyakarta	1,108,249
Bali	1,807,600

Source: Wage Indicator (n.d.).

Social security system¹⁰

As part of the broader changes in the Indonesian social security system, the Indonesian social security agency, also known as the Jamsostek, is now known as the Social Security Organising Agency (BPJS – *Badan Penyelenggara Jaminan Sosial*), with separate administration for health and social security programmes for employees. Under the new BPJS social security programme, any foreign nationals working in Indonesia for more than six months would be required to participate, regardless of any home country coverage. Under the BPJS scheme, social security contributions of employee is calculated as follows:

- Work accident insurance – contribution between 0.24 percent to 1.74 percent to be paid by employer;
- Life insurance benefit – contribution of 0.3 percent to be paid by employer; and
- Pension – employer contribution of 3.7 percent and employee contribution of 2 percent.

When leaving Indonesia at the end of their assignment, foreign nationals are permitted to withdraw the pension component of this social security scheme.

Commercial dispute settlement

Arbitration in Indonesia is governed under Law No. 30/1999, dated 12th August 1999, on Arbitration and Alternative Dispute Resolutions. This arbitration law recognises and regulates domestic and foreign arbitration.¹¹ Unlike in many jurisdictions, however, the arbitration law in Indonesia is not based on the United Nations

Commission on International Trade Law Model Law on International Commercial Arbitration.¹² The Indonesian Chamber of Commerce and Industry promoted the establishment of the Indonesian National Board of Arbitration, or *Badan Arbitrase Nasional*, in 1977, which has its own rules and procedures. The existing arbitration law stipulates that only disputes in the commercial sector (e.g. commerce, banking, finance, capital investment, industry, and intellectual property rights), which concerns rights fully controlled by the parties in dispute, can be settled by arbitration.

4.8. Electronic links to relevant trade and investment portals and government agencies

- Indonesia National Trade Repository: <http://eservice.insw.go.id/>
- Indonesia National Single Window: <http://www.insw.go.id/>

- Ministry of Agriculture: <http://www.pertanian.go.id/>
- Ministry of Trade: <http://www.kemendag.go.id/>
- Investment Coordinating Board: <http://www.bkpm.go.id/>
- Directorate General for Customs and Excise: <http://www.beacukai.go.id/>

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1. Quincieu (2015: 3).
2. OECD (2012: 134).
3. Lassa and Priamarizki (2015).
4. WTO (2012: 35-41); International Business Publications (2015: 177).
5. Munadi (2015: 67-72).
6. KPMG (2015: 16).
7. Adapted from the Directorate General for National Export Development of the Ministry Trade of Republic of Indonesia (n.d.) and Global Business Guide (n.d.).
8. Ministry of Agriculture (2011).

AEC business tip for Indonesia

As the largest country in Southeast Asia, Indonesia's economic potentials are huge. Supported by a relatively solid domestic economy and a government that embraces market-oriented reforms, Indonesia has been one of the strongest performing emerging market economies in recent years. Despite these potentials and ongoing reforms, Indonesia has been considered one of the most difficult markets to penetrate in ASEAN. Apart from rampant use of NTMs/NTBs, complex bureaucracy, lack of transparency, high logistics costs, and poor infrastructures are often cited as major stumbling blocks that prevent ASEAN and non-ASEAN businesses to invest in the country. In addition to the present government's initiatives to continuously pursue economic reforms, Indonesia's participation in the AEC can be expected to help in reducing trade and investment barriers in the country. ASEAN's trade facilitation initiatives, for example, encourage greater harmonisation and transparency of complex rules, regulations, and standards commonly found in various sectors in the country. ASEAN's connectivity plan also facilitates infrastructure development badly needed to reduce the cost of doing business in Indonesia.

9. USDA Foreign Agricultural Services (2016:3).
10. Adapted from the EU-Indonesia Business Network (n.d.).
11. Adwani, et al. (2015/2016).
12. ILO (n.d.).
13. EY (2014).
14. Hadiputro, Hadinoto, and Partners (2011: 2-3).
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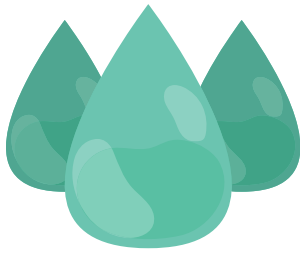
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A photograph of a golden rice field at sunset. The foreground is filled with tall, golden rice stalks. In the background, several people are visible, some sitting and some standing, silhouetted against the bright, warm light of the setting sun. The overall scene is peaceful and rural.

**5. LAO PEOPLE'S
DEMOCRATIC
REPUBLIC
(LAO PDR)**

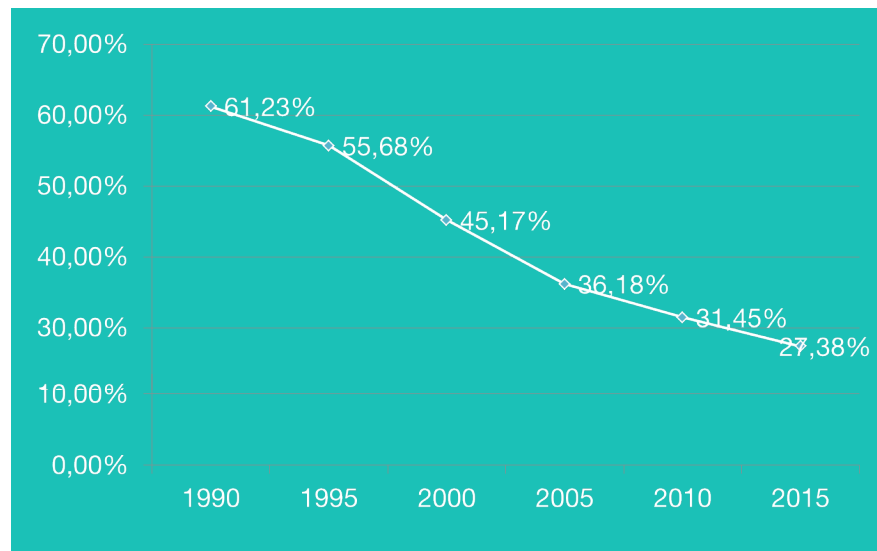


LAO PEOPLE'S DEMOCRATIC REPUBLIC

5.1. Brief country profile

Despite being the only landlocked country in Southeast Asia, Lao PDR, also popularly known as 'Laos', is one of the fastest growing economies in ASEAN and the wider Asia-Pacific region. Its status was upgraded to a lower-middle economy, from previously being a low-income economy, in 2011 as a result of its success in maintaining a relatively stable GDP growth of around 7 percent per annum over the last decade.¹ With GDP per capita of around USD 1,831.20 in 2015, Laos' economic boom has been made possible through the country's increasing use of its own natural resources (e.g. water, minerals, and forests), the expansion of the construction and services sectors, as well as the deepening of economic integration in the region, which helped boost tourism and foreign investment in the country.² Despite this, the vast majority of the country's population are still subsistence farmers, with rice as their principal crop. With

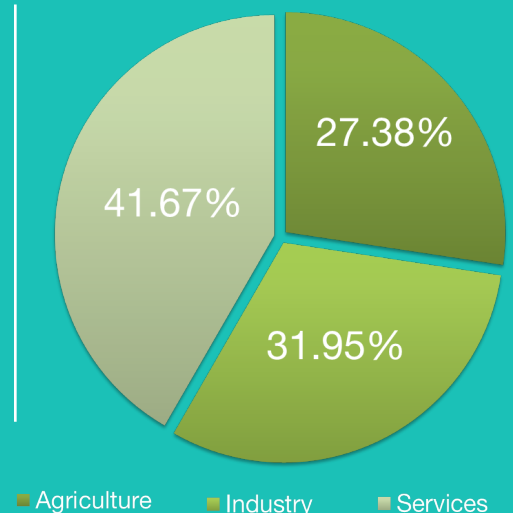
Figure 5.1. Share of agricultural sector in Lao PDR's GDP, 1990 - 2015



Source: World Bank (n.d.a).

a goal of attaining self-sufficiency in rice production, Lao PDR, unlike its neighbouring Thailand and Vietnam, is not a rice exporting country. Notwithstanding this fact, the country's economic outlook remains bright, supported primarily by the growth in the power sector, and growing ASEAN integration.

Figure 5.2. Share of economic sectors in Lao PDR's GDP, 2015



Source: World Bank (n.d.a).

5.2. Agriculture Sector in Lao PDR

Whilst the contribution of agriculture to the country's GDP has been declining in recent years, productivity in the sector has been growing consistently and continues to play a significant role in the economy. In 2015, agriculture contributed around 27.38 percent of the country's GDP. Based on the 2012 agricultural census in the country, 79.7 percent of the country's total population

of 6.7 million is engaged in farming. The average land holding is 1.62 ha, with 27 percent of households having 2 ha or more, and 36 percent having less than 1 ha. At the time, around 93 percent of the area devoted for rice production was allocated for the production of sticky rice, a subsistence crop used primarily for home consumption.³ Tree farming is also an important production component of the country's agriculture with around 23 percent of them allocated for mango production, 17 percent for coconut, another 17 percent for banana, 11 percent jackfruit, and the remaining 11 percent for tamarind production.⁴

and increase application of modernised lowland market-oriented agricultural production, which is adaptable to climate change and focused on smallholder farmers. This long-term goal also entails the conservation of ecosystems in the upland areas, whilst, at the same time, ensuring food security and improving the livelihoods of rural communities. Essentially, this long-term goal intends to drive the Laotian agricultural sector from low-value subsistence farming to a more commercially-oriented smallholder production. In order to attain this goal, the Laotian government gives much emphasis on investment in agriculture and rural infrastructure development.⁵

Agricultural trade policy

Import tariffs

As of 2015, simple MFN applied tariff for agriculture in Lao PDR stood at 20.1 percent, whilst non-agriculture products at 8.3 percent. The country was on track to reduce its tariff on imports from other members of ASEAN to less than five percent by 2015, though seven percent of its tariff lines can be flexibly reduced by 2018. Despite this, tariffs and duty rates are constantly revised and are subject to change, often without notice. Table 5.1. summarises existing rates applied to agricultural products in Lao PDR.

5.3. Policy context

Agricultural policy

The government of Lao PDR is currently in the process of implementing the so-called 'Strategy for Agricultural Development 2011 to 2020', which, as its name suggests, is a long-term framework for the development of the country's agricultural and forestry sectors. Through this strategy, the government intends to pursue a gradual introduction



Table 5.1. Average MFN tariff and final bound duties of Lao PDR's agricultural products

Product Group	Average MFN Applied Duties	Final Bound Duties
Animal products	23.7%	16.7%
Dairy products	8.3%	5%
Fruit, vegetables, plants	31%	19.5%
Coffee, tea	24.2%	41.7%
Cereals and reparations	9.7%	16%
Oilseeds, fats, oils	13%	19.4%
Sugars and confectionary	12.4%	14.1%
Beverages and tobacco	31.5%	17.6%
Cotton	8%	9%
Other agricultural products	10.5%	22.1%
Fish	12.8%	30.7%

Source: WTO (2016).

Investment incentives

In order to promote foreign investment, the government of Lao PDR offers a range of tax and duty incentives, as well as non-tax incentives. Article 49 of the Investment Promotion Law also stipulates strategic sectors that the Laotian government wishes to promote, and these include agriculture, industry, handicraft, and services. Corporate profit tax on these sectors are subject to investment promotion incentives, such as corporate profit tax exemptions and exemptions for import and export duties for some products (refer to Table 5.2.). Meanwhile, some non-tax incentives available to foreign investors include the following:

- Permission to bring in foreign nationals to conduct investment feasibility studies;
- Permission to bring in foreign workers providing that no qualified Laotian nationals are available to carry out the work;
- Permission to lease land for 20 years from a Laotian national, or 50 years from the government;
- Permission to own all improvements and structures on the leased land and to transfer leases to other entities;
- Permission to sell or remove improvements or structures;
- Facilitation of entry and exit visa facilities and work permits for expatriates; and
- Guarantees against nationalisation, expropriation, and requisition without compensation.⁸

NTMs/NTBs and other export/import restrictions

Despite significant tariff reduction in recent years, NTMs/NTBs remain rampant in Lao PDR. As of 2015, the country had 301 NTMs. The main government-related agencies commonly issuing NTMs included the Ministry of Agriculture and Forestry (with 19.9 percent of total NTMs), the Ministry of Industry and Commerce (at 18.6 percent), the Government's Office (at 18.3 percent), and the Ministry of Health (at 17.6 percent). The majority, or 30.2 percent of the country's NTMs at the time were in the form of technical barriers to trade, and this was followed by price control measures (including additional taxes and charges) and sanitary and phytosanitary measures, each at 15.9 percent and 12.6 percent respectively. Of the total 9,558 tariff lines, all of them were affected by at least one NTM. Nearly all tariff lines in vegetable products, animal products, and food stuffs were subject to at least three NTMs.⁶

Investment Policy

The 2004 Investment Promotion Law, which was amended in 2009, and is subject to further amendment in the near future, is the main investment policy of Lao PDR. The law was formulated to invite and encourage domestic and foreign investment into the country. Aside from putting domestic and foreign investments on a level playing field, this investment law, shortens procedures for investors to set up a new business, as well as expanding the country's investment incentives and facilities. Generally speaking, foreign investment in Lao PDR can be pursued either in the form of full, 100 percent ownership, joint ventures, or business by contract (a foreign company pursues an agreement with a local partner). Foreign investment is generally open to all sectors, except in areas and business operations that are detrimental to national security, environment, public health, and culture.⁷

Table 5.2. Investment promotion incentives for sectors that are promoted by the Lao PDR government

Promoted sectors	Zone	Level	Period of exemption (in years)
Agriculture Industry Handicraft Service	1 (mountainous, plateau zones with no economic infrastructure to facilitate investments)	1	10
		2	6
		3	4
	2 (mountainous, plateau zones with a moderate level of economic infrastructure to accommodate investments)	1	8
		2	4
		3	2
	3 (plateau zones with good economic infrastructure available for investments)	1	4
		2	2
		3	1

Source: Investment Promotion Department of the Ministry of Planning and Investment (n.d.a.).

Land policy

Generally speaking, land in Lao PDR belongs to the population as whole, though citizens and legal entities have the right to receive permanent land use rights. Land use rights are usually certified in the form of land titles, which can be issued to individuals, collectives, and state land. The Department of Land Administration of the Ministry of Natural Resources and Environment is the primary government institution that has the mandate to survey and adjudicate land parcels and issue land titles. Land issue in the country is currently undergoing a reform process, with a draft of the National Land Policy currently being prepared by a drafting committee under the Ministry of Natural Resources and Environment.⁹

Taxes

Tax rates in Lao PDR are summarised in Table 5.3.

Table 5.3. Tax rates in Lao PDR

Personal income tax		
Taxable income	Rate (in percent)	Taxed amount (in LAK)
First LAK 1 Million	0	0
Next LAK 2 Million	5	100.000
Next LAK 3 Million	10	300.000
Next LAK 6 Million	12	720.000
Next LAK 12 Million	15	1.800.000
Next LAK 16 Million	20	3.200.000
Next LAK over 40 Million	24	24 percent of related amount
Corporate Income Tax	24 flat rate, 26 for businesses in the tobacco industry	
	Publicly listed companies get 5 percent reduction for the first four years since registration at the stock exchange	
	Companies with revenues less than LAK 12 million do not pay VAT or corporate income tax but only a 3-7 percent lump-sum tax, depending on industry and revenue	
Value Added Tax	Standard 10 percent with some special exemptions	

Sources: PWC (n.d.a. and n.d.b.).

5.4. Export-import procedure

Business registration

A company wishing to conduct export and import activities must be registered with the Enterprises Registration Division of the Ministry of Industry and Commerce.

SPS and TBT requirements

- In order to obtain a Phytosanitary Certificate, the exporter can make a request to the Ministry of Agriculture and Forestry or a Provincial Agriculture Forest Office. The request form should be accompanied with an invoice, packing list, and a phytosanitary import permit from the destination country.¹⁰
- An importer may obtain a phytosanitary import permit from the Department of Agriculture of the Ministry of Agriculture and Forestry or relevant provincial authorities. The permit should be accompanied with an invoice and packing list.
- An exporter or importer can also find out more about SPS requirements in the country by contacting SPS Enquiry Point of Lao PDR:

Lao PDR SPS Enquiry Point
Department of Planning and Cooperation, Ministry of Agriculture and Forestry
P.O.Box 811 Vientiane, Lao PDR
Tel: +856 21 415363
Fax: +856 21 412343
Email: spsenquiries@laotradeportal.gov.la

Website: <http://www.laotradeportal.gov.la/index.php?r=site/display&id=103>

- Exporter or importer can also find out more about TBT requirements in the country by contacting TBT Enquiry Point of Lao PDR:

Lao PDR TBT Enquiry Point
Department of Standardization and Metrology Ministry of Science and Technology
P.O. Box 2279
Vientiane, Lao PDR
Tel: +856 21 732 093
Fax: +856 21 732 093
Email: tbtenquiries@laotradeportal.gov.la
Website: <http://www.laotradeportal.gov.la/index.php?r=site/display&id=127#Top>

Prohibited goods to export or import

The government of Lao PDR prohibits the export and import of various goods for reasons such as public order and national security, financial stability, cultural protection, as well as the protection of health of safety of human and the environment. Items such as destructive fishing tools and bat guano or manure are some prohibited items supervised by the Ministry of Agriculture and Forestry. The Notification of the Ministry of Industry and Commerce No. 0973/MoIC. DIMEX, dated 25th May 2011, provides further detail of these prohibited goods to export and import.¹¹

To export and import of agricultural products, a company

may also be required to obtain permits from the Ministry of Agriculture and Forestry (refer to the 'SPS and TBT requirements' section for further details).

Goods classification

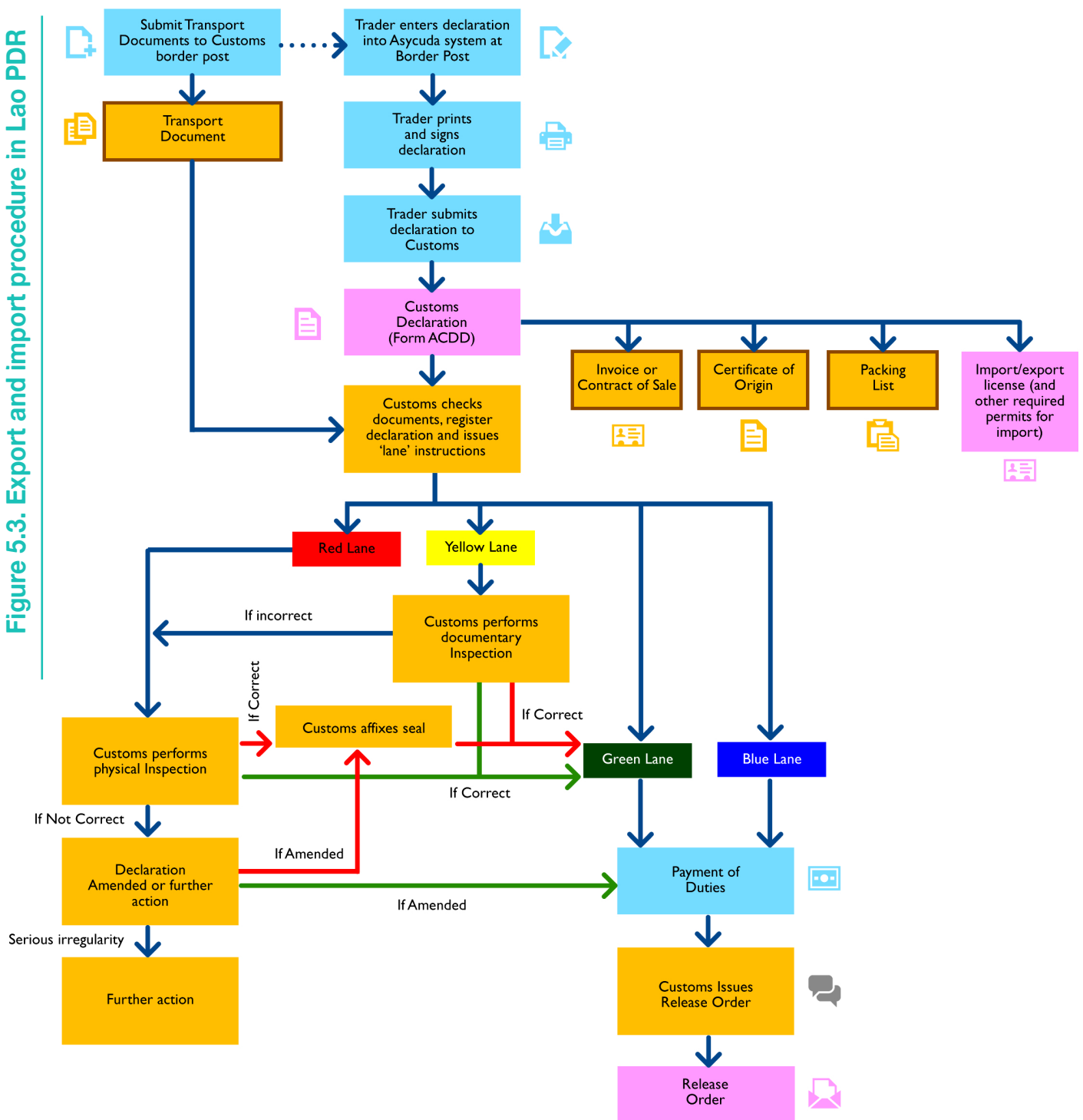
Commodities are classified using the eight digit Harmonised System (HS) Code, which is maintained, and, from time to time, adjusted by the World Customs Organisation. The tariff structure in Lao PDR conforms with the ASEAN Harmonised Tariff Nomenclature standard.

Export or import licence and other permits

The export and import of certain products require the exporter or importer to obtain an export or import licence from the Department of Import and Export of the Ministry of Industry and Commerce. Depending on the products to be exported or imported, such licence can either be automatic or non-automatic, details of which is available from the Notification of the Ministry of Industry and Commerce No. 0076/MOIC.DIMEX, dated 13th January 2012.¹¹ Aside from an export or import licence, the exporter or importer is also required to prepare other documents, such as certificate of origin, special sanitary and phytosanitary permit for the export of some agricultural products from the Ministry of Agriculture and Forestry, and other technical permits that normally needs to be acquired from the Ministry of Science and Technology.



Figure 5.3. Export and import procedure in Lao PDR



Source: Lao PDR Trade Portal (n.d.a.).

- ➔ Import procedure
- ➔ Export procedure
- ➔ Export/import procedure

Export or import declaration

After acquiring all the necessary export permits, the exporter must declare his or her intention to export or import goods from or to Lao PDR by submitting a completed and signed ASEAN Customs Declaration Document along with other supporting documents (e.g. commercial invoice, bill of lading or airway bill, packing list, etc.). The declaration to export or import can be made at the regional customs office, and must be carried out within 15 days after all transport documents have been submitted to the regional customs office. All customs declaration must be submitted via the Asycuda automated customs management system.

Payment of duties

Once all export or import declaration requirements are fulfilled, the exporter or importer is required to pay duties applicable to his or her exported or imported goods. At major border posts, the exporter or importer will be able to pay for duties at a bank nearby. Some products to be exported, such as agricultural products, may be exempt from the payment of customs duties.

Clearance of goods

Subsequently, the exporter or importer may proceed to clear exported or imported goods from customs. Customs authorities usually inspect goods as a whole or by sampling depending on what is appropriate, and should be carried out in the presence of the declarant. With regards to export, the government of Lao PDR conducts uniform inspection of export items to ensure the good maintenance of reputation for Lao export goods. The inspection procedure normally covers four categories, including quality, packaging condition, material, and design and manufacturing method inspection.

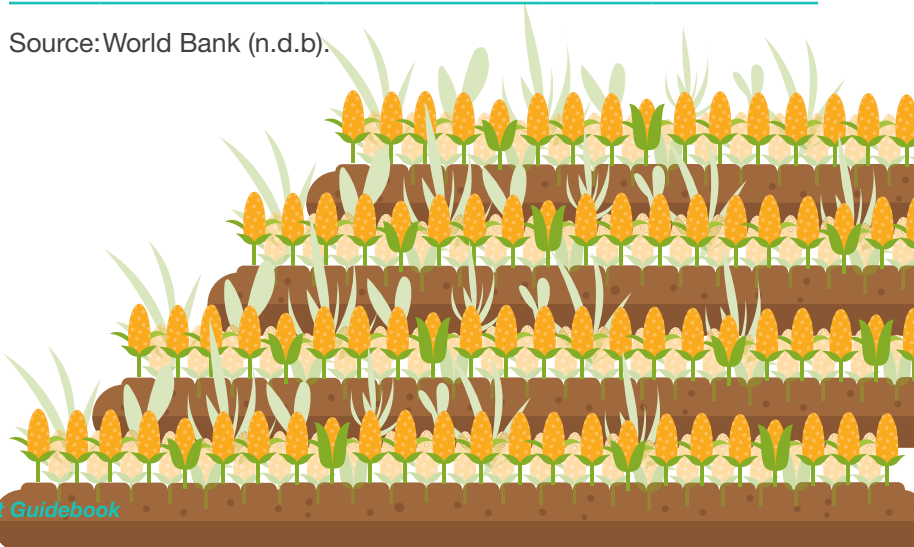
5.5. Setting up business in Lao PDR

Table 5.4. summarises the process of setting up a business, including the length of time and cost required, in Lao PDR.

Table 5.4. The process of setting up a business in Lao PDR

Step	Procedure	Agency	Time	Cost (LAK)
1	Apply for Name Reservation Certificate and Enterprise Registration Certificate	Enterprise Registry Office, Ministry of Industry and Commerce	2 weeks	390,000
2	Register the Articles of Association	State Asset Management Office, Ministry of Finance	5-10 days	No charge
3	Apply for Tax Registration Certificate	Tax Department	2 weeks	125,000
4	Obtain approval of Content of Company Signage and Signage Building Permit	Ministry of Information Culture and Tourism	2 weeks	10,000
5	Carve a company seal	Ministry of Industry and Commerce and Ministry of Public Security	2 weeks	Not available
6	Register company seal	Provincial Department of Public Security	1-2 weeks	Included in procedure 6
7	Register workers for social security	Social Security Office	1 week	No charge
8	Register for VAT	Tax Authority	3 weeks	No charge

Source: World Bank (n.d.b).



5.6. Infrastructures in Lao PDR

Existing infrastructures in Lao PDR are summarised in Table 5.5.

Table 5.5. Existing infrastructure in Lao PDR

Infrastructure	Length / number / geographical scope / generation (of power) / network spectrums	Notes
Roads	39,546 km	Existing roads consist of: 7,235 km national roads, 7,923 km provincial roads, and 24,388 other roads.
Airports	24	Lao PDR has four international airports, including the Wattay International Airport (the main hub), the Luang Prabang International Airport, Savannakhet International Airport, and Pakse International Airport.
Riverports	29	Existing riverports are primarily located along the Mekong river and its tributaries.
Energy and power	35,994.8 GWh	Around 98 percent of electricity in Lao PDR is generated by hydroelectric plants, whilst the other 1.7 percent comes from fossil fuels. As of 2015, the electrification rate of the country was 90.5 percent.
Telecommunications	<p>Bands used globally for commercial networks:</p> <ul style="list-style-type: none"> • GSM: 900 MHz, 1800 MHz, and E-GSM; • CDMA: 800 MHz, 1900 MHz, and 450 MHz; • 3G/IMT-2000: 1900-2200 MHz, 2300-2400 MHz, and 2500-2690 MHz. 	Mobile phone users in Lao PDR reportedly reached 4.6 million, as opposed to a mere 140,921 fixed phone line users in the country. As of June 2016, there were 1.4 million internet users in Lao PDR, or 19.9 percent penetration rate. The average internet speed is around 2.5 MB/s.

Sources: Various.

5.7. Other relevant information

Labour condition landscape and employment system

Despite consistent economic growth in the past few years, limited human resources, weak capacity, and a skill shortages represent critical constraints for Laos. To keep up with the pace of future economic growth, the country is said to need around 70,000 skilled foreign workers.¹³ Skill shortages are particularly evident in sectors such as construction, furniture-making, and automobile and machinery repair.¹⁴ In order

to tackle such human resource challenges, the government has committed a great deal of investment into the country's education sector, with around 3.3 percent of Laos' GDP devoted to it.

As far as the country's employment system is concerned, foreign nationals, in general, are allowed to work in Lao PDR provided that the work cannot be performed by Lao nationals, and as long as it is not prohibited by prevailing laws and regulations. Laotian labour laws and regulations apply to both Laotian

and foreign workers. The labour laws of 2013 provide the framework on employment relationships.¹⁵

Social security system

The Laotian social security system covers pensions and health insurance. Social security contributions are deductions from an employee's gross salary, where 6 percent is paid by the employer, and another 5.5 percent by the employee. There is a salary cap of LAK 2,000,000, so there is no contribution exceeding LAK 230,000 per employee.

Commercial dispute settlement

Mediation and arbitration proceedings in Lao PDR are governed by the Law on Resolution of Economic Disputes No. 06/NA, dated 17th December 2010. Unfortunately, the judicial system in Lao PDR is still a work in progress, and still faces challenges in meeting the needs of a modern market economy. Given the country's relatively weak legal sector, foreign arbitration is currently the most commonly chosen dispute resolution mechanism in commercial agreements with foreign parties.¹³

5.8. Electronic links to relevant trade and investment portals and government agencies

- National Trade Repository of Lao PDR: <http://www.laotradeportal.gov.la/index.php?r=site/display&id=698>
- Ministry of Agriculture and Forestry: <http://www.maf.gov.la/>
- Ministry of Industry and Commerce: <http://laotradeportal.gov.la/index.php>
- Ministry of Planning and Development: <http://www.investlaos.gov.la/>

AEC business tip for Lao PDR

Blessed with abundant natural resources, robust commodity exports and huge infrastructure investment, Lao PDR is one of the fastest growing economies in ASEAN and the wider Asia-Pacific region. Although considered as one of the most difficult countries in the world to set up and do business in, companies do get set up, with more investors expected to come in the foreseeable future. The process of economic reforms in Lao PDR received a significant boost from its participation in the AEC, which gradually reduces trade barriers and improve foreign investment in the country.

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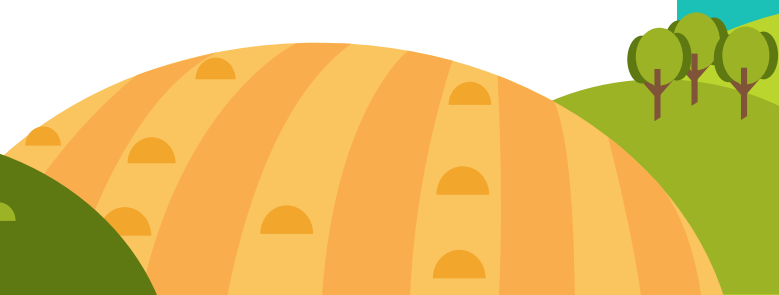
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6. MALAYSIA

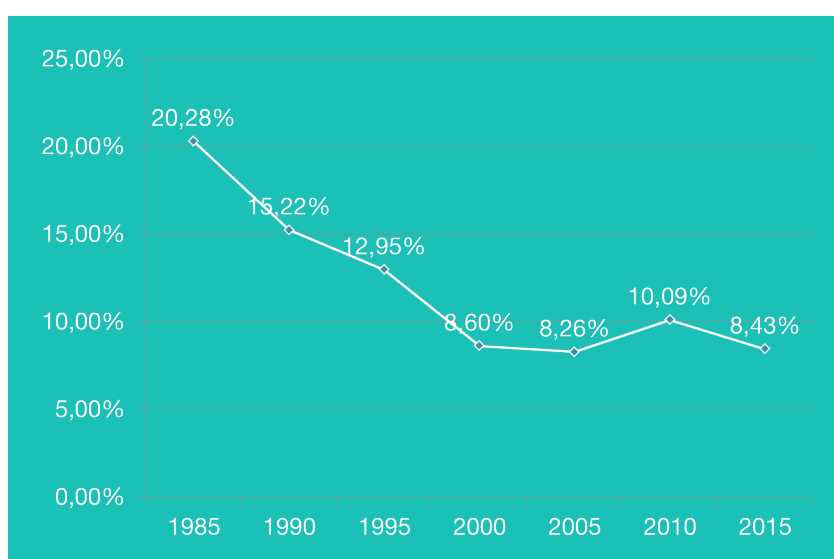


MALAYSIA

6.1. Brief country profile

Classified as a middle-income country, Malaysia has transformed itself from a producer of raw materials into an emerging multi-sector economy. In 2015, the country recorded a GDP per capita of USD 9,656.80, with an average economic growth of 4.8 percent. It is currently aiming to attain high-income status by moving up the value-added chain in the electronic manufacturing and biotechnology industries. Malaysia is already a world leader in Islamic finance. Separated between the southern-most tip of the Asian continent and the northern part of Borneo, Malaysia's 30.7 million population has a median age of 28 years, with three quarters of them living in urban areas. The country's economy is heavily dependent on trade, with the share of exports and imports standing at around 70 percent and 63 percent of the country's GDP respectively. Although it has a very diversified industrial economy that produces pharmaceuticals, medical technology, and various electronic equipments, Malaysia still exports many agricultural products, including palm oil, rubber, and cocoa.

Figure 6.1. Share of agricultural sector in Malaysia's GDP, 1985 - 2015

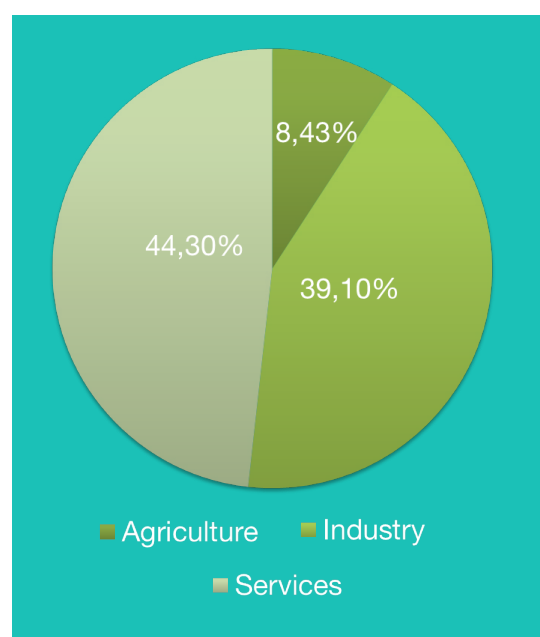


Source: The Global Economy (n.d.)

6.2. Agricultural sector in Malaysia

Although contributing only 8.43 percent to the country's GDP, agriculture remains an important sector in the economy of Malaysia. The sector currently employs about

Figure 6.2. Share of economic sectors in Malaysia's GDP, 2015



Source: Statista (n.d.).



Table 6.1. Key objectives of main agricultural policies of Malaysia

16 percent of the country’s population, especially those living in rural areas. Considered as a staple food in the country, rice production, which stood at 2.6 million tonnes in 2014, represents a symbol of the Malay’s traditional culture.¹ Despite this, rice production is still far from ideal and this requires the country to import from neighbouring countries, such as Vietnam and Thailand. Aside from labour shortages, the agricultural sector in Malaysia is also facing the challenges of rising production costs, uneven productivity growth, and quality of agricultural produce,² all of which form the basis of government’s agricultural policy today.

6.3. Policy contexts

Agricultural policy

11th Malaysia Plan, 2016-2020

Modernising agriculture as one of the priority areas under the 11th Malaysian Plan. Under this strategic thrust, Malaysia intends to:

- Improve productivity and income of farmers, fishermen, and smallholders;
- Promote training and youth entrepreneur development;
- Strengthen institutional support and extension services;
- Build the capacity of agricultural cooperatives and associations along the supply chain;
- Improve market access and logistic support;
- Scale up access to agricultural financing; and
- Intensify performance-based incentive and certification programme.

National Agro-food Policy	National Commodity Policy
<ul style="list-style-type: none"> • Address food security issues and safety to ensure availability, affordability, and accessibility; • Ensure the competitiveness and sustainability of the agro-food industry; and • Increase the income level of agro-based entrepreneurs. 	<ul style="list-style-type: none"> • Increase the contribution of plantation industrial commodities to the nation’s economy; • Modernise and transform the commodity industry towards a more competitive and sustainable level; • Encourage the development of the commodity industry along the value chain; • Increase the income of operators and smallholders in the commodity industry; and • Promote Malaysia as a centre of research and development, and the downstream processing of industrial commodities.

Source: Economic Planning Unit of the Prime Minister’s Department (2015: 8-13 and n.d.).

The agricultural policy of Malaysia is dictated by three main policy frameworks, including the 11th Malaysia Plan 2016-2020, which serves as the main economic blueprint of the country, and two sectoral policies, including the National Agro-Food Policy 2011-2020 and the National Commodity Policy 2011-2020. Although different in objectives, the three policy frameworks have overlapping jurisdictions (the objectives of each of these policies are summarised in Table 6.1.).

In addition to these policy frameworks, the Malaysian government also launched the Economic Transformation Programme in 2010 that outlines Malaysia's plan to become a high income economy by 2020. The document identifies agriculture as one of the so-called National Key Economic Areas (NKEA), which is aimed at transforming

a traditionally small-scale, production-based sector into a large-scale agribusiness industry capable of making contributions to economic growth and the sustainability of the country. The agriculture NKEA further listed 17 Entry Point Projects to spur growth in the sector where 14 of them are already fully operational.³

Agricultural trade policy

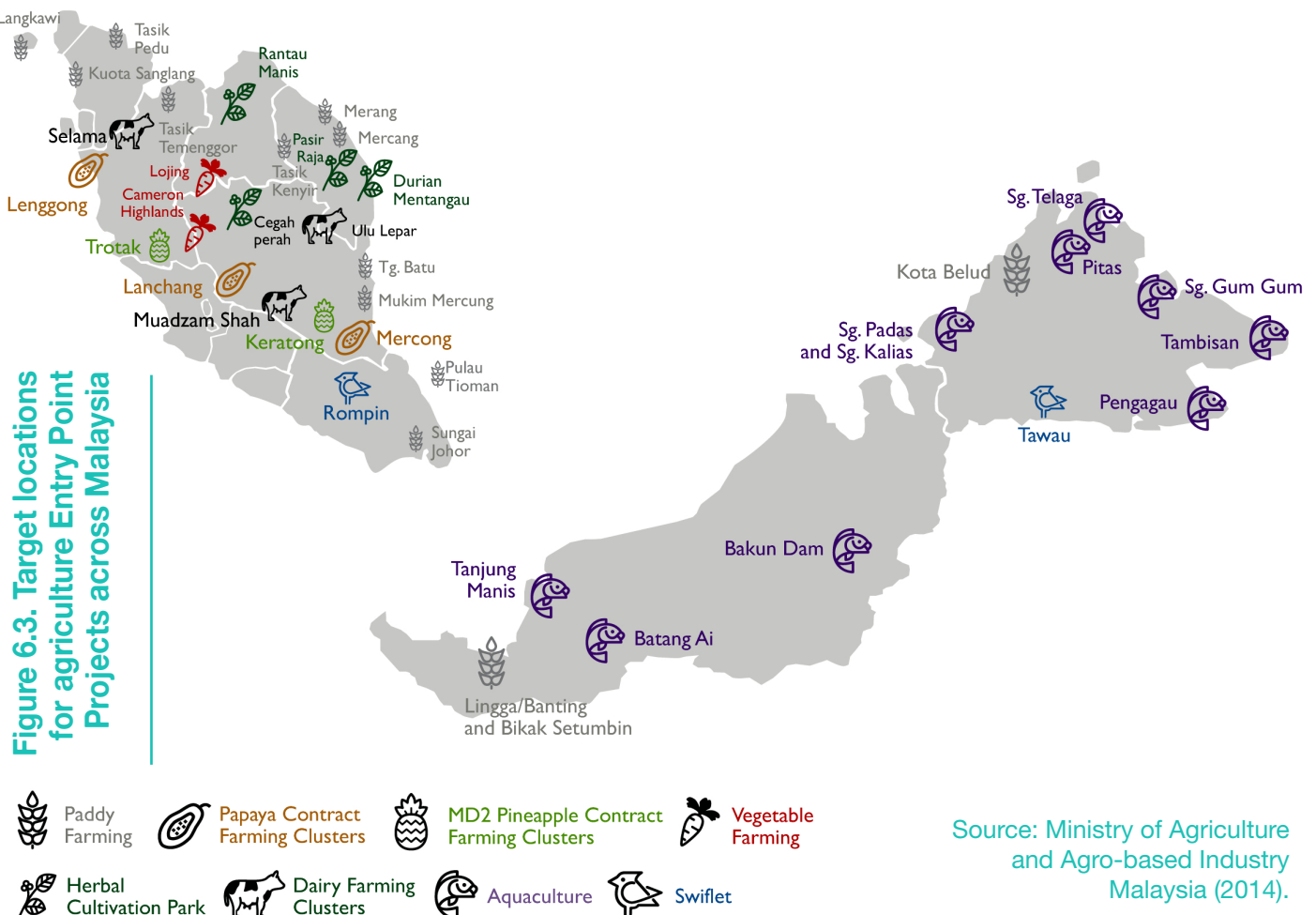
Import tariffs

As one of the most active traders in the region, Malaysia is progressing relatively well in liberalising its tariff regime. Nearly all of the country's tariffs are imposed on an ad valorem basis, with a simple average applied tariff rate of 6.5 percent. Tariff protection varies across and within sectors, averaging about 2.9 percent for agricultural products, as opposed to 6 percent for industrial goods.⁴ Tariff lines

for many of the country's strategic industries are also subject to import licensing requirements.⁵ Strategic agricultural commodities, such as paddy and rice, specific livestock sub-sectors, tobacco, tropical fruits, coffee, and cabbages, are still given policy support. In these commodities, non-ad valorem tariffs are still maintained. However, within the context of the AEC, many of these tariffs are now down to around 5 percent within ASEAN, though some tariff rate quota may still exist for some of these products.⁶

NTMs/NTBs and other export/import restrictions

As of 2015, there were a total of 713 NTMs in Malaysia, affecting approximately 54 percent of the country's tariff lines.⁷ The Ministry of Health and the Ministry of Agriculture and Agro-Based Industry, each with a total of 502 and 86 NTMs respectively, were



Source: Ministry of Agriculture and Agro-based Industry Malaysia (2014).

two of the most active government institutions issuing such measures. The country's NTMs were highly concentrated with technical barriers (TBT) to trade constituting 84 percent of such protective measures.

Of particular importance in the NTM discussion in Malaysia is the food sector, which is one of the highest regulated sectors in the country. The complexity of regulations in the sector also reflects increased consumer demand for food safety. The Food Act of 1983 and the subsequent Food Regulation of 1985 regulates various food standards in the country. Out of the above-mentioned 713 NTMs, a total of 488 NTMs were found in food regulations, 55 percent of which were in the form of TBT, whilst the rest were sanitary and phytosanitary measures. Labelling requirements are particularly important in Malaysia where more than half of its population are Muslims. Amongst ASEAN countries, Malaysia is the only country that makes nutrition labelling mandatory for energy, protein, carbohydrate, fat, and total sugar.

Investment policy

The Malaysian government recognises the importance of foreign investment as a tool to assist the country's development. Given the relative decline of its agricultural sector, the present investment policy of Malaysia is mainly geared towards moving the economy further up the value chain to high income status. The government intends to do so by promoting investment in higher value-added manufacturing and services sectors. The country's investment regime undertook major reforms in 2009 when the government initiated a gradual liberalisation of foreign participation in the sector. The removal of the country's

so-called Foreign Investment Committee investment guideline in the same year also meant that transactions involving the acquisition of interests, mergers, and takeovers of local companies by domestic or foreign parties could be pursued without the approval from the Committee. Since 2011, 100 percent foreign ownership is allowed in various sectors, such as healthcare, retail, education, professional, environmental, and courier services, though some limits on foreign equity are imposed in transportation, financial services, and telecommunications.⁸ The Malaysian Investment Development Authority (MIDA) is the Malaysian government's principal agency dealing with the promotion of manufacturing and services sectors in the country. It assists companies that intend to invest in both sectors, as well as facilitating the implementation of their projects.⁹

Specific to the food industry, Malaysia also aims to be an international halal food hub in terms of the branding, processing, and marketing given its vast majority Muslim population.¹⁰ Realising the economic potential of the halal industry, which is estimated to be worth between USD 600 billion to USD 2.1 trillion, the Malaysian government set up a developmental agency known as the Halal Development Corporation, which was formed under the Ministry of International Trade and Industry in 2008. Since its inception, the agency was given the task of developing the country's halal sector's industrial capacity and to bring in FDI into the country. To do this, the agency launched the so-called halal parks in 2010, or an area where halal-oriented businesses are built on common property where they are provided infrastructure and service support. Today, there are 21 such parks throughout Malaysia, involving 18 multinational companies and 110 SMEs. Aside from making a total of MYR 8.07

billion worth of investment, the initiative also created 5,200 jobs.¹¹

Investment incentives

Malaysia offers a number of investment facilities and incentives, including the so-called Pioneer Company and investment tax allowance. Both incentives are generally accorded to companies that intend to engage or which have commenced production of less than a year in a promoted activity or promoted product in the manufacturing, food processing, agricultural, or other industrial or commercial sectors. Those with the Pioneer status may enjoy tax exemption of 70 percent of statutory income for five years from the day of the production, whilst investment tax allowance gives companies 60 percent of qualifying capital expenditure incurred within five years of approval date to be offset against 70 percent of statutory income for each assessment year until fully utilised.¹²

Land policy

The Malaysian constitution provides the foundation for private land ownership in the country. The country's National Land Code of 1965, which has the vision of bringing Malaysia towards sustainable development through excellent resource management, supports this through the creation of a comprehensive and organised system of land ownership, registration, and dealing, which ensures the indefeasibility of title to land.¹³

There are at least seven types of land titles in Malaysia, including:

- Town lease, or lands classified within the town area, which can be leased either for 30, 60, or 99 years;
- Country lease, or mixed zone, which covers any land located

outside town area, and can be leased for either 60, 99, or 999 years;

- Native title, or land that is classified for native own, and is perpetual in basis;
- Malay reserve, or land classified for native Malay own and is perpetual in basis;
- Field register, or land that is classified under the native title, but has not been issued the final title by the land agency;
- Provisional lease, or provisional title issued during the lifetime of the monarch in each state; and
- Temporary occupation lease, which is a lease granted by the state government to an individual or a company for a certain period of time and certain amount of annual rent.

Generally speaking, agricultural-related activities fall into the title of native title, Malay reserve, country lease, and provisional lease, whilst those in the commercial and industrial activities fall into the country lease and town lease categories. Other economic activities, such as the extraction of timbers, sand, rock, etc., fall into the category of temporary occupation lease.¹⁴

Taxes

Table 6.2. below summarises various tax rates in Malaysia.

Table 6.2. Tax rates in Malaysia

Individual income tax	
Income (in MYR)	Progressive rates (in percent)
Up to 2,500	0
2,501-5,000	1
5,001-20,000	3
20,001-35,000	7
35,000-50,000	12
50,000-70,000	19
70,000-100,000	24
100,000 and over	26

Corporate taxes	
Type of taxes*	Tax rates (in percent)
Corporate tax standard rate	24
Corporate tax rate for resident SMEs with total capitalization of MYR 2.5 million	19 on the first MYR 500,000, and, subsequently, 24
Capital gain taxation	25
SMEs	20 on the first MYR 500,000, and 25 on the remaining
GST	6
Other taxes	Petroleum income tax, stamp duty, and real property tax

Note: *There is no distinction between resident and non-resident companies or the subsidiaries of foreign companies.

Source: Santander Trade Portal (n.d.) and PWC (2016a).

6.4. Export-import procedure

General requirements

Business registration

All foreign companies wishing to engage in export or import activities must either register in Malaysia or incorporate a local company, and this can be done through the Companies Commission of Malaysia. A limited number of companies in the country can be incorporated with a minimum authorised capital and paid-up capital of MYR 400,000. Options for business formation include sole proprietorship or partnership, or private limited company or unlimited company.¹⁵ A foreign company wishing to pursue direct selling in Malaysia is required to acquire a license from the Domestic Trade and Consumer Affairs Ministry. Such a company is also required to have at least 70 percent local ownership, and be locally incorporated. In addition, the products of the company must meet 80 percent local content requirements, whilst any proposed price increases must be approved by the Ministry.

SPS, TBT, and quarantine requirements

- The exporting and importing of food and agriculture-related products may also require additional licenses or certificates from other government-related agencies in Malaysia. For example, an export license and certificate for agricultural products must be obtained from the Crop Protection and Plant Quarantine Division of the Ministry of Agriculture, whilst the Food Safety and Quality Division of the Ministry of Health is the agency that issues the Hazard Analysis Critical Point certificate for food products.
- The import of some agriculture products that requires Phytosanitary Certificate are aquatic plants, corn, soybeans, raw and processed cocoa, raw and processed coffee, tobacco, cotton, citrus, bananas, hay, and other by-products for animal feed.¹⁶
- The exportation of live animals and animal products, meanwhile, requires a Veterinary Health Certificate that is issued by the Department of Veterinary Services. For the complete list of Malaysia's SPS measures see the following website: <http://mytraderepository.customs.gov.my/ms/ntm/spa/Pages/spa.aspx>.
- The exportation or importation of live animals and animal products may also be subject to inspection and quarantine by the Malaysian Quarantine and Inspection (MAQIS). For further details concerning inspection and quarantine procedure of MAQIS, visit the official website of the MAQIS: <http://www.maqis.gov.my/en/profile>.
- TBT measures may also be applied on food products for reasons such as environmental protection, national security, and so on. For further detail of Malaysia's TBT requirements, visit the following website: <http://mytraderepository.customs.gov.my/ms/ntm/tbtt/Pages/tbtt.aspx>.

Classification of goods

All goods to be exported or imported must be correctly classified according to the Custom Duties Order of 2007, and this includes the nine digits Harmonised Commodity Description and Coding System, and the eight digits ASEAN Harmonised Tariff Nomenclature (AHTN) for the exportation to other ASEAN countries.

Prohibited goods to export/import¹⁷

- A number of agricultural goods are prohibited from importation into Malaysia, and these include all genres of piranha fish, turtle eggs, Cocoa pods, rambutans, pulasan, longan, and nam nam fruits from Philippines and Indonesia.
- Meanwhile, there are also agricultural goods that are prohibited to import, except under an import license that can be obtained from relevant authorities, and these include egg in the shells; any meat, bones, hide, skin, hoofs, horns, offal or any part of the animals and poultry; live animals-primates including ape, monkey, lemur, galago, potto, and others; rice and padi including rice products; live fish; animal oils and fats; plants include parts and plant products.
- Malaysia also prohibits the exportation of some agricultural goods such as turtle eggs and rattan from Peninsula Malaysia.
- There are also a number of prohibited agriculture goods that can be exported if accompanied with a special export license from relevant authorities, and these include any animal or bird, other than a domestic animal or domestic fowl, whether alive or dead or any part thereof; live animals from bovine species;

poultry, meat of bovine animals; plants including orchids, vegetables, fresh, chilled or frozen in excess of 3kg per consignment; palm kernels and palm seeds; sugar and rice; and live prawns/shrimps/fish.

Export procedure¹⁸

Export licences

The issuance of licences for export purposes is guided by the Customs Prohibition of Import/Export Orders under the Customs Act of 1967. The export of some agricultural products, such as any animal or birds, live animals from bovine species, poultry, etc., is subject to export licences, and this is issued by the Ministry of Trade and Industry of Malaysia. The full application procedure to obtain relevant export licences can be seen at the official website of the Ministry of Trade and Industry of Malaysia (at: <http://www.miti.gov.my/index.php/pages/view/2123>).

Export declaration

For exporting purposes, the exporter must complete two main documents, namely the Export Declaration, or K2, and the Export Permit, or JK59. The K2 document is an export document that is issued by the freight forwarder, and is required by the government whenever the value of the shipment exceeds a certain minimum amount, or whenever a duty drawback is claimed. The JK59 document, meanwhile, is issued by the government and grants the exporter the right to export specified goods to specific countries. Customs declaration and the payment of associated fees can be done electronically either through the Malaysian National Single Window (at: www.mytradelink.gov.my) or the Customs Information System (at: www.dagangnet.com). To complete the customs declaration process, the exporter must also submit additional

documents, such as pro forma invoice, commercial invoice, bill of lading, brochures and catalogues, Certificate of Origin (Form D for ASEAN), insurance, banking documents, weight and packing list, and certificate of exemptions, if applicable.

Customs clearance

Examination of goods to be exported is carried out after the declaration of export is accepted by the customs officer. Goods that are subject for examination must be produced by the exporter or forwarding agent. The proper officer from customs has the power to open and examine packages, as well as take samples of the content of the packages. Customs inspection generally

determines the accuracy of the customs declaration and the invoice, ensuring that the exportation of these goods is in line with existing laws and regulations. Depending on the necessity, a physical examination could mean ten percent of every container per consignment, or 100 percent of the whole consignment.

Import procedure

Import licences and other documents

Currently, most items are allowed to enter Malaysia under an open general licensing regime. However, a number of controlled items, such as firearms, plants, motor vehicles, various foodstuffs, etc., are subject

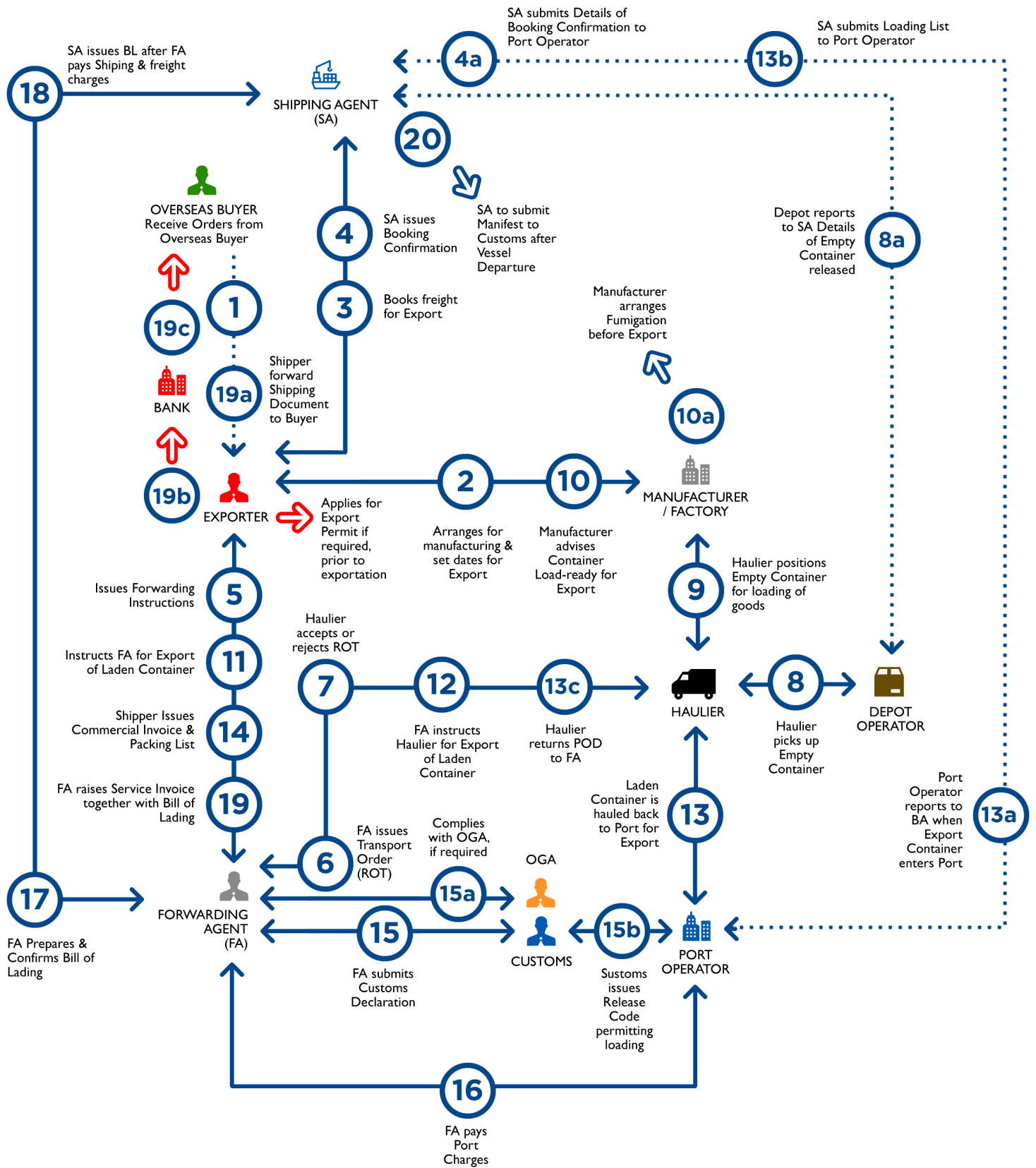
to specific import licences. The application for import licences should indicate the identities of the supplier and purchaser, as well as a general description of the items and their market value. Additional import licences are also required for the importation of food and agriculture-related products (Table 6.3. summarises food and agriculture-relevant agencies where such licences can be obtained). Operating licences are usually granted for either one, two, or three years, whilst existing regulations also stipulate that paid-up capital, quality assurance standards, and marketing plans must be submitted to the Domestic Trade and Consumer Affairs Ministry before any such licences are granted.¹⁷

Table 6.3. Relevant rules, regulations, and government agencies for the importation of food and agricultural-related products

Imported products	Relevant laws and regulations	Relevant government agencies
Plant and plant products	Agricultural Pests and Noxious Plants (Export/Import) Regulations of 1981	Director of Crop Protection Branch Department of Agriculture Jl. Gallagher, Kuala Lumpur Ph: (60-3) 2697-3077 Fax: (60-3) 2697-7205
Live animals and birds	Animal Rules of 1962, Animal Ordinance of 1953, Animal Importation Order of 1962, and Federal Animal Quarantine Station (Management and Maintenance) By-Law of 1984	Department of Veterinary Services, Quarantine and Import-Export, Wisma Tani, Podium Block, Lot 4g1, Precinct 4, Putra Jaya Ph: (60-3) 8870-2000 Fax: (60-3) 8888-2685
Meat and poultry products (except pork)	The Control of Slaughter Rules of 1975	Department of Veterinary Services, Quarantine and Import-Export, Wisma Tani, Podium Block, Lot 4g1, Precinct 4, Putra Jaya Ph: (60-3) 8870-2000 Fax: (60-3) 8888-2685
Health and medicinal food products	Dangerous Drugs Act of 1952 and the Cosmetics Regulations of 1984	National Pharmaceutical Control Bureau Ministry of Health of Malaysia Jl. Universiti, P.O. Box 319, 46730 Ph: (60-3) 7957-3611 Fax: (60-3) 7958-1312
Biotechnology products	Biosafety Act of 2007	The Ministry of Health of Malaysia

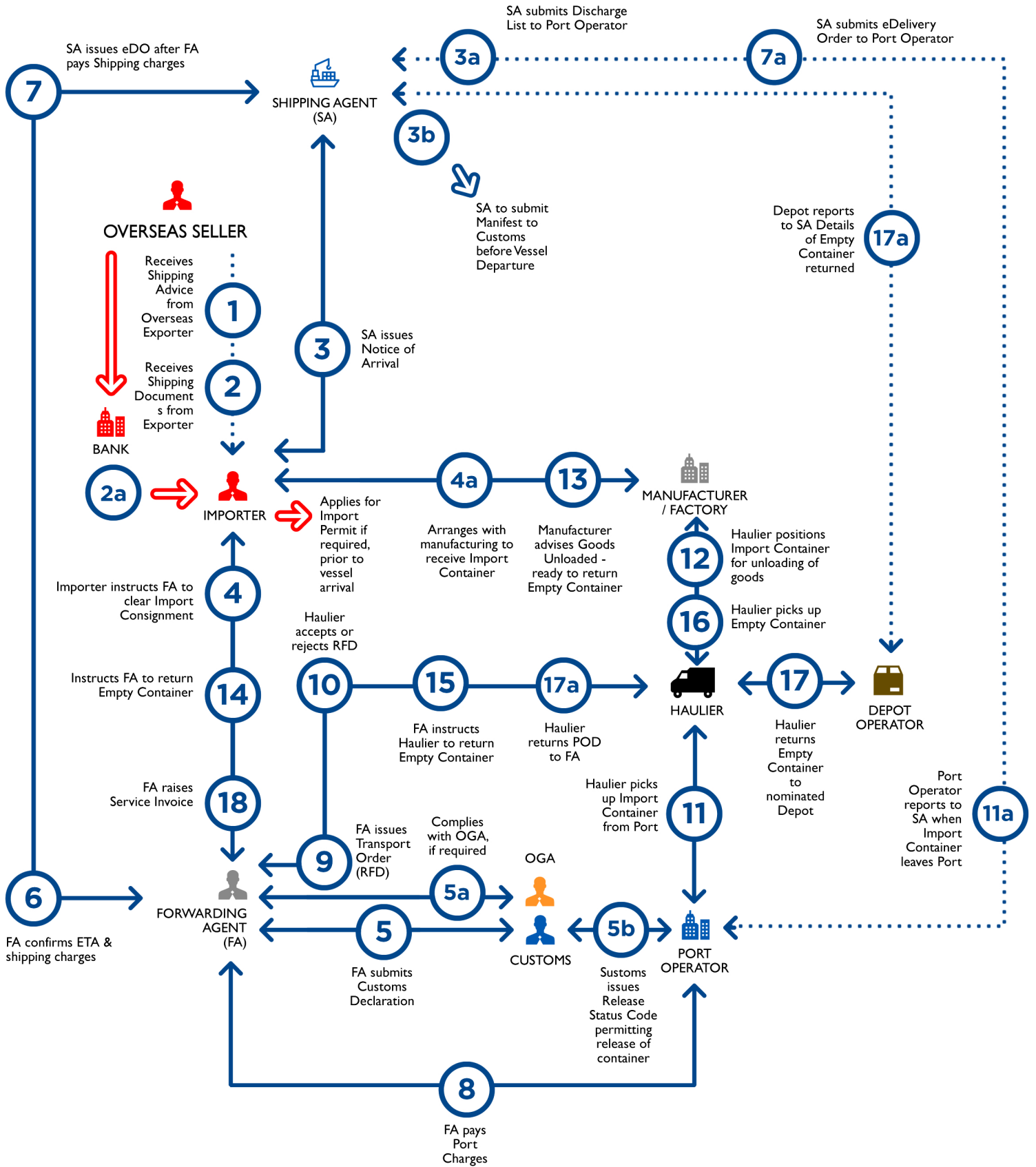
Source: Department of Agriculture of Malaysia (n.d.: 6-7).

Figure 6.4. Export procedure in Malaysia



Source: Malaysia National Trade Repository (n.d.a.).

Figure 6.5. Import procedure in Malaysia



Source: Malaysia National Trade Repository (n.d.b).

Customs declaration

The importer is required to complete form K1, which is the official form that recognises imported goods into Malaysia. The form can be submitted electronically through the National Single Window of Malaysia (at: www.mytradelink.gov.my). Customs duty payment can also be done electronically through the same website. In addition to the K1 form, the importer is also required to submit other accompanying documents,

such as the Certificate of Origin, evidence of the right to make entry (e.g. bill of lading), a commercial invoice or pro-forma invoice (in the case where commercial invoice cannot be produced), packing list, etc., to the Malaysian Customs.

Customs clearance

As with the exportation activity described earlier, the importation of goods into Malaysia is also subject to physical examination by

customs officials. Specific to food and agriculture-related products, these items are subject to random checking and sampling at 28 entry points all over the country, which is to ensure that these items are safe and comply with the prescribed standards and regulations. Foods will be destroyed if they are found to be unfit for human consumption. The Department of Veterinary Services has the right to reject, destroy, or further detain any consignment when deemed required.¹⁸

6.5. Setting up business in Malaysia

Table 6.4. summarises the process of setting up a business in Malaysia.

Table 6.4. The process of setting up a business in Malaysia

No.	Procedure	Time to complete (day)	Cost to complete (in MYR)
1.	Search and reserve company name at the Companies Commission of Malaysia's one-stop-shop (this can be done electronically at: http://www1.ssm-mycoid.com.my/omni/omni/portal/mycoid)	Less than 1	30 per name search application
2.	Preparation of documents for the incorporation of the company	1-3, and can be simultaneously done with previous procedure	1,000
3.	File all the relevant documents with the Companies Commission of Malaysia's one-stop-shop, and obtain company incorporation, as well as the post-incorporation package (including company seal, share certificates, and statutory books)	2	1,000 (registration fee) + 200 (stamp) + 75 (post-incorporation package) + 10 (online processing fee)
4.	Open a bank account	1 day, and can be done simultaneously with previous procedure	No charge
5.	Register for Goods and Services Tax	14	No charge
6.	Register for income tax and Pay-As-You-Earn scheme	1, and can be done simultaneously with previous procedure	No charge
7.	Register for Employees Provident Fund	1, and can be done simultaneously with previous procedure	No charge
8.	Register for social security	1, and can be done simultaneously with previous procedure	No charge

Source: World Bank (n.d.).

6.6. Infrastructures in Malaysia

Existing infrastructures in Malaysia are summarised in Table 6.5.

Table 6.5. Existing infrastructures in Malaysia

Infrastructure	Length / number / geographical scope / generation (of power) / network spectrums	Notes
Roads	82,144 km	Existing roads consists of: 18,904 federal roads, 61,420 km state and municipality roads, and 1,820 km toll highways.
Railways	1,833 km	Existing railway tracks consist of: 767 km double track and 767 km electrified.
Airports	62 airports (including 8 international airports)	38 airports in Malaysia are located in the eastern part of the country, whereas the remaining 24 of them are in Peninsular Malaysia. The Kuala Lumpur International Airport, the only one in the country that can land an A380, is by far the busiest airport in Malaysia. In 2015, passenger traffic at this airport reached 48.9 million.
Ports	44 seaports	Out of 44 seaports in the country, only 7 are considered major federal ports, and these include Port Klang, Johor Port, Port of Tanjung Pelepas, Kuantan Port, Penang Port, Bintulu Port, and Kemaman Port.
Energy and power	158,843 GWh	Primary energy supplies include: 635.37 GWh (0.4 percent) from oil, 68,302.49 GWh (43 percent) from coal, 63,696.04 GWh (40.1 percent) from gas, 22,873.39 GWh (14.4 percent) from hydropower, and 3,335.7 GWh (2.1 percent) from renewable energy. As of 2015, Malaysia had 98.2 percent electrification rate.
Telecommunications	<p>Malaysia has the following spectrum allocation list:</p> <p>(1) Broadcasting services:</p> <ul style="list-style-type: none"> • L-Band (1452 MHz to 1492 MHz Digital Multimedia Service; • Band IV and V (470 MHz to 798 MHz – analogue TV and digital terrestrial television including terrestrial sound broadcasting); • Band II (87.5 MHz to 108.0 MHz – FM Radio); and • Band III (174 MHz to 230 MHz – analogue TV and digital sound broadcasting) frequency allocation; <p>(2) Mobile services:</p> <ul style="list-style-type: none"> • Mobile cellular service for code division multiple access in band 450 MHz (CDMA450); • International mobile telecommunications-2000 (IMT2000); 	As of the second quarter of 2016, Malaysia had 43.5 million post-paid mobile-cellular subscriptions, 4.6 million fixed telephony subscriptions, and 68.6 percent internet penetration rate.

Infrastructure	Length / number / geographical scope / generation (of power) / network spectrums	Notes
	<p>(3) Fixed services:</p> <ul style="list-style-type: none"> • Fixed wireless access in the band 10.15 GHz to 10.30 GHz and 10.50 GHz to 10.65 GHz; and • Fixed wireless access for code division access system in band 8000 MHz (CDMA800); <p>(4) Frequency band filed by MEASAT Satellite System:</p> <ul style="list-style-type: none"> • Intersatellite satellite links; • Direct to home; and • IP Internet. 	

Source: Various.

6.7. Other relevant information

Labour condition landscape and employment system²¹

Despite its status as a middle-income country, Malaysia is facing a major shortage of skilled workers. A survey carried out in early 2016, for instance, shows that more than 30 percent of employers stated that talent deficiency in the country not only hampers their operations, but also caused them to miss business targets.²² Although labour productivity grew 3.3 percent in 2016, it will be challenging for labour productivity to grow in the years to come as a result of the lack of skilled workers. Malaysia, however, has put in place a target for skilled workers, including those with diplomas and higher qualifications, to reach 35 percent or 5.35 million of the country's total workforce by 2020.²³

In terms of the employment system, meanwhile, the entry of foreign nationals in Malaysia is governed by the Immigration Act of 1963, which also determines the types of employment passes that can be applied by foreign nationals wishing to work in the country.

The applications of foreign nationals to work in Malaysia will need to be reviewed by relevant government agencies, particularly the Ministry of Manpower. There are three different work permits issued by the government, and these include:

- Employment Pass, which is a work permit that enables a foreign knowledge worker to take up employment under a contract service with an organisation in Malaysia. This pass is normally issued to employees with specific skills (e.g. technical or managerial-related employment), and consists of three categories, including category 1 (those with monthly base salary of MYR 5,000 and a minimum employment contract of 24 months), category 2 (those with monthly base salary of MYR 5,000 and have a minimum employment contract of 23 months), and category 3 (those earning monthly base salary less than MYR 5,000, but at least MYR 2,500);

- Temporary Employment Pass, which can be granted to a foreign national whose application for an expatriate post has been made by a Malaysian company that requires immediate service from the said foreign national (this pass is valid for up to three months); and
- Professional Visit Pass, which is issued to a skilled foreign national that provides services to a Malaysian company on behalf of an overseas company on a temporary basis (this pass is valid for up to twelve months).

As of August 2016, foreign nationals applying for an Employment Pass or a Professional Visit Pass will only be granted work permits if they enter Malaysia with the work permit approvals. In addition, those applying for an Employment Pass Category 3 will be required to undergo medical examinations.

Table 6.6. Minimum wages in Malaysia, as of July 2016

Regions	Minimum wage (in MYR)
Federal Territory of Kuala Lumpur, Federal Territory of Putrajaya, Johor, Kedah, Kelantan, Malacca, Terengganu, Selangor, Perlis, Perak, Penang, Pahang, Negeri Sembilan	1,000
Sabah, Sarawak, Federal Territory of Labuan	920

Source: Wage Indicator (n.d.).

Hoping to reduce the country’s dependence on foreign workers, the Malaysian government recently increased the level of minimum wages across the country. The country’s 2016 budget included a raise in minimum wage for private sector workers from MYR 900 to MYR 1,000 in the peninsula region, whilst those in Sabah, Sarawak, and Labuan saw an increase from MYR 800 to MYR 920 (refer to Table 6.6.).²⁰

Social security system²¹

The Malaysian Social Security system (PERKESO – *Pertubuhan Keselamatan Sosial*) provides financial assistance to employees and their families in the event of accidents that result in death, illness, or disability. The system offers two types of insurance, including the employment injury assurance, and the invalidity pension scheme. Unfortunately, only Malaysian citizens and permanent residents are eligible to contribute to this social security system. Those exempt from contributing to the system include business owners and their spouses, domestic servants, foreign workers, government employees, and self-employed people. The amount paid into the scheme depends on an employee’s earnings. An employer has the responsibility to register its employees with the PERKESO. Although foreign nationals who work in Malaysia are not covered by PERKESO, the 1952 Workers’ Compensation Act allows them to be eligible for employment injury compensation.

Commercial dispute settlement

The 2005 Arbitration Act, which was later revised in 2011, governs arbitration in Malaysia. It is based on the United Nations Commission on International Trade Law’s Model Law on International Commercial Arbitration. The Kuala Lumpur Regional Centre for Arbitration, which was established in 1978, has developed new rules to cater to the growing needs of the global business community, including the i-Arbitration Rules, the Fast Track Rules of the Kuala Lumpur Regional Centre for Arbitration, and the Mediation and Conciliation Rules. Some commercial cases may be settled in less than six months under the Fast Track Rules.²²

6.8. Electronic links to relevant trade and investment portals and government agencies

- Malaysia National Trade Repository: <http://mytraderpository.customs.gov.my/en/Pages/default.aspx>
- Malaysia National Single Window: <http://www.mytradelink.gov.my/>
- Ministry of Agriculture and Agro-Based Industry: <http://www.moa.gov.my/en/info-agribdc>
- Ministry of International Trade and Industry: <http://www.miti.gov.my/>

AEC business tip for Malaysia

As a middle-income country, Malaysia’s economy is highly open and trade-dependent. At the same time, the government also considers foreign investment as an instrumental force for the sustainability of the country’s economic development. Although the country’s ease of trading and investment is highly ranked internationally, its economic openness has its own limits. Technical barriers, for example, are common in its highly regulated food sector. Despite this, Malaysia is a very good place to do business in. Taking advantage of its strategic location in the heart of Southeast Asia, Malaysia offers highly competitive facilities for investors intending to serve the wider ASEAN market.

- Malaysian Investment Development Authority: <http://www.mida.gov.my/home/>
- Royal Malaysian Customs Department: <http://www.customs.gov.my/en>

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2. Dardak (2015).
3. The 14 operational Entry Point Projects include high value herbal products, edible bird's nest swiftlet farming, mini estate farming for seaweed, integrated cage farming, cattle integration in oil palm estates, replicating Integrated Zone for Aquaculture Model to tap the market for premium shrimp, premium fruits and vegetables, food park, introducing fragrant rice varieties for non-irrigated areas, strengthening paddy productivity, scaling up and strengthening of paddy farming in other irrigated areas, dairy clusters, seed industry development, and pasar komuniti. For further details concerning Malaysia's agriculture NKEA Entry Point Projects, see Pemandu (n.d.).
4. WTO Secretariat (2014: 41).
5. USTR (2014: 1).
6. Masdek (2013).
7. Devadason, et al., (2015: 88-90; 94-95).
8. US Department of State (2014: 1-2).
9. For further information on MIDA, see its official website at: <http://www.mida.gov.my/home/>.
10. MIDA (n.d.: 3).
11. For further information concerning Malaysia's halal parks, see the official website of the Halal Development Corporation at: http://www.halalpark.com.my/publisher/alias/halal_park?dt.driverAction=RENDER&pc.portletMode=view&pc.windowState=normal&pc.portletId=HalalParkNewsPortlet.HalalParkNewsPortlet.

12. PWC (2016: 22).
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14. Invest Malaysia Property (n.d.).
15. For further details on business registration in Malaysia, see the official website of the Companies Commission of Malaysia at: <http://www.ssm.com.my/>.
16. Department of Fisheries Malaysia (n.d.) and USDA Foreign Agricultural Services (2013:1).
17. Royal Malaysian Customs Department (n.d.).
18. Adapted from Malaysia External Trade Development Corporation (n.d.) and the Malaysia Trade Repository (n.d.).
19. SME Info (n.d.).
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21. Adapted from ASEAN Briefing (2015) and PWC (2016b).
22. Zahid (2016).
23. Saieed (2016)
24. ASEAN Briefing (2016).
25. Adapted from the official website of the PERKESO at: <http://www.perkeso.gov.my/en/>.
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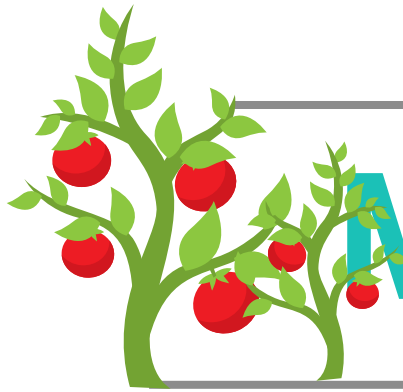
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7. MYANMAR



MYANMAR

7.1. Brief country profile

After over five decades of military rule, Myanmar, also known as the 'Golden Land', is finally run by a civilian-led government following free election that took place in 2015. This turn of event has attracted much enthusiasm towards one of the most promising economies in ASEAN. Located in the western-most region of Southeast Asia, this ethnically diverse country has an area of 676,578 km², making it the second largest country in the region. In 2015, the country, which shares borders with Lao PDR, Thailand, Bangladesh, India, and China, was recorded to have a total population of 52.4 million in 2015, of which 70 percent lived in rural areas. Whilst Nay Pyi Taw is its administrative capital, Yangon, the former capital, by far remains by far the largest economic centre with a total population of around 6 million. Myanmar, with GDP per capita at USD 1,246.10, recorded an average growth rate of 7.4 percent between 2010 and 2015, making it the second highest in the region. Although economically behind most of its ASEAN neighbours, Myanmar's economic potential is vast. Economic reforms that have been initiated since 2011, though far from perfect, is expected to unleash its growth potential in the years to come.



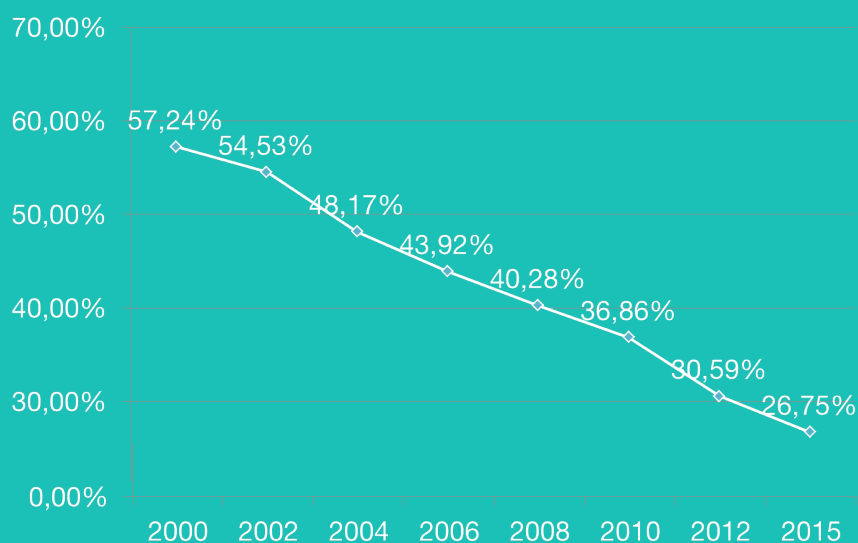
7.2. Agriculture sector in Myanmar

Agriculture remains the backbone of Myanmar's economy. Despite its gradual decline over the last few years, the sector still made up 26.75 percent of the country's GDP in 2015. In addition, the



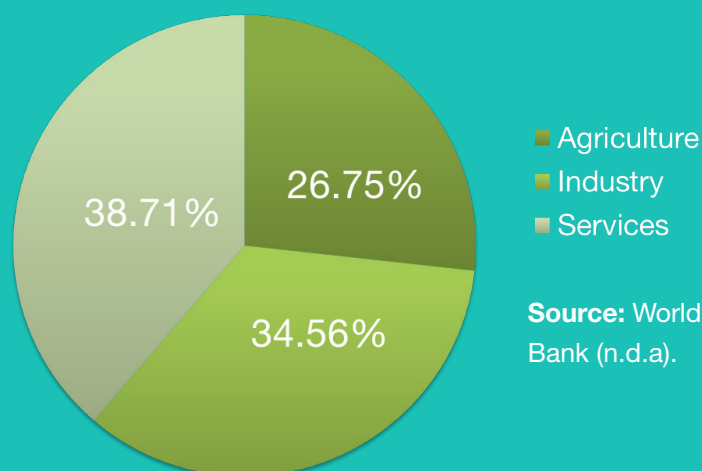


Figure 7.1. Share of Agricultural Sector in Myanmar's GDP, 2000-2015



Source: World Bank (n.d.a).

Figure 7.2. Share of economic sectors in Myanmar's GDP, 2015



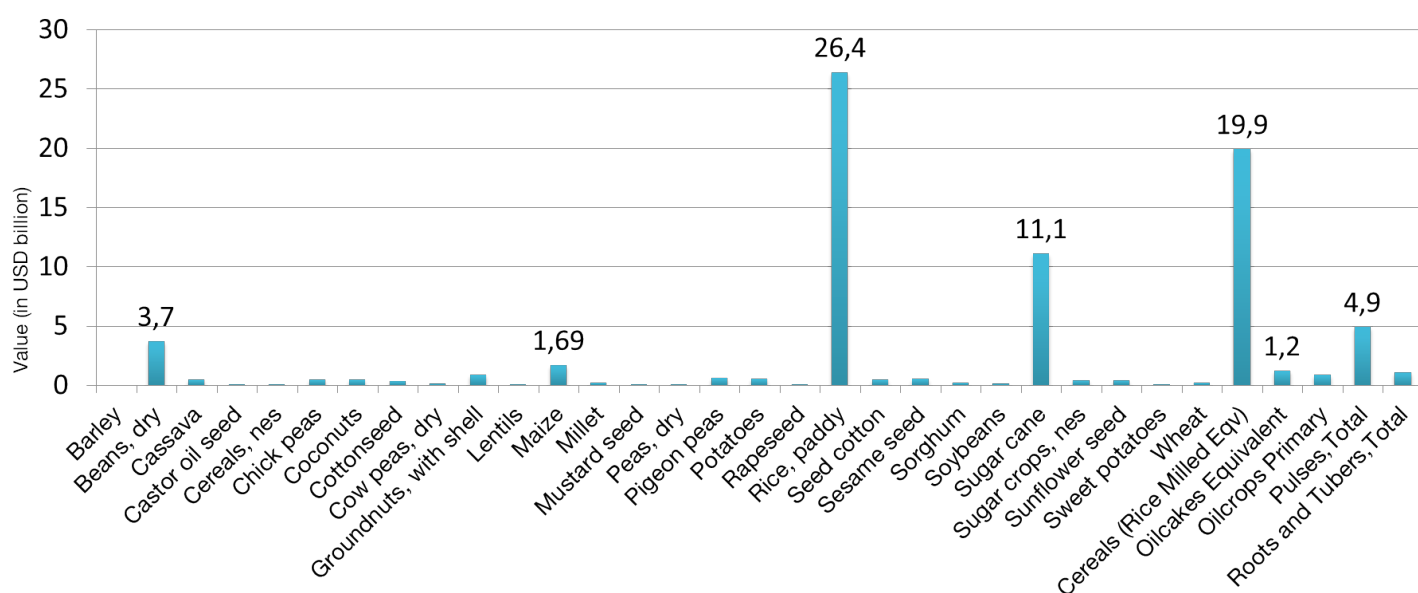
Source: World Bank (n.d.a).

sector also creates employment for 70 percent of the 22.1 million that make up Myanmar's total workforce, and contributes about 21 percent of the country's exports to the world. Myanmar's main agricultural production can be found in the so-called 'delta and coastal zone' where monsoonal rainfall is plenty and access to water is easy, as well as in the 'dry zone' where a mix of rain-fed upland crops and paddies are produced.¹

Despite its importance to Myanmar's economy, the agricultural potential of the

country remains untapped. Per capita income in the sector, for instance, averages around USD 200 per annum, or roughly 30 to 50 percent less than its immediate neighbours, whilst agricultural land productivity can still be vastly improved. The potential for diversification of agricultural production is also vast in Myanmar. For example, 34 percent of 23.5 million ha of all planted fields are for rice, which remains the dominant agricultural production in the country (refer to Figure 7.3.). With the vast majority of Myanmar's population engaged directly or indirectly in the sector, adequate investment and the greater opening of the sector would help reduce the high poverty rate and food insecurity in the country.²

Figure 7.3. Main agricultural crops of Myanmar, 2014



Source: FAO (2016).

7.3. Policy context

Agricultural policy

Table 7.1. The evolution of Myanmar's agricultural policy, 1948-present

Period	Land rights	Crop production	Marketing
Independence, 1948-1952	Private land ownership	Farmer decides what crops to grow	Private traders market agricultural commodities
1953-1961	Land Nationalisation Act (1953): <ul style="list-style-type: none"> State nationalised ownership of all agricultural land; State grants tillage rights; Transfer is illegal. 	Farmer decides what crops to grow	Private traders market agricultural commodities
Socialist period, 1962-1987	<ul style="list-style-type: none"> State ownership of all land; State grants tillage rights; Transfer is illegal. 	<ul style="list-style-type: none"> Government mandates farmer cropping plans 	<ul style="list-style-type: none"> Government monopoly on domestic and export marketing for scheduled crops; Compulsory procurement quota for scheduled crops; Government purchase at fixed price (lower than market price).

Table 7.1. The evolution of Myanmar's agricultural policy, 1948-present

Period	Land rights	Crop production	Marketing
Early liberalisation, 1988-2002	<ul style="list-style-type: none"> • State ownership of all land; • State grants tillage rights; • Transfer is illegal; • Informal land transfer due to increased productivity of deregulated crops. 	<ul style="list-style-type: none"> • Formally, free cropping choice, but, in practice, the government enforces cropping plan for procured crops (e.g. paddy, cotton, etc.); • Plant Pest Quarantine Law (1990); • Pesticide Law (1993); • Fertiliser Law (2000). 	<ul style="list-style-type: none"> • Pulses and maize trade liberalised in 1988; • Government markets and exports politically important crops (e.g. rice, cotton, sugarcane, etc.); • Compulsory procurement of these crops at reduced quota.
Adjustments, 2003-2010	<ul style="list-style-type: none"> • State ownership of all land; • State grants tillage rights; • Transfer is illegal; • Informal land transfers due to increased profitability of deregulated crops. 	Government continues to enforce cropping plan for paddy in areas with irrigation facilities	<ul style="list-style-type: none"> • Compulsory paddy procurement abandoned; • Government withdraws from rice exporting, ends ration channel distribution, and allows private rice exports; • 2009 Rice Specialisation Companies granted export licences in return for contract farming and developing supply chains.
Reforms, 2011-present	<ul style="list-style-type: none"> • Farmland Law (2012); • Vacant, Virgin, and Fallow Lands Management Law (2012): <ul style="list-style-type: none"> ○ State ownership of all land; ○ State grants tillage rights; ○ Transfer and mortgages legalised; ○ Farmers can contest land confiscations in court. 	<ul style="list-style-type: none"> • Farmers free cropping choice; • Seed Law (2012). 	<ul style="list-style-type: none"> • From 2011, any registered trader with certified stock level and facilities can apply for a rice export licence; • Rice Specialisation Companies lose preferred access to export permits; • Reduction of export tax from 10 percent to 2 percent (income tax); • As of February 2013, most commodities, except rice, do not need export permits.

Source: Raitzeret al. (2015: 14-15).

In general, the government of Myanmar sees the development of the agricultural sector as critical in ensuring food security and improving the welfare and income for farmers, farm labourers, and their families. The government of Myanmar, accordingly, has carried out a number of reforms in the sector, the list of which is highlighted in Table 7.2.. At present, the country's agricultural policy is guided by the '2011-2030 National Comprehensive Development', which sets the targets for the agricultural sector, including: (1) the building of an agricultural sector that is comparable to developed neighbouring countries; (2) keeping abreast of technical know-how in the sector; and (3) developing rural industrial

productivity and social infrastructure similar to those of neighbouring countries. To attain these goals, the government of Myanmar is aiming to accelerate and increase the productivity of its agricultural sector, attract FDI in the sector, especially in the area of advanced technology, improve domestic and export market access, and develop pure research and applied research in the sector.³

Agricultural trade policy

Import tariffs

With an average applied MFN tariff rate of 5.6 percent, tariff protection in Myanmar is relatively low compared to its ASEAN neighbours. All applied MFT tariff rates are ad valorem, thereby imparting a high degree of transparency in the tariff. Although only 20 percent of its tariffs are bound and the average of bound rates greatly exceeds the averaged applied MFN rates, thereby providing the possibility for the country to apply higher applied rates, this scope has never been used, and so the average applied MFN tariff rate has remained unchanged since the mid-1990s.⁴

NTMs/NTBs and other export/import restrictions

Since 2012, the export and import licensing regime has been converted from non-automatic to automatic licensing with most licences issued within 24 hours. Licensing requirements were also eliminated for a selection of commodities deemed non-sensitive. On the export side, however, licensing has been maintained on some sensitive commodities, including rice.⁵

Myanmar is also adopting SPS that largely follows international standards, such as Codex Alimentarius for food standards, EU regulations for

the fisheries sector, the British International Standards for pharmaceutical products, and the World Organisation for Animal Health for animal health risks. SPS measures are usually issued under the authority of the Ministry of Agriculture and Irrigation and the Ministry of Livestock, Fisheries, and Rural Development (though SPS certificates are usually issued by the Plant Protection Division of the Ministry of Agriculture and Irrigation). SPS certificates are mandatory for prepared food, fisheries, pesticides, and crops, whilst import inspection permits are also required for imports of live animals, animal products, animal feed, and veterinary drugs. The main point of inquiry concerning TBT is the Director General of Myanmar Scientific and Technological Research Department, the Ministry of Science and Technology.⁶

Investment policy

Whilst, at present, the foreign investment policy of Myanmar is increasingly geared towards developing the country's manufacturing and services sectors, agriculture remains one of most promising sectors in which investors could make major gains. The increasing presence of foreign financial firms, for instance, could provide more competitive forms of financing for farmers who are often forced to borrow capital at exorbitant interest rates. Investment in advanced technology in the sector is also highly sought in a country that is expecting to see rapid growth in the near future.

Making effective investment in Myanmar, however, depends largely on the country's existing investment policy. At present, Myanmar's foreign investment policy is regulated under the Foreign Investment Law of 2012, and the subsequent

Citizens' Investment Law of 2013. Both laws, which were closely scrutinised by the parliament, envisage not only a wide range of activities where foreign investment can involve 100 percent equity ownership, but also offer lower and non-discriminatory minimum capital requirements, tax incentives (i.e. tax holidays), and longer leasing of real estate.⁷ The 2012 Foreign Investment Law, furthermore, adopts a 'negative list' approach that allows foreign investment in all activities, except in sectors that are listed as prohibited by the government.

In 2013, the Myanmar Investment Commission, the main investment approvals body, launched a new Directorate of Investment and Company Administration (DICA), which serves as a one-stop-service for all foreign and domestic investors.

Land policy

Generally speaking, the lack of firm property rights remains an issue in Myanmar. Aside from the lack of protection of private property, the pervasiveness of corruption also hinders adequate property rights in the country. In order to address this, parliament enacted the Farmland Law and the Vacant, Fallow, and Virgin Management Law in 2012, both of which allow long-term use of large tracts of lands by private investors in various sectors, including agriculture. In January 2016, the government of Myanmar issued a new National Land Use Policy, which is regarded as an important step towards improving the governance of land tenure in the country. Despite several shortcomings, this new policy is expected to become the fundamental basis of land-related policies in the future.

Taxes

Various taxes in Myanmar are summarised in Table 7.2.

Table 7.2. Tax rates in Myanmar

Personal income tax	
Taxable income	Tax rates
Salaries	Progressive rates between 1 to 25 percent for resident and non-resident foreigners
Other incomes	Progressive rates between 1 to 25 percent for resident and non-resident foreigners
Corporate income tax	25 percent (flat rate), with a branch of foreign firms present in Myanmar also subject to 25 percent tax on Myanmar-source income.
Value added tax	None, although commercial tax is levied as a turnover tax on goods and services, which may range between 5 and 20 percent depending on the type of products and services.
Withholding tax	None for dividends (applied to both resident and non-resident foreigners), between none for interests paid to resident foreigners and 15 percent for interests paid to non-resident foreigners, and 15 percent for royalties of resident foreigners and 20 percent for non-resident foreigners.
Other taxes	Capital duty (none, though registration fees of up to MMK 1 million or more are applied for both the incorporation of a company and the registration of a branch) and payroll tax (tax on employment income is withheld by the employer).

Source: Deloitte (2016).

DICA is valid for up to five (5) years, whereas the registration with the Department of Trade is valid for three (3) years;

- The fee for business registration is MMK 50,000 per year.

SPS and TBT requirements

- Four government agencies are usually involved in the issuance of SPS certificates, and these are: (1) the Department of Food and Drugs Administration, Ministry of Health; (2) the Plant Protection Division, Department of Agriculture, Ministry of Agriculture and Irrigation; (3) the Department of Fisheries, Ministry of Livestock, Fisheries and Rural Development; and (4) the Department of Livestock Breeding and Veterinary, Ministry of Livestock, Fisheries and Rural Development.
- In order to obtain a Phytosanitary Certificate for agricultural products, an exporter is required to complete an application form, which can be accessed from the following website: <http://www.myanmartradeportal.gov.mm/index.php?r=searchForms/view&id=27>.
- To check if exported/imported goods are subject to SPS measures, one can visit the following website: <http://myanmartradeportal.gov.mm/index.php?r=tradeInfo/index>.
- TBT requirements in Myanmar are regulated by the Department of Research and Innovation, which is part of the Ministry of Science and Technology. The department has three main divisions responsible for standard development, accreditation, and metrology. Further inquiries concerning TBT requirements in Myanmar can be sent to:

7.4. Export-import procedure⁸

Export procedure

Business registration

- In order to register as an authorised exporter, a company must be a member of the Union of Myanmar Federation of Chamber of Commerce and Industry (UMFCCI);
- The same exporter must then be registered with two key governmental institutions, including the Directorate of Investment and Company Administration (DICA) of the Ministry of Planning and Finance, which has a One Stop Service for business registration process, and the Department of Trade of the Ministry of Commerce. Registration with the

Department of Research and Innovation, Ministry of Science and Technology, No. 6 KabaAye Pagoda Road, P.O. Box 11081 MM-Yangon Myanmar
 Tel: +95 1 664 817
 Fax: +95 1 668 033
 Email: most7@myanmar.com.mm

Items allowed for exports

In general, a registered exporter is allowed to export all types of commodities, with the exception of rice and rice products, as well as other products that can only be exported by State-Owned Enterprises.

Export licences

- Since 1st March 2013, Myanmar does not require an export licence for most of its agricultural products and the so-called cut-make-pack products, which applies to its garment industry;
- Generally speaking, however, the Department of Trade of the Ministry of Commerce issues export licences, which can be issued upon the recommendation by relevant ministries (e.g. agricultural seeds from the Department of Agriculture, animal products and animal feed from the Livestock Breeding and Veterinary Department, and so on);
- No licence fee is charged for exports;
- The Ministry of Commerce requires that all export transactions use the FOB Incoterm, which are pre-defined commercial terms published by the International Chamber of Commerce and is restricted to goods transported by sea or inland waterway;
- Though manual applications are accepted, applications

for export licences can be done electronically at the following website: <http://www.myanmartradenet.com.mm/>;

- Licences are reviewed on an annual basis.

Customs declaration and accompanying documents

- Customs declaration and supporting documents must be submitted before the export of agricultural products takes place;
- All exports must be cleared through Customs using the SUCDEC-2 Export Declaration Form (copy of which is available at the following website: <http://www.myanmartradeportal.gov.mm/kcfinder/upload/files/CUSDEC%202-Export%20declaration.pdf>) and the CUSDEC-4 Custom Valuation Form (<http://www.myanmartradeportal.gov.mm/kcfinder/upload/files/CUSDEC%204.pdf>);
- For a product to enjoy free access to other ASEAN markets, an ASEAN certificate-of-origin (COO) certificate, or Form D, must be obtained by the exporter from the Ministry of Commerce, which is available electronically from the following website: <http://www.myanmartradeportal.gov.mm/kcfinder/upload/files/1.%20Form%20D.pdf>;
- An exporter must also submit the following accompanying documents:
 - Export licence permit;
 - Invoice;
 - Packaging list;
 - Sales contract;
 - Payment advice that makes reference to the Inward Telegraphic Transfer Private Number;
 - Sample of goods

- Pass for the shipment of forestry products;
- Health certificate for the export of live animals;
- Permit for the export of wild live animals; and
- Other certificates, permits, or import recommendations as required for specific agricultural products.

Export taxes

- Exportation of products requires the payment of duties on specific products, but these are not applicable for agricultural products;
- Customs generally collects a 2 percent advance income tax on exports for the Internal Revenue Department;
- Registered exporters are allowed to enjoy 100 percent export retention money for the export of goods. No export quota or ceiling is applied for any exportable product or any individual or organisation with the exception of textile products, which are subject to a quota fixed by the importing country.

Customs clearance

In order to ensure the quality and quantity of export goods, exports inspections are usually conducted by Customs. For certain agricultural commodities, such as rice, private inspection companies may conduct pre-shipment inspections.

Import procedure⁹

Business registration

- In order to be eligible to import goods into Myanmar, a company must register with and obtain authorisation from two governmental institutions, namely the DICA of the Ministry of Planning and Finance and

the Department of Trade of the Ministry of Commerce. Registration with the DICA is valid for up to five (5) years, whereas that with the Ministry of Commerce is valid for three (3) years, but should not exceed the Company's DICA registration to engage in international trade;

- The same company must also be a member of the UMFCCI;
- The fee for registration is MMK 50,000;
- There is a requirement that only Myanmar nationals are allowed to engage in international trade. There is an exception to this rule, but this does not apply to importers of agricultural products.

Import priorities

- Myanmar prioritises imports of commodities that meet the basic needs of the country's economic sectors, especially in agricultural, livestock breeding, fishery, forestry, and so on, and consumers' choices. Priority import items are divided into two categories, including:
 - Priority items (A), including machinery and spare parts, agricultural machinery and farm implements, fertilisers, pesticides, high yield quality seeds, edible oil, oil and industrial raw materials, construction stores and building materials; and
 - Priority items (B), including sixty items grouped under personal goods, household goods, foodstuff, construction materials, textile products, electric and electronic products, and general products;
- An importer is required to import 80 percent of Priority (A) items if he/she wishes to import Priority (B) items. It is also allowed to import 20 percent of Priority (B) items, together with Priority (A) items,

and ship them at the same time;

- Generally, Myanmar does not impose a quota or ceiling for imported items as long as the priority items are fulfilled, with the exception of edible oil.

Prohibited imports

A number of agricultural commodities are prohibited from entering Myanmar through overseas trade under the conventional trade system. These prohibited agricultural commodities include rice (broken rice), sugar (white, red, and brown), brown slab, groundnut oil, sesamum oil, groundnut and sesamum cake, gramwhole or gramdhal, and cotton. A number of foodstuffs, such as seasoning powder (MSG), soft drinks, assorted biscuits, chewing gum, cake, wafer, chocolate, canned foods (meat and fruits), noodles, liquor, beer, and fresh fruits are also not allowed to be imported into the country.

Import licences

- Import licences can be obtained from the Department of Trade of the Ministry of Commerce, and can be conducted electronically through the following website: <https://eservice.myanmartradenet.com/Login/>;
- Importers wishing to make an import licence application manually may also do so at the Department of Trade Headquarter in Nay Pyi Taw, or its branches in Yangon, Mandalay, and several border offices;
- Though some licences can be issued automatically, in some cases licences are issued based on the recommendation of relevant ministries, agencies, and/or business associations;
- The Ministry of Commerce requires that import

transactions take place using CNF or CIF Incoterms;

- The Ministry of Commerce may deny a request for import if the price level of a particular import transaction is deemed contrary to the national economic interests;
- The processing fee for import licences ranges from MMK 250 Kyat to MMK 50,000;
- Licence requirement is valid for one (1) year, and subject to review each year (usually every July). Importers may also expect occasional changes to the procedures from time to time;
- Expected to be operational at the end of 2016, Myanmar Customs is currently developing an automated cargo clearance system to speed up importation process. The facility is expected to be the basis of the country's National Single Window system, and is expected to be initially installed in Yangon and in other customs offices throughout the country at later stages.

Customs declaration and accompanying documents

- All imports must be cleared through Customs using the CUSDEC-1 Import Declaration Form and the CUSDEC-4 Custom Valuation Form (<http://www.myanmartradeportal.gov.mm/kcfinder/upload/files/CUSDEC%204.pdf>);
- For a product to enjoy free access to other ASEAN markets, an ASEAN certificate of origin (COO) certificate, or Form D, must be obtained by the importer from the appropriate foreign government ministry or chamber of commerce.

Customs duties and taxes

- Customs duties assessment are usually determined by three factors:

- The customs classification of imported goods:
- Myanmar applies ASEAN Harmonised Tariff Nomenclature, which is comprised of 9,558 tariff lines at the 8-digit level, and an additional 418 lines at the 10-digit level;
- Most ASEAN FTA rates, or about 93 percent of a total of 8,800 lines, are duty free;
 - The custom valuation of goods
Myanmar currently uses five valuation methods, including CIF invoice price of the goods, sales contract, insurance information, internet prices, and other recorded prices.
- Following the assessment above, the importer is required to pay the duty either in cash or through bank money order (cash may only be used for payable duty of less than MMK 5,000);
- Depending on import's classification, a commercial tax and/or excise tax may be applied to imports. Commercial tax, however, is expected to be phased out and be replaced by the specific good tax in the near future;
- Customs usually collects 2 percent of advance income tax on imports for the Internal Revenue Department.

Customs clearance

- Overall, about 10 percent of imports are physically inspected, whilst additional imports are also subject to an x-ray scan;
- Imports are usually divided into three categories: (1) green food importation with the least risk; (2) yellow for importation of immediate risk; and (3) red for importation that denotes high risk.

7.5. Setting up business in Myanmar

The process of setting up a business in Myanmar, including the length of time and cost required, is highlighted in Table 7.3.

Table 7.3. The process of setting up a business in Myanmar

No.	Procedure	Time to complete (in day)	Cost to complete (in MMK)
1.	Name check at the Company Registration Office at the Directorate of Investment and Company Administration	1	1,000 (for form fee)
2.	Request business incorporation certificate	1	5,100 (application fee)
3.	Obtain signature of the directors before a lawyer or certified public accountant	1	40,000 for witnessing the signature of the memorandum and articles of association
4.	Payment of stamp duty and registration fee	1	500 for registration fees and 60,000 for stamp duty
5.	Open bank account	1	No charge
6.	Obtain certificate of incorporation	3	Paid as part of company incorporation fees
7.	Submit certification of registration document	1	No charge
8.	Obtain a seal or rubber-stamp	1	2,000
9.	Register for commercial tax	1	No charge
10.	Registration of employees at the Labour office in township	1	No charge
11.	Registration with the Social Security Board for social security benefits	1	No charge.

Source: World Bank (n.d.b).

7.6. Infrastructures in Myanmar

Myanmar's infrastructure development is still lagging behind its ASEAN neighbours. This, however, presents opportunities for the private sector to invest in the country's infrastructure. Table 7.4. summarises existing infrastructures in Myanmar.

Table 7.4. Existing infrastructures in Myanmar

Infrastructure	Length / number / geographical scope / generation (of power) / network spectrums	Existing operators	Notes
Roads	105,816 km (including 33,014 km paved roads)	Road Transport Agency	Total number of registered road motor vehicles is 2.3 million, including: <ul style="list-style-type: none"> • 1.93 million motorcycles; • 295,000 cars; • 67,200 trucks; and • 20,000 buses.
Railways	5,844 km	Myanma Railways	
Airports	69 airports	Myanmar Department of Civil Aviation	Out of 69 airports, only 32 are operational (including 3 international airports in Yangon, Mandalay, and Nay Pyi Taw, catering 19 international airlines and 4 domestic airlines to 17 regional destinations).
Ports	9 ports along the western and southeastern coast of the country.	Inland Water Transport, Myanma Five Star Line, Myanma Shipyards	Myanmar International Terminals in Thilawa is a private multi-purpose container terminal owned and operated by Hutchinson Port Holdings. The country records a total sea cargo of around 21.5 million tonnes per year.
Energy and power	7,346 GWh	<ul style="list-style-type: none"> • Myanma Oil and Gas Enterprise; • Myanma Petrochemical Enterprise; and • Myanma Petroleum Products Enterprise. 	Primary energy sources include: 5,052 GWh (68.8 percent) hydroelectric and 2,292 GWh (31.2 percent) conventional thermal. Back in 2009, the electrification rate of Myanmar was 13 percent, with around 44 million people lived without power. The average consumption was 104 KWh/person.
Telecommunications	GSM-900 (67 percent); CDMA-800 and CDMA-450 (20 percent); and WCDMA-2100 (14 percent)	Myanmar Posts and Telecommunications	Myanmar is linked internationally through SEA-ME-WE-3 submarine fibre optic cable, cross-border fibre links with China, India, and Thailand, and 2 international satellite earth stations (connected to Thai-com satellite).

Source: KPMG (2013).

Labour condition landscape and employment system

Around 54.2 percent of Myanmar's total workforce work in the agricultural sector, and this is followed by the wholesale and retail trade sector (13.9 percent), the manufacturing sector (10.6 percent), and the transportation sector (4.2 percent). At the same time, about 56 percent of the employed population in the country are equipped with either primary or pre-primary levels of education.¹¹ The country is, therefore, experiencing major shortages of skilled workers.¹² To address this issue, the government decided to set up the National Skill Standard Authority in 2007 to prepare the country's labour market ahead of the launching of the AEC in 2015. Subsequently, the government also launched the Employment and Skill Development Law in 2013 to facilitate job creation, unemployment rate reduction, and employees' capacity enhancement.

Meanwhile, employment practices in Myanmar are governed by both old and new laws and regulations, as well as internal policies and practices of the Ministry of Labour, Employment, and Social Security (refer to Table 7.5.). With regard to the employment of foreign nationals, however, there are no specific provisions covering this issue with the existing labour laws supposedly applying to all persons working the country. At the time of the writing, it is understood that the Ministry of Labour, Immigration, and Population is currently drafting a law concerning the employment of foreign nationals. If enacted, this law may require foreign nationals working in Myanmar to obtain work permits and adhere to various new regulations.¹³

Social security system

Myanmar enacted Social Security Law in 2012, which facilitated the subsequent launching of the country's Social Security Fund that took effect in April 2014. Under this social security law, employees are eligible for various benefits, such as sickness, maternity, death, employment injury, invalidity, and superannuation. With the exception of international organisations, employers of more than four employees are required to register and contribute to the Social Security Fund. Contributions are calculated at 5 percent of an employee's

Table 7.5. Relevant employment-related laws, rules, and regulations in Myanmar

Relevant employment-related laws	Relevant employment-related regulations, rules, and policies
<ul style="list-style-type: none"> • Workman's Compensation Act (1923) as amended in 2005; • Leave and Holidays Act (1951) as amended in 2014; • Factories Act (1951) as amended in 2016; • Oilfields (Labour and Welfare) Act (1951); • Employment Restriction Act (1959); • Income Tax Law (1974) as amended by Union Tax Law (2012); • Law Relating to Overseas Employment (1999); • Labour Organisation Law (2011); • Social Security Law (2012); • Settlement of Labour Dispute Law (2012) as amended in 2014; • Employment and Skill Development Law (2013); • Minimum Wage Law (2013); • Payment of Wages Law (2016); • Shop and Establishment Law (2016); and • Various sector-specific laws which contains labour regulations. 	<ul style="list-style-type: none"> • Settlement of Labour Dispute Rules; • Minimum Wage Rules as amended in 2016; • Labour Organisation Rules; • Instruction of the Factories and General Labour Law Inspection Department; • Ministry of Labour Notification No. 84/2015 on Severance Payments; • National Minimum Wage Committee Notification No. 2/2015; • Ministry of Labour Notification No. 1/2015 on Labour Contracts; • Etc.

Source: Luther (2016: 3).

monthly salary up to a prescribed ceiling, which is set at MMK 300,000 per month, with the employer contributing up to 5 percent, and 2 percent from the employee.¹⁴

Commercial dispute settlement

Reform of the arbitration regime and legislation is currently underway in Myanmar to accommodate the growing foreign investment into the country. Myanmar acceded to the New York Convention on the Recognition and Enforcement of Arbitral Awards in 2013, and issued a draft Arbitration Bill modelled after the United Nations Commission on International Trade Law. Issued in early 2016, the new Arbitration Law does not specify the kinds of disputes that may be arbitrated, though, in general, any civil disputes may be referred to arbitration.¹⁵

AEC business tip for Myanmar

After decades of isolation, Myanmar has transformed itself into an open, reform-driven, economy. Its young and growing consumer market offers huge potentials for ASEAN and non-ASEAN companies to supply goods and services. However, Myanmar still lacks regulatory transparency, whilst complex bureaucracy and corruptions continues to hamper the ease of doing business in Myanmar. The country's involvement in the AEC allows further regulatory reforms and improves transparency, and, hence, creates a better and promising business environment for companies. Aside from being part of the regional production network, the AEC also provides a platform for companies in Myanmar to have a greater access to other markets in the region.

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8. THE PHILIPPINES

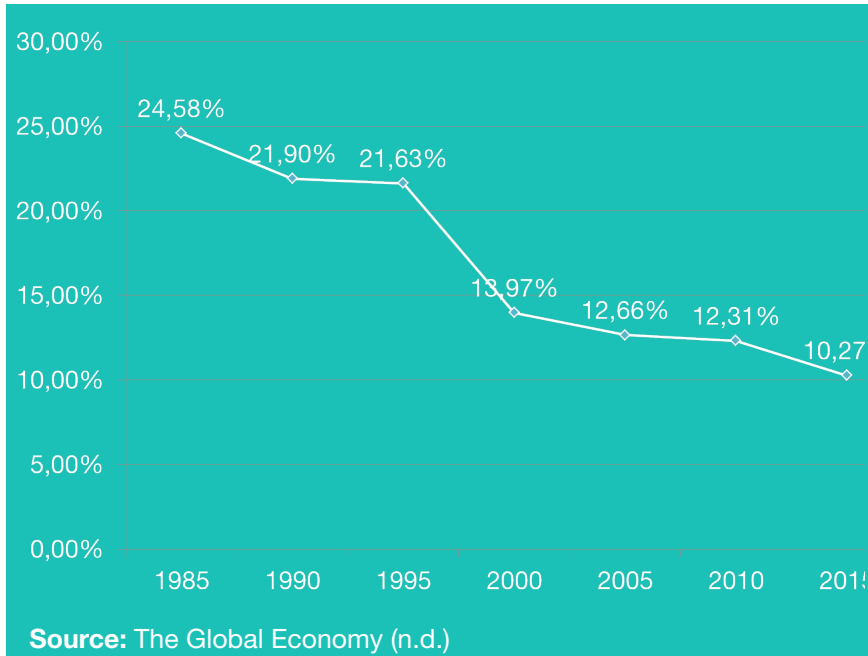


THE PHILIPPINES

8.1. Brief Country Profile

A promising economy in ASEAN, the Philippines is one of the strongest economic performers in the region amidst slow global growth in the past few years. The country, for example, has been able to maintain an average growth rate of 5.1 percent since 2001. Considered as a low-middle-income country with a GDP per capita of USD 2,850.50, the Philippines has been relatively resilient against external economic shocks. Aside from its less export-dependent nature when compared to its ASEAN neighbours, the country's economy also relies heavily on large remittances from Filipino migrants abroad. With around 40 percent of its workforce still in the informal economic sector, a quarter of its population live below the poverty line. The Philippines, however, has been steadily liberalising its economy, and this is illustrated in the country's recent efforts to permit the entry of foreign banks into the economy, as well as the passing of an anti-trust legislation. As in the case with the largest economy in ASEAN, or Indonesia, the Philippines is also blessed with a demographic dividend. More than half of

Figure 8.1. Share of agricultural sector in the Philippines' GDP, 1985 - 2015

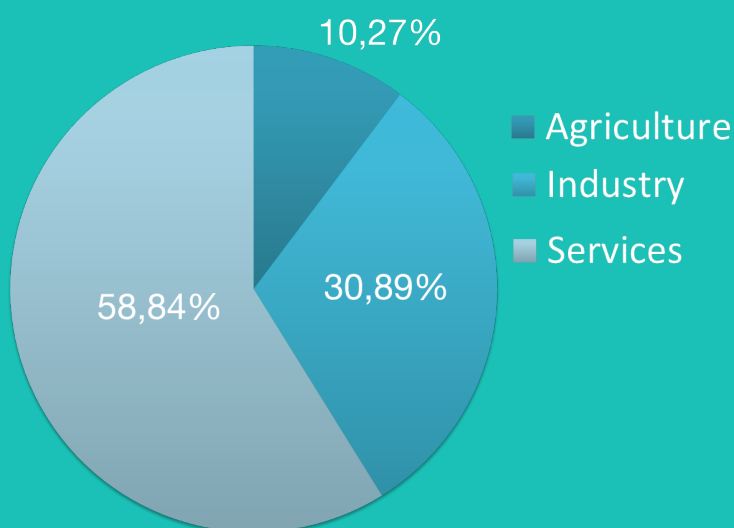


the country's 102.6 million population are below the age of 25 (the median age is 23). Around 44 percent of the country's inhabitants live in urban areas, with 24 million people currently living in the Metro Manila region (the capital and its surrounding) alone. Despite its rather strategic location in the South China Sea, the Philippines is not very dependent on trade, with exports accounting





Figure 8.2. Share of economic sectors in the Philippines's GDP, 2015



Source: Statista (n.d.).

as coconuts, bananas, cassava, pineapples, and mangoes. The relatively higher altitudes near or at the mountains are usually used for rice and livestock farming. Based on the most recent available data, about 41.7 percent of the country's 300,000 km² land area is used for agricultural purposes. Major agricultural areas are usually located around the main urban and high population density areas. Although employing about 29 percent of the country's 41.76 million total labour forces, the share of the agricultural sector in the Philippines' GDP has been declining from 25 percent in the mid-1990s to 10.27 percent in 2015. The lack of investment in the sector and relatively higher level of poverty incidence amongst families living in agricultural areas compared to their counterparts elsewhere encourage many potential second- and third-generation farmers to look for better income in urban areas or overseas.¹ That being said, the growth of value-added per worker in the agricultural sector has grown by about 1.9 percent during the past decade.

Whilst contributing around 11 percent of the Philippines's total exports in 2014, agriculture accounts for about 14 percent of the country's total imports. Main agricultural export commodities include coconut oil (18 percent), banana (17 percent), tuna (7 percent), and pineapple and products (7 percent). Agriculture products in the Philippines are dominated by crops (50 percent), and followed by fishery (18 percent), livestock (14 percent), poultry (11 percent), and other agricultural activities and services (7 percent).



for less than 30 percent of the country's GDP. More than half of what the country exports in various light machineries are part of the global supply chain system. The Philippines' main trade partners include Japan, the US, China, South Korea, and other ASEAN members.

8.2. Agricultural Sector in the Philippines

The Philippines' tropical climate and extensive coastal areas are suitable to grow various fruits, such



8.3. Policy Context

Agricultural policy²

In order to transform the country's agricultural sector from traditional farming to agribusiness, the government of the Philippines has launched a number of short-, medium-, and long-term goals, including:

Short-term goals (2014-2017):

- Improve productivity of high value crops where regional comparative advantage lies;
- Strengthen the country's capacity in developing high value crops;

Medium-term goals (2018-2021):

- Strengthen agro-processing and the linkages between production (agriculture) and processing (manufacturing);
- Strengthen supply chains and commodity clusters; and
- Long-term goals (2022-2025) that deepens the country's participation in the global value chains.

To attain these goals, the government also plans to pursue various strategic actions, such as the strengthening of coordination mechanism amongst stakeholders, addressing supply chain gaps, providing support to small farmers (especially with regard to access to technology, technical knowledge, and finance), promoting green and climate resilient products, investment in rural infrastructure, investment in research and development, and strengthening the regulatory system and property rights regime.

Agricultural trade policy

Import tariffs

In 2015, the Philippine's simple average applied MFN tariff for

agricultural products was 9.9 percent and for non-agricultural products tariff was 5.7 percent. Meanwhile, the average bound tariff for agricultural products was 35.1 percent, higher than the average bound tariff on all goods of 25.7 percent.³

NTMs/NTBs and other export/import restrictions

As of 2015, total coded non-tariff measures (NTMs) in the Philippines reached 854.⁴ At 42.1 percent, technical barriers to trade (TBT) dominated the country's NTMs, and this was followed by sanitary and phytosanitary measures (SPS) (27.3 percent), and export related measures (17.1 percent). Up to 37 government agencies were identified as commonly issuing NTMs, with the top ten institutions issuing 70 percent of the NTMs regulations. More specifically, the Animal Industry, the Plants Industry, and Fisheries and Aquatic Resources, which are bureaus under the Department of Agriculture, each issued 14.8 percent, 12.6 percent, and 9.4 percent NTM-related regulations respectively. Some agricultural-related products that are subjected to SPS and TBT measures include animals and animal product, vegetable products, and foodstuffs, mineral products, chemicals, and allied products.

Investment policy

In general, foreign investment in the Philippines is regulated under the Foreign Investments Act of 1991. Under this Act, foreign investors should receive the same treatment as their domestic counterparts. They are also required to register with the Securities and Exchange Commission in the case of a corporation or partnership, or with the Department of Trade and Industry's Bureau of Trade

Regulation and Consumer Protection in the case of a sole proprietorship. The Act also allows 100 percent foreign equity in all areas of investment, except in sectors or areas that are reserved solely for Filipinos under the country's Constitution and existing laws.

In addition, there are also other foreign investment-related laws, such as the Corporation Code of the Philippines that regulates domestic and foreign corporations in the Philippines, the Omnibus Investment Code of 1987, which stipulates incentives for both domestic and foreign investors, various laws related to special economic zones (SEZ) (e.g. the Special Economic Zone Act of 1995, the Cagayan Special Economic Zone Act of 1995, the Zamboanga City Special Economic Zone Act of 1995), and so on.⁵

While encouraging foreign investors to invest in the country, the Philippine government has, in 2015, issued the Tenth Regular Foreign Investment Negative List that identified areas and professions where foreign ownership and foreign national participation are limited due to national interest reasons. Areas where foreign ownership is prohibited include, amongst others, mass media (except recording) and the utilisation of marine resources in archipelagic waters, territorial seas, and exclusive economic zones. Meanwhile, some professions that are open only to Filipinos are pharmacy, radiology, and criminology.⁶

Investment incentives⁷

Various investment incentives offered by the government of the Philippines are summarised in Table 8.1.

Table 8.1. Various investment incentives in the Philippines⁸

Fiscal incentives	Non-fiscal incentives	Incentives related to SEZs
Income tax holiday	Employment of foreign nationals	
Exemption from taxes and duties on imported spare-parts	Simplification of custom procedures	
Exemption from wharfage dues and export tax, duty, impost, and fees	Importation of consigned equipments	Goods in the SEZs are not subjected to tax, though those withdrawn from the SEZs for distribution in the domestic market will be subjected to tax.*
Reduction of the rates of duty on capital equipment, spare-parts, and accessories by virtue of Executive Order 528	Privilege to operate a bonded manufacturing/trading warehouse	
Tax exemption on breeding stocks and genetic materials		
Tax credits		
Additional deductions from taxable income		

Note: *Currently, there are 345 SEZs, and they all fall within one of these SEZs categories: (1) Manufacturing Economic Zone; (2) Information Technology Parks/Centres; (3) Agro-Industrial Economic Zone; (4) Tourism Economic Zone; and (5) Medical Tourism Parks/Centres. Out of these SEZs, 21 are dedicated for agro-industrial sector.

Source: PWC (2015: 38).

Land policy

Land ownership in the Philippines is highly regulated. In general, only Filipino citizens and corporations or partnerships with at least 60 percent of the shares owned by Filipinos are able to own or acquire land in the Philippines. Foreign corporations, however, are allowed to own land providing that the land to be acquired is private, and the foreign equity in the corporation does not exceed 40 percent. In the case that foreign equity in the corporation exceeds 40 percent, they may be granted temporary rights, such as a lease contract. Foreign corporations are also allowed to acquire other immovable or real properties, such as buildings and other improvements on the land, including condominium units. Based on the Republic Act No. 7652, entitled 'Investor's Lease Act', foreign nationals may enter into lease agreements with Filipino landowners, with a lease period of 50 years, which is extendable for another 25 years. Specific to the tourism sector, the lease is limited to projects with an investment of no less than USD 5 million, of which 70 percent shall be infused in the said project within three years from the signing of the lease contract.⁹

Taxes

Table 8.2.below summarises various taxes imposed in the Philippines.

Table 8.2. Tax rates in the Philippines

Individual income tax	
Income (in PHP)	Progressive rates (in percent)
Up to 10,000	5
10,000-30,000	10
30,000-70,000	15
70,000-140,000	20
140,000-250,000	25
250,000-500,000	30
500,000 and over	32

Table 8.2. Tax rates in the Philippines

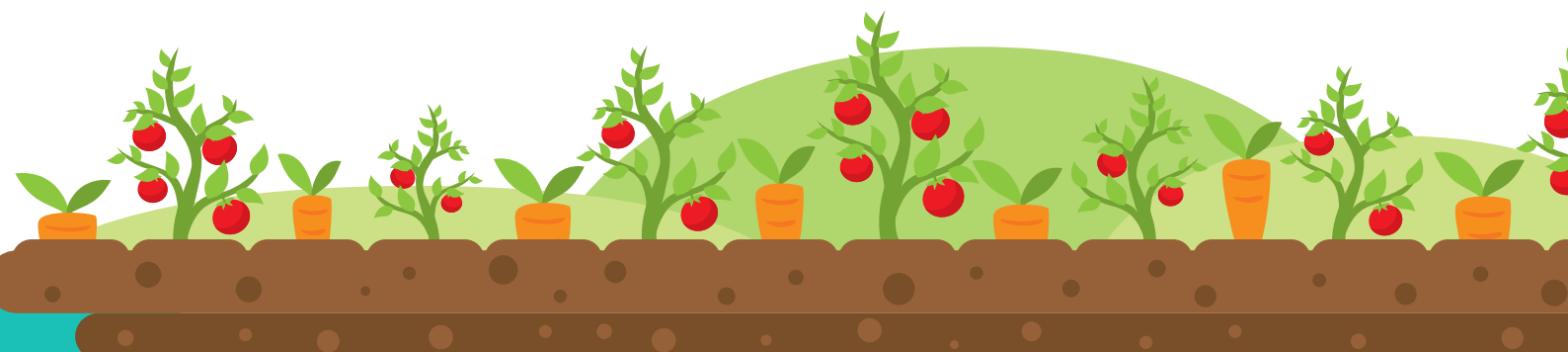
Corporate taxes	
Type of taxes	Tax rates (in percent)
Corporate tax standard rate	30 (foreign corporations, whether residents or non-residents, are taxable only on income derived from sources within the Philippines)
Sales Tax/VAT rate	12 (but none (or zero) for export)
Withholding taxes	15 for dividend, 20 for interest, 30 for royalty and technical fee
Other taxes	<ul style="list-style-type: none"> • Percentage taxes (imposed on domestic or international carriers, franchises, banks, financial intermediaries, finance companies, life insurance companies, agents of foreign insurance companies, overseas communications, amusement, winnings, and stock transactions; • Initial Public Offering tax (based on the gross selling price or gross value in money of the shares of stock sold): 4 percent for up to 25 percent; 2 percent for over 25 percent but not over 33 1/3 percent, and 1 percent for over 33 1/3 percent; • Excise taxes (imposed on alcohol and tobacco products, petroleum, etc.); • Stamp duty; and • Real property tax (imposed on owners of real property and is calculated on the assessed value of the property).

Source: PKF (2016).

8.4. Export-import procedure¹⁰

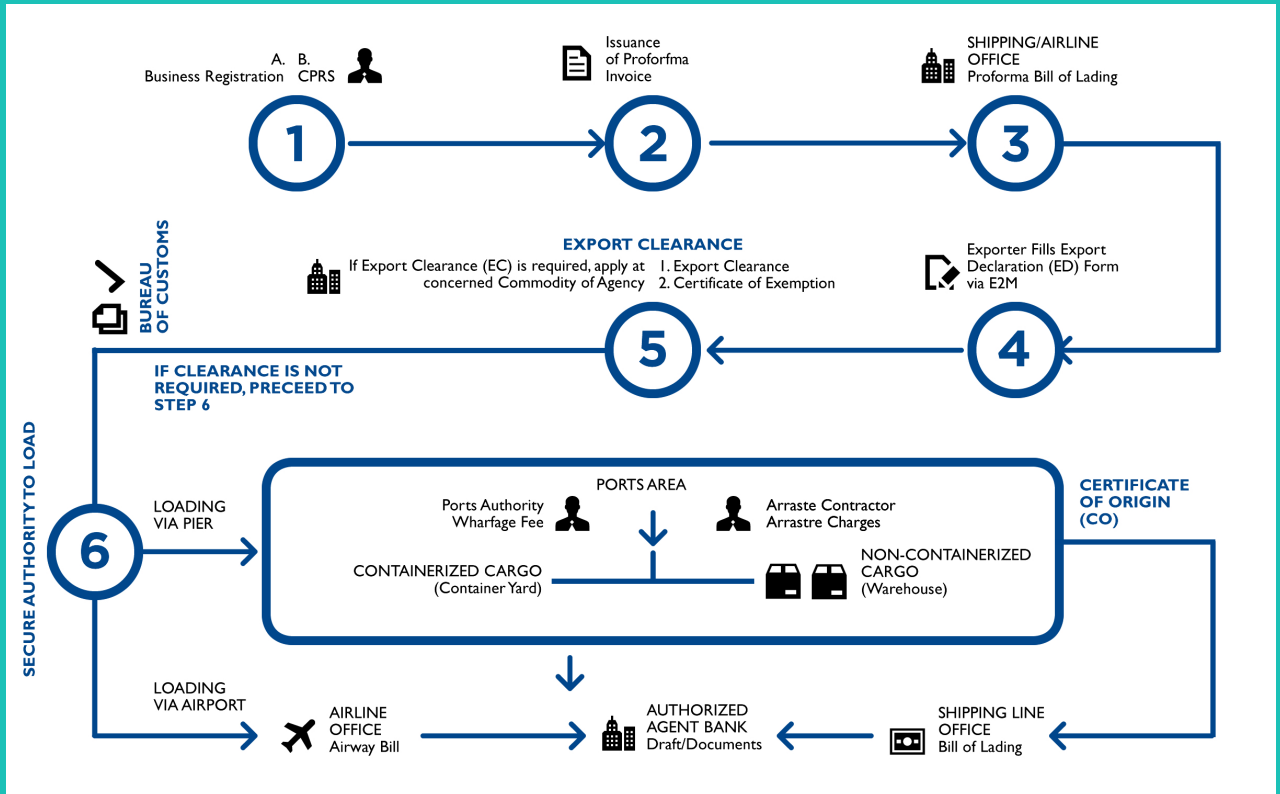
Classification of goods

The Philippines uses the six-digit Harmonised Commodity Description and Coding System of the World Customs Organisation, as well as the eight-digit ASEAN Harmonised Tariff Nomenclature (AHTN) for exportation and importation to and from other ASEAN member countries. Beyond this, the Philippines also assigns alpha-numeric codes to provide for its national tariff lines.¹¹



Export procedure

Figure 8.3. Export procedure in the Philippines

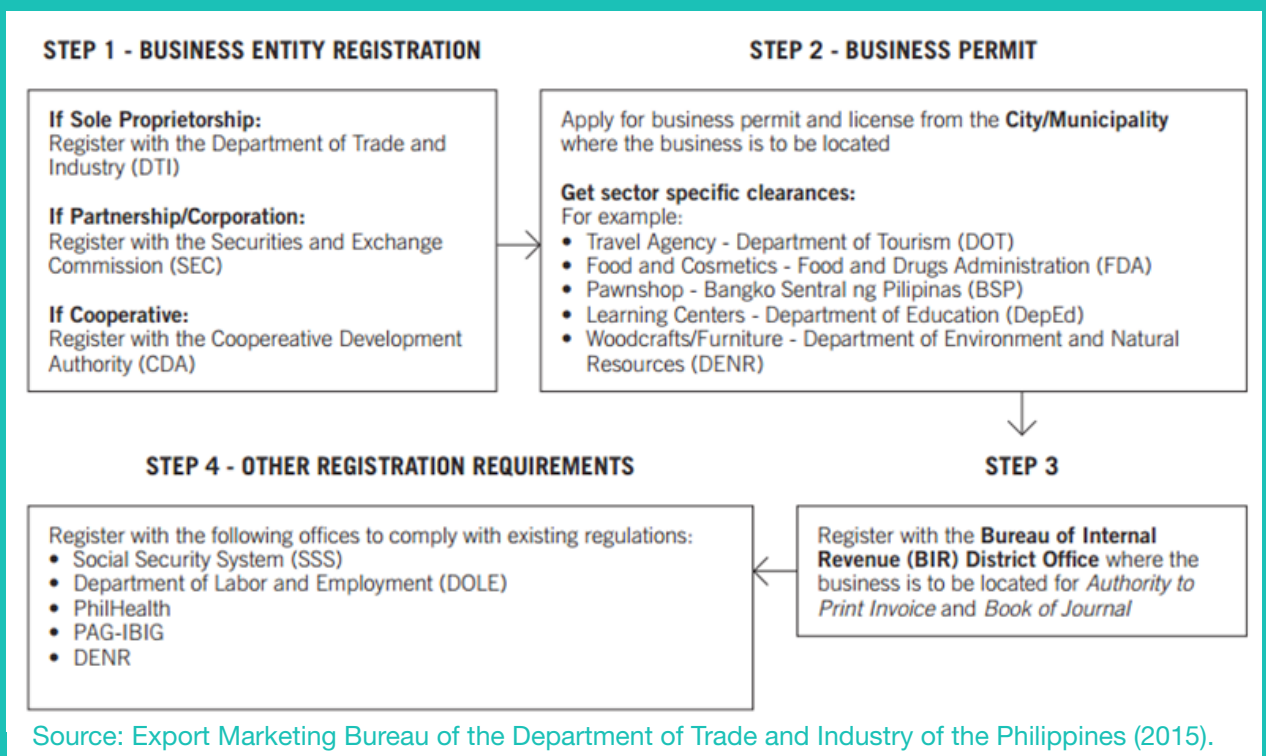


Source: Export Marketing Bureau of the Department of Trade and Industry of the Philippines (2015).

Business registration

An exporting company is required to register with the Department of Trade and Industry, the Securities and Exchange Commission, the Cooperative Development Authority, and the Bureau of Internal Revenue prior to being able to operate in the Philippines.

Figure 8.4. Business registration procedure in the Philippines



Source: Export Marketing Bureau of the Department of Trade and Industry of the Philippines (2015).

Export licences

To be accredited as an exporter, the company must be registered on the Client Profile Registration System to obtain the Unique Reference Number.

SPS and TBT

The Phytosanitary certification system in the Philippines is based on the International Plant Protection Convention. The Philippine Quarantine Service requires exporters to fulfil the following documents:

- Import Permit from the country of destination if required;
- Clearance to export restricted and/or prohibited exports or movement of plants and plant products issued by designated agencies of the Philippines;
- Accomplished application for Phytosanitary Certification;
- The commodities to be inspected/examined/verified must be submitted at least 48 hours prior to actual loading;
- Treatment, unless compulsory or mandated by the importing country may be waived.

Prohibited goods to export

The list of prohibited and highly regulated goods to export from the Philippines are summarised in Table 8.3.

Export declaration

Exporters shall declare exported products through the 'Electronic to Mobil (E2M)' internet system that allows customs officials and traders handle most of their transactions via electronic means.

Table 8.3. List of prohibited and highly regulated goods to export in the Philippines

Prohibited goods to export	Highly regulated goods to export
Live mud crab 'alimango' (<i>Scylla serrata</i>)	Live animals, whether domestic or wild (exotic or indigenous), which may be food producing, companion, aquatic, laboratory including birds, worms, bees and butterflies, its products and by-products, veterinary feed premixes and biologics, laboratory specimen of animal origin, feeds and feed ingredients that may be carriers of communicable animal diseases
Live shrimps and prawns – spawner, breeder, eggs, and fry	All fish and fishery/aquatic products (live, fresh, dried and/or processed, frozen and chilled)
All seahorses	Marine wildlife species: Seasnakes: live, skin or products from the skin or meat
Coconut crab	Shells: Black lip pearl, Gold lip pearl, Semi-finished or Semi- processed Capiz shells 'Kapis'

Source: Bureau of Customs of the Department of Finance of the Philippines (2011).

Customs clearance

Regulated products will be able to be exported if the Commodity Agency gives clearance.

Import procedure

Business registration

Prior to conducting its importing activity, an importer is required to obtain an Importer's Clearance Certificate from the Bureau of Internal Revenue. Upon obtaining this document, the importer will receive an official accreditation from the Bureau of Customs.

Import licence or certificate

Generally speaking, the authorities in the Philippines recognise three types of importation, including: (1) freely importable commodities; (2) regulated commodities; and (3) prohibited or banned commodities. Specific import licence or certificate may be applicable for some products, such as animals, plants, foodstuffs, medicines, chemicals, and so on. A number of agricultural products, such as corn, poultry, pork, sugar, and coffee are also imposed with Tariff-Rate Quotas and Minimum Access Volumes. Permit to import these products can be obtained from relevant government agencies (e.g. the Department of Agriculture for

agriculture-related products). Discretionary licensing arrangements are also in place for rice imports, with the National Food Authority being the sole agency handling the importation of rice (as well as corn). Private grain dealers with import clearance are also allowed to import rice.

As of March 2016, the Philippine government approved new guidelines that lifted the temporary ban on research, field testing, commercialisation, and importation of genetically modified crops and biotech products in the country. Under the new guidelines, the importation of biotech plants and plant products for direct use as food, feeds, and/or processing may be allowed only if they have undergone risk assessment and secured biosafety permit for direct use, which is valid for a five-year period.

Table 8.4. List of food- and agriculture-related import commodities requiring special permits

Commodity description/group/ Tariff Heading	Government agencies issuing permits	Legal basis
Live animal products and by-products	Bureau of Animal Industry of the Department of Agriculture	
Fishery and aquatic products	Bureau of Fisheries and Aquatic Resources of the Department of Agriculture	
Wildlife	Protected Areas and Wildlife Bureau of the Department of Environment and Natural Resources	n.a.
Living plants	Bureau of Plant Industry of the Department of Agriculture	
Semi-synthetic antibiotics (all form and salts of ampicillin, amoxicillin, and cloxacillin), wheat flour, iodised salt, and all health products	Food and Drugs Administration of the Department of Health	Executive Order No. 776, dated 24 th February 1992 and Bureau Circular No. 03-As.2000
Wheat flour	Food and Drugs Administration of the Department of Health	Republic Act No. 8976 (Philippine food Fortification Act of 2000), dated 7 th November 2000)
Iodised salt	Food and Drugs Administration of the Department of Health	Republic Act No. 8172 (An Act for Salt Iodisation Nationwide – ASIN), dated 20 th December 1995
All health products	Food and Drugs Administration of the Department of Health	Executive Order No. 175 amending Republic Act No. 3720 (Food and Drug Cosmetic Act, dated 22 nd June 1969 and 18 th August 2009 respectively
All fertilisers, pesticides, and other chemical products that are intended for agricultural use	Department of Agriculture-Fertiliser and Pesticide Authority	Presidential Decree No. 1144 (Creating the Fertiliser and Pesticide Authority and Abolishing the Fertiliser Industry Authority), dated 30 th May 1997 and the Fertiliser Pesticide Authority Implementing Guidelines (2 nd edition), published in 2001
All commodities originating from some socialist and centrally-planned economies, including Lao PDR and Myanmar in ASEAN.	Philippine International Trading Corporation	Letter of Instructions No. 444 (Promulgating Guidelines on Trade Socialist and Other Centrally-Planned Economy Countries) dated 9 th August 1967, and amended by Executive Order No. 244, dated 12 th May 1995

Source: Export.gov (n.d.).

Prohibited or restricted goods to import¹²

Some agriculture products require an import licence from the relevant government authorities. Further information on this is provided under the 'import licence or certificate' sub-section of this chapter.

Legal fee for importers

Processing and Certificate fees will cost PHP 2,000 to Accounts Receivable Monitoring Division of the Bureau of Internal Revenue.

Processing Fees will cost PHP 1,000 to Account Management Office of the Bureau of Customs.

Import declaration

After completing all the requirements above, the importer will need to declare its imported products through the 'E2M' internet system.

Customs clearance

Imported goods will need to go through physical inspections by the Entry Processing Division of the

Bureau of Customs. Those that are safe to enter the country are allowed to proceed to the 'Green Lane' and be collected at the Collection Division to be further transferred to the warehouses. Other goods that are not allowed to proceed to the 'Green Lane' must proceed to either 'Yellow Lane' or 'Red Lane', and are subject to further scrutiny by the Formal Entry Division. If allowed entry into the country, imported goods can be collected at the Collection Division or be transferred to the warehouses.

8.5. Setting up business in the Philippines

Table 8.5. summarises the process of setting up a business, including the length of time and cost required, in the Philippines.

Table 8.5. The process of setting up a business in the Philippines

No.	Procedure	Time to complete (day)	Cost to complete (in PHP)
1.	Verify and reserve the company name with the Securities and Exchange Commission	1 day	40
2.	Deposit the paid-in minimum capital at the bank	1 day	No charge
3.	Notarise articles of incorporation and treasurer's affidavit at the notary	1 day	500
4.	Register the company with the Securities and Exchange Commission and pre-registration for Taxpayer Identification Number, Security System, Philippine Health Insurance Company (PhilHealth), and Home Development Mutual Fund (Pag-ibig Fund).	2 days on average	*
5.	Obtain barangay clearance	1 day	500
6.	Pay the annual community tax and obtain the Community Tax Certificate from the City Treasurer's Office	1 day	500
7.	Obtain the business permit to operate from the Business Permit and Licensing Office	6 days	*
8.	Buy special books of account at bookstore	1 days	400
9.	Apply for Certificate of Registration and Taxpayer Identification Number at the Bureau of Internal Revenue	1 day	100 (certification fee) and 15 (documentary stamp tax, in loose form to be attached to Form 2303)
10.	Pay the registration fee and documentary stamp taxes at the Authorized Agent Bank	1 day	*
11.	Obtain the authority to print receipts and invoices from the Bureau of Internal Revenue	1 day	No charge
12.	Print receipts and invoices at the print shop	7 days	3,500

Table 8.5. The process of setting up a business in the Philippines

No.	Procedure	Time to complete (day)	Cost to complete (in PHP)
13.	Have books of accounts and Printer's Certificate of Delivery stamped by the Bureau of Internal Revenue	1 day	No charge
14.	Final Registration with the Social Security System	1 day	No charge
15.	Final registration with the PhilHealth	1 day	No charge
16.	Final registration with the Pag-ibig Fund	1 day (simultaneous with previous procedure)	No charge

Note: * For detail of the charges, see the official website of the World Bank at: <<http://www.doingbusiness.org/data/exploreeconomies/philippines>>.

Source: World Bank (n.d.a).

8.6. Infrastructures in the Philippines

Existing infrastructures in the Philippines are summarised in Table 8.6.

Table 8.6. Existing infrastructures in the Philippines

Infrastructure	Length / number / geographical scope / generation (of power) / network spectrums	Notes
Roads	32,633.37 km	Existing roads consists of: 7,066.74 km national primary, 14,118.49 km national secondary, and 11,448.14 km national tertiary.
Railways	995 km	The Philippines has three types of railway networks: Mass Rapid Transit System, Light Rail Transit System, and Philippine National Railways.
Airports	More than 250 airports	Of existing airports in the country, 89 have paved runways and 4 have runways longer than 3 km long. The three busiest airports in the country are Ninoy Aquino International Airport, Mactan-Cebu International Airport, and Francisco Bangoy International Airport.
Ports	438 ports	The main seaport in the Philippines is the Port of Manila, whilst the country's main cargo terminals include the Manila South Harbour, the Manila International Container, and the Manila North Harbour. The container ports in Manila can hold as much as 3.3 million TEUs.
Energy and power	82,413 GWh	Primary energy sources include: 5,886 GWh (7.14 percent) from oil, 8,665 GWh (10.5 percent) from hydropower, 11,044 GWh (11.4 percent) from geothermal, 36,685 GWh (44.5 percent) from coal, 1,254 GWh (1.5 percent) from various renewable energies, and 18,878 GWh (22.9 percent) from natural gas. The percentage of population with access to electricity was 87.5 percent in 2015.

Table 8.6. Existing infrastructures in the Philippines

Telecommunications	<p>The following are some of the telecommunication infrastructures available in the Philippines:</p> <p>(1) Fixed line services:</p> <ul style="list-style-type: none"> • National Fibre Optic Networks, including the Domestic Fibre Optic Network of the Philippines Long Distance Telephone Company (PLDT) and the Next Generation Networks; • International infrastructures, including the International Gateway Facility and the Submarine Cable Network (e.g. Asia-America Gateway Cable) <p>(2) Mobile services, including GSM 900 and 1800 (2G capability), UMTS 850, 900, and 2100 (3G capability), and LTE 850, 1800, and 2100 (4G capability)</p>	<p>Internet users (per 100 people) in the Philippines were 40.7 in 2015, whilst mobile cellular subscription (per 100 people) was 118 in the same year.¹³</p>
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Source: Various.

8.7. Other relevant information

Labour condition landscape and employment system

The relatively high economic growth experienced by the Philippines in recent years has been able to absorb the available labour force in the country. To date, about half of total employment in the Philippines are employed in the services sector, whilst agriculture absorbs only one-third of total employment. Although relatively successful in producing well-educated and skilled workers, the country faces a shortage in employment that can absorb these more educated and skilled workers. Aside from ending up in low-paid jobs, many of these workers opt to leave the country to seek better opportunities abroad. Despite this,

workers' competitiveness in the Philippines continues to improve, and has become one of the country's biggest assets.¹⁴

In terms of the employment system, the Labour Codes of the Philippines, issued by the country's Department of Labour and Employment, regulates labour protection, employers and workers relations, medical services, and other issues related to labour. Based on existing regulation, workers in the Philippines are entitled to work no more than eight hours a day and five days a week. Workers who work overtime are eligible for compensation. Table 8.7. summarises minimum wages across the Philippines.¹⁵

Foreign nationals wishing to seek employment in the Philippines will need to obtain an Alien

Employment Permit (AEP) issued by the Department of Labour and Employment. The application for the AEP can be made personally by the individual foreign national, or through his or her respective employer, with the Regional or Field Office of the Department of Labour and Employment that has jurisdiction over the place in which the said foreign national intends to work. The application process of the AEP usually takes about 24 hours if the application is made with the Regional Office, or five working days if application is filed at the Field Office. The Permit is valid for a one year period, or co-terminus with the duration of employment, consultancy services, or other modes of employment.¹⁶

Table 8.7. Minimum wages in the Philippines in 2016

Region	Non-agriculture (PHP)	Agriculture (PHP)	
		Plantation	Non-Plantation
National Capital Region (NCR)	454.00 – 491.00	454.00	454.00
Cordillera Administration Region (CAR)	265.00 – 285.00	255.00 – 285.00	255.00 – 285.00
Ilocos Region (Region I)	243.00 – 280.00	252.00	243.00
Cagayan Valley (Region II)	300.00	280.00	280.00
Central Luzon (Region III)	313.00 – 364.00	298.00 – 334.00	298.00 – 334.00
Calabarzon (Region IV-A)	285.00 - 378.50	275.00 - 353.50	275.00 - 333.50
Mimaropa (Region IV-B)	225.00 - 285.00	230.00 - 235.00	230.00 - 235.00
Bicol Region (Region V)	248.00 - 265.00	248.00	248.00
Western Visayas (Region VI)	256.50 - 298.50	266.50	256.50
Central Visayas (Region VII)	295.00 - 353.00	275.00 - 335.00	275.00 - 335.00
Eastern Visayas (Region VIII)	260.00	241.00	235.00
Zamboanga Peninsula (Region IX)	296.00	271.00	251.00
Northern Mindanao (Region X)	303.00 - 318.00	291.00 - 306.00	291.00 - 306.00
Davao Region (Region XI)	317.00	307.00	307.00
Socsksargen (Region XII)	295.00	272.00	272.00
Caraga (Region XIII)	280.00	280.00	280.00
Autonomous Region in Muslim Mindanao (ARMM)	265.00	255.00	255.00

Source: Department of Labour and Employment (2016).

Social security system

By virtue of the Republic Act No. 1161, the Social Security System of the Philippines is a state-run social insurance programme for workers in the private, professional, and informal sectors. Aside from the Social Security Programme, the System also provides Medicare Programme and the Employees' Compensation Programme. Benefits of this social security programme include coverage for sickness, maternity, disability, retirement, death, and funeral.¹⁷

Commercial dispute settlement¹⁷

The arbitration system in the country is regulated by the Civil Code of the Philippines, the Republic Act No. 9876 (otherwise known as the Arbitration Law), the Republic Act No. 9285 (otherwise known as the Alternative Dispute Resolution Act of 2004, or the Alternative Dispute Resolution Act of 2004), and the Supreme Court's A.M. No. 07-11-08-SC 01 September 2009, or the Special Rules of Court on Alternative Dispute Resolution.

Generally speaking, the Philippine government is active in promoting alternative modes of dispute resolutions, such as mediation and arbitration, as well as a government-initiated mandate to include arbitration clauses in government-related contracts. A large number of international commercial disputes are currently being resolved through the country's commercial arbitration. Between 2013 and 2014, for instance, the Philippine Dispute Resolution Centre Inc. handled 17 cases involving PHP 16.2 billion. As a result of the establishment of

the Philippine Construction Industry Arbitration Commission in 1985, arbitration has been very common in this particular sector.

8.8. Electronic links to relevant trade and investment portals and government agencies

- Philippine National Trade Repository: <http://pntr.gov.ph/index.html>
- Philippine National Single Window: <https://nsw.gov.ph>¹⁸
- Department of Agriculture: <http://www.da.gov.ph/>
- Department of Trade and Industry: <http://www.dti.gov.ph/>
- The Philippine Board of Investment (of the Department of Trade and Industry): <http://www.boi.gov.ph>
- Philippine Bureau of Customs: http://customs.gov.ph/boc_index.jsp
- Philippine Economic Zone Authority: <http://www.peza.gov.ph>

ENDNOTES

1. Kritz (2015).
2. Drawn from the Department of Trade and Industry and the Board of Investment (n.d.).
3. WTO (n.d.).
4. de Dios (2015: 116-119).
5. PWC (2015: 62).
6. For more detailed information concerning the negative lists of the Philippines, see the website of the official journal of the Republic of the Philippines at: <http://www.gov.ph/loads/2015/05may/20150529-EO-0184-BSA.pdf>.
7. Drawn from the Board of Investments Philippines (n.d.).
8. For more details on the Special Economic Zone, please see Philippines Economic Zone Authority (n.d.a) and (n.d.b).
9. DPT Law (n.d.).
10. Adapted from the Export Marketing Bureau of the Department of Trade and Industry of the Philippines (2015).
11. Tariff Commission of the Republic of the Philippines (n.d.).
12. For more details, please see the Department of Trade & Industry Philippines (2016a) and (2016b).
13. World Bank (n.d.b).
14. World Bank (2016: 9-11).
15. For further details concerning the Labour Codes of the Philippines, see the official website of the Department of Labour and Employment at: http://www.dole.gov.ph/labor_codes.
16. Further details on the AEP can be obtained from the official website of the Bureau of Local Employment of the Philippines at: <http://www.ble.dole.gov.ph/faqs.asp>.
17. For further details concerning the Social Security System of the Philippines, see its official website at: <https://www.sss.gov.ph/>.
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AEC business tip for Philippines

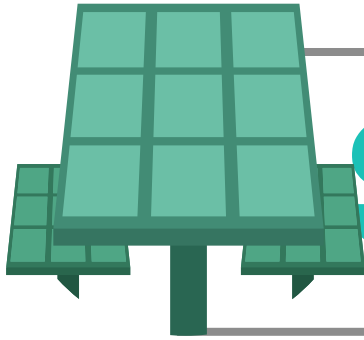
The Philippines is a growing economy with strong macroeconomic fundamentals. Its strategic location between two trade routes, the Pacific Ocean and the South China Sea, can serve as an ideal base for companies wishing to establish presence in ASEAN. Although corruption and bureaucracy can make the setting up of a business a tedious affair in the Philippines, the overall investment climate in the country remains attractive, particularly as the present government continues its efforts to deregulate and further open up the country's economy. Such reform efforts are deepened as the country continues to participate in the deepening of ASEAN's economic integration, particularly through the AEC.

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9. SINGAPORE

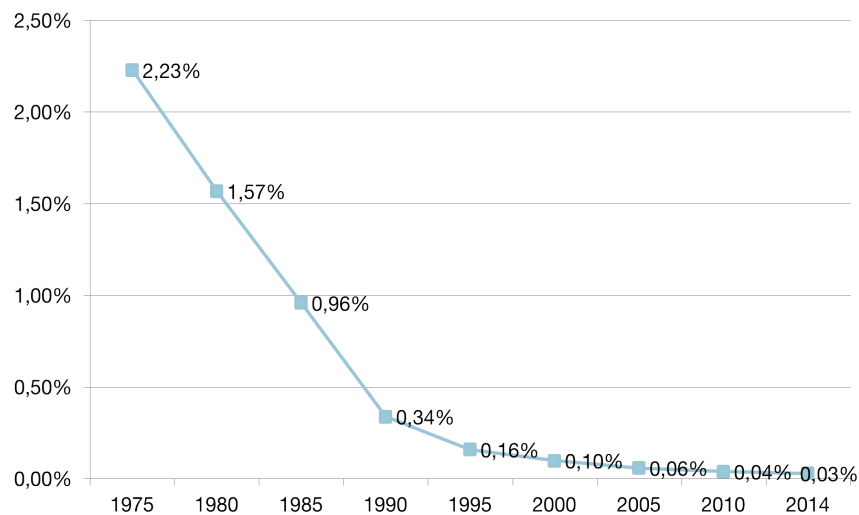


SINGAPORE

9.1. Brief country profile

One of the major commercial hubs in the world, Singapore has been regarded as the most open economy, second most competitive¹ and pro-business,² and eighth least corrupt in the world.³ A heavily trade-dependent economy, Singapore also possesses the largest financial centres and busiest ports in the world. The city-state's attractive investment climate also allows the Republic stable direct investment flows from the rest of the world. Despite its relatively small number of population, which numbered around 5.7 million as of December 2016, the standard of living in Singapore is high, with GDP per capita reaching USD 52,743.90 in 2015. The only Asian country with a stable AAA rating, Singapore stands as one of the wealthiest nations in the world.⁴ Given its strong reliance on global trade, which has been showing a downward trend amidst weak global demand in the past few years, Singapore's economic growth stayed at 1.8 percent in 2016, and is expected to stay the same in 2017.⁵ Despite

Figure 9.1. Share of agricultural sector in Singapore's GDP, 1975-2014



Source: The Global Economy (n.d.)

a gloomy economic outlook in the near future, Singapore remains an important economic governance actor in the region and beyond.

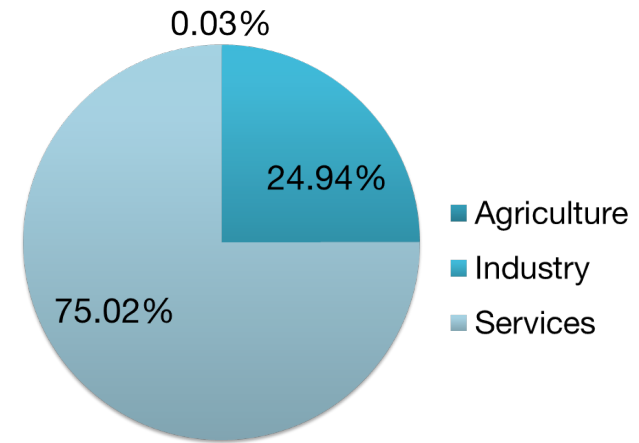
9.2. Agricultural sector in Singapore

Agriculture, including fishery, makes up a very small component of Singapore's economy, accounting for 0.03

percent of GDP, and 0.2 percent of the country's total workforce in 2014.⁶ During the same year, agriculture only accounted for 2.9 percent and 4 percent of Singapore's total exports and imports respectively.⁷ Relying mostly on food imports (90 percent of the city-state's food come from other countries), the food supply issue has been a persistent concern for Singapore. Despite having a small agricultural sector, Singapore contributes well to



Figure 9.2. Share of economic sectors in Singapore's GDP, 2014



Source: Statista (n.d.).



the region's food security by promoting high-tech, innovative, highly intensive, and productive farming methods. The city-state's vertical farms, for instance, is able to produce five times more vegetables than conventional farming systems.⁸ Singapore has also built six agro-technology parks in Sungei Tengah, Murai, Loyang, Mandai, Nee Soon, and Lim Chu Kang to improve its agricultural productivity and output. The Singaporean government also promotes an indoor farming system that uses LED lights to create a climate-controlled environment and reduce the use of pesticides in keeping pests out.⁹

9.3. Policy context

Agricultural policy

The Singaporean government established the Agri-Food and Veterinary Authority of Singapore (AVA) in 2000 to ensure food supply, to safeguard the health of animals and plants, and to facilitate agri-trade. The Agency carries out its mandate by pursuing several key policies, including: (1) the diversification of food to reduce reliance on any country; (2) the integration of accreditation, inspection, and testing systems to ensure food safety and protect the health of animals and plants; and (3) the maximisation of local food production through advanced farming system.¹⁰ In addition, AVA also launched the so-called Food Security Roadmap for Singapore in 2013 to further ensure food availability and affordability in the country.¹¹

Table 9.1. Food Security Roadmap for Singapore

Core strategies		Supporting strategies
Diversify sources of imports		Research and development
Invest abroad	Industry development	Food waste reduction
Strategies offsetting limitations in diversification		Strengthen infrastructure
Local production	Stockpiling	Financial instruments
		Welfare and affordability
Enabling strategies		
Cross-government coordination		
Emergency planning		
Communication		
Market monitoring		
Fiscal, legal, and regulatory framework		

Source: Agri-Food and Veterinary Authority of Singapore (2013).

Agricultural trade policy

Import tariffs¹²

Table 9.2. Applied and bound tariffs of Singapore, 2016

HS code	Product description	Applied rate (in SGD/litre of alcohol)	Bound rate (in SGD/litre of alcohol)
22.03	Beer made from malt		
2203.00.10	Stout or porter	16.00	4.80
2203.00.90	Other beer, including ale	16.00	3.60
22.08	Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80 percent volume.; spirits, liqueurs and other spirituous beverages		
2208.90.10	Medicated samsu of an alcoholic strength by volume not exceeding 40 percent volume	8.00	27.00
2208.90.20	Medicated samsu of an alcoholic strength by volume exceeding 40 percent volume	8.00	27.00
2208.90.30	Other samsu of an alcoholic strength by volume not exceeding 40 percent volume	8.00	27.00
2208.90.40	Other samsu of an alcoholic strength by volume exceeding 40 percent volume	8.00	27.00

Source: WTO (2016: 27).

Singapore does not apply any MFN rules of origin, and no certificate of origin is required for such imports (though preferential rules of origin requirements may be applicable for regional and bilateral trade agreements that Singapore is party to). As in the case with many ASEAN countries, Singapore uses the revised ASEAN Harmonised Tariff Nomenclature (AHTN) as the basis for classifying its traded goods, which is based on the 2012 version of the Harmonised Commodity Description and Coding System (HS). The country's applied tariff,

as of 2016, was zero percent, except for four product groups that consists of six tariff lines, including stout and porter, other beer made from malt, including ale, medicated samsu (traditional rice-wine), and other samsu. Tariffs on these four product groups are maintained for socio-cultural reasons.

NTMs/NTBs and other export/import restrictions

As of 2015, Singapore had 115 NTMs that affected 9,558 products, most of which were imposed based on the need to protect human health and the environment. Most NTMs were issued by the Agri-Food and Veterinary Authority (60 percent of total measures), the Health Sciences Authority (7.1 percent of total measures), and the National Environmental Agency (4.1 percent of total measures). Technical barriers to trade (TBT) dominated the country's NTMs, which accounted for 59.2 percent, and this was followed by SPS measures (24 percent) and export-related measures (9.5 percent).¹³ Specifically on the SPS, the authorities in Singapore ensure that these measures are consistent with the international standards, guidelines, and recommendations of the Codex Alimentarius, the World Organisation for Animal Health, and the International Plant Protection Convention. In the absence of such international standards, the government conducts its own risk-assessment, and makes risk-management decision that takes into account economic, technical, and other relevant considerations.¹⁴

Investment policy

The Singapore Economic Development Board, which is the lead government agency for

planning and executing strategies to enhance the city-state's position as a global business centre, puts its core vision as making Singapore a 'home for business, innovation, and talent'. The Agency intends to leverage Singapore's position in Asia and globally through business-friendly policies, innovation, and as a source of skilled talent.¹⁵ As an open economy, the Singaporean government actively promotes investment from both domestic and foreign investors. As it stands, the city-state only limits foreign investment in several sectors, including telecommunication, the financial sector, domestic news media, and broadcasting. In addition, the government also restricts the practice of Singapore law by foreign-qualified lawyers.

A number of laws regulate investment in Singapore. The establishment of a business (either as a company, foreign company, sole proprietorship, partnership, limited liability partnership, or limited partnership) is governed by the Business Names Registration Act of 2014, the Companies Act (Cap 50, 2006 Rev Ed), the Limited Liability Partnership Act (Cap 163A, 2006 Rev Ed), and the Limited Partnership Act (Cap 163B, 2010 Rev Ed). The registration of a business entity also requires an authorised representative (e.g. Singaporean citizens, permanent resident, or Employment Pass holder) in cases where the individual proprietor, all partners, or all officers of a foreign company do not reside in Singapore. In addition to the Singapore Economic Development Board, other relevant investment authorities include the Accounting and Corporate Regulatory Authority (ACRA), which is responsible for regulating business entities and public accountants, and the mission of Contact Singapore that devises strategies to attract

overseas Singaporeans and foreigners to invest and work in Singapore.¹⁶

Investment Incentives

The Singaporean government, through its Economic Development Board, offers a wide range of incentives for businesses able to generate high value activities in the country. Applicants for these incentives are required to meet rigorous requirements with respect to the scale and qualitative aspects of the investment activities to be carried out in the country. Available incentives for investors include the following:

- Research Incentives Scheme for Companies;
- Training Grants;
- Land Productivity Grant;
- Pioneer Incentive and Development and Expansion Incentive;
- Finance & Treasury Centre Tax Incentive;
- International Headquarters Award;
- Land Intensification Allowance;
- Integrated Investment Allowance;
- Mergers & Acquisitions Scheme;
- Aircraft Leasing Scheme.¹⁷

Land policy

With a total of 719.1 km², land is extremely scarce in Singapore. Accordingly, optimising the use of land resources is critical to sustaining the country's economic and social growth. Land-related issues are regulated under three key regulations, including the Residential Property Act (Cap 274, 2009 Rev Ed), Land Acquisition Act (Cap 152, 1985 Rev Ed), and Land Titles

(Strata) Act (Cap 158, S. 130, 2010 Rev Ed).¹⁸ A foreign national, according to the Residential Property Act (Cap 274, 1985 Rev Ed), is allowed to purchase landed residential property, though in order to do so requires the government's approval. The application to purchase landed residential property for a foreign national can be done electronically through the Singapore Land Authority (at: <https://www.sla.gov.sg/ldau/MainPage.aspx>).

Taxes

Table 9.3. Tax residency status, its implications, and tax rates in Singapore

Tax residency status and its implications		
Period of stay	Tax residency status	Tax implications
A minimum of 183 days within a year	Tax resident(in that year)	Progressive resident rate
A minimum of 183 days within a year for two years in a row	Tax resident for those two years	
Three years in a row	Tax resident for those three years	
Non-resident tax status		
Duration of stay	Tax residency status	Tax implications
61 – 182 days	Non-resident	<ul style="list-style-type: none"> Personal income tax is charged 15 percent or progressive resident rates; Director's remuneration and other income are charged 20 percent of prevailing rate.
Less than 60 days		Income for this category get tax exemption, except under following conditions: <ul style="list-style-type: none"> Company's director, public entertainer, or professional; If one is leaving Singapore incidentally or temporary.
Individual income tax		
Income (in SGD)	Progressive rates (in percent)	Gross tax payable (in SGD)
On the first 20,000	0	0
On the next 10,000	2	200
On the first 30,000	-	200
On the next 10,000	3.50	350
On the first 40,000	-	550
On the next 40,000	7	2,800
On the first 80,000	-	3,350
On the next 40,000	11.5	4,600
On the first 120,000	-	7,950
On the next 40,000	15	6,000
On the first 160,000	-	13,950
On the next 40,000	18	7,200
On the first 200,000	-	21,150
On the next 40,000	19	7,600

Table 9.3. Tax residency status, its implications, and tax rates in Singapore

Income (in SGD)	Progressive rates (in percent)	Gross tax payable (in SGD)
On the first 240,000	-	28,750
On the next 40,000	19.5	7,800
On the first 280,000	-	36,550
On the next 40,000	20	8,000
On the first 320,000	-	44,550
On the next 320,000	22	

Corporate taxes	
Type of taxes	Tax rates (in percent)
Corporate tax standard rate	17
Corporate income tax rebate	50 (and is capped at USD 20,000)
Withholding taxes	<ul style="list-style-type: none"> Interest, commission, and/or fee in connection with any loan or indebtedness (15); Royalty or other payments for the use or the right to use moveable property (10); Management fees and service rendered (depending on the prevailing corporate tax rate); Rent (15).
GST	7

Source: Various.

9.4. Export-import procedure¹⁹

General requirements

Business registration

Prior to exporting, a company must be registered with the Accounting and Corporate Regulatory Authority (ACRA), either in the form of sole-proprietorship, partnership, company, limited liability partnership, or limited partnership. Upon registration, the company will be issued a Unique Entity Number.

Table 9.4. Type of businesses in Singapore

Business Type	Definition	Ownership
Sole-Proprietorship	Business owned only by one person	One person
Partnership	Business of two or more persons	2 – 20 persons (generally)
Limited Partnership (LP)	Business partnership composed by two or more persons, and at minimum there is one general partner and one limited partner	At minimum 2 partners
Limited Liability Partnership (LLP)	Business partnership with a condition that individual partners' liability is limited	At minimum 2 partners
Company	Business which is separated and distinct from its shareholders and directors legally	<ul style="list-style-type: none"> 20 members or less (Exempt private company); 50 members or less (Private company); May have more than 50 members (Public company).

Source: ACRA (n.d.).

SPS and TBT requirements

- To ensure food safety, imported food products in Singapore are subject to inspection and laboratory testing. The Veterinary Public Health Laboratory serves as a laboratory testing for import and export products.²⁰
- Importers of plants, plant products, and other regulated materials should provide a Phytosanitary Certificate from the country of origin for these items.
- Exporters can apply for a Phytosanitary Certificate through the AVA e-Licensing website of the Agri-Food and Veterinary Authority (AVA) (<https://licence1.business.gov.sg/>). The AVA should receive the application 24 hours before the date of inspection.
- A special export health certification may also be required from the AVA for the exportation of meat, fish, and dairy products. Details concerning the process to obtain such an export health certificate are available from the official website of AVA (<http://www.ava.gov.sg/explore-by-sections/food/bringing-food-into-singapore-and-exporting/commercial-food-exports>).

Export procedure

Figure 9.3. Food and agriculture export procedure in Singapore



Source: Agri-Food and Veterinary Authority of Singapore (n.d.a.).

Prohibited and controlled goods to export

The list of prohibited and controlled goods to export from Singapore is highlighted in Table 9.5.

Table 9.5. List of prohibited and controlled goods to export from Singapore

Items	Competent Authority
Prohibited goods	
Rhinoceros horn, worked, unworked or prepared and waste and powder of this product	Agri-Food and Veterinary Authority of Singapore
Controlled goods for export	
Animals	Agri-food and Veterinary Authority of Singapore
Controlled goods for export	
Fish and fishery products (including fin fish, crustaceans and molluscs)	Agri-Food and Veterinary Authority of Singapore
Ginseng roots	Agri-Food and Veterinary Authority of Singapore
Meat and meat products	Agri-Food and Veterinary Authority of Singapore
Rice (excluding rice bran)	International Enterprise Singapore
Rubber	International Enterprise Singapore

Source: Singapore Customs (n.d.b.).

Customs Export Permit

After receiving the Unique Entity Number from ACRA or other relevant issuing agencies, the exporter is required to activate his or her Custom Account in order to transact with Singapore Customs. Subsequently, the exporter needs to apply for Customs Export permit for the export shipment, or appoint a declaring agent to apply for the permits on their behalf. All permit applications can be made electronically through Trade Net (<https://www.tradexchange.gov.sg/tradexchange/login.portal>), or from any one of approved solution providers.

Export documents

The exporter, or his/her declaring agent, is required to keep documents and records relating to the purchase, sale, or export for at least five years from the date of the customs permit approval. These documents include invoices, books of accounts, bills of lading, packing lists, certificates of origin, certificates of analysis, certificates of insurance, and any other relevant documents.

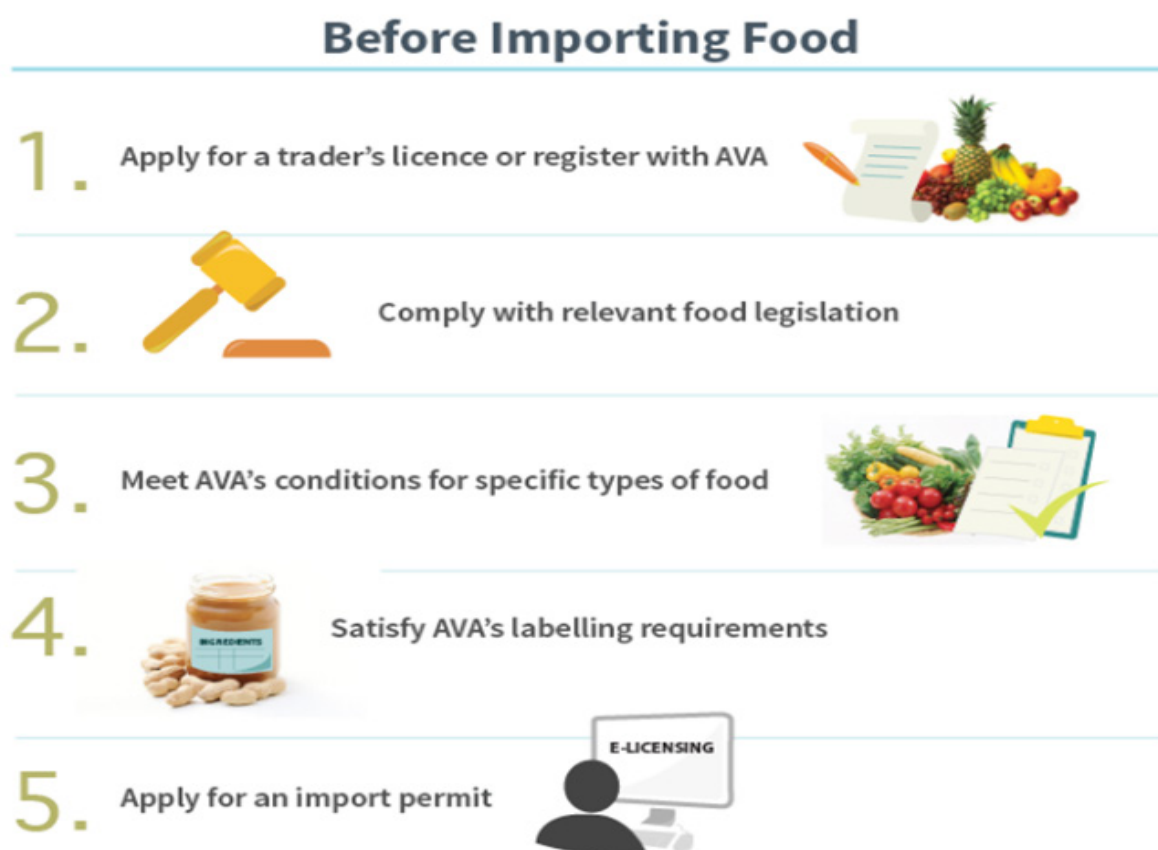
Customs clearance

The exporter is required to produce the cargo with the approved Customs export permits and other supporting documents, especially if the cargo is dutiable or subject to control. The exporter is also required to have the permit number at the point of cargo lodgement for verification purposes.

Return of permit

For goods exported by air or sea, the exporter is required to submit the export permits to the shipping or airline agents within seven days of export as they need to submit the manifest reconciliation statement to the Singapore Customs within 14 days of export.

Figure 9.3. Food and agriculture import procedure in Singapore



Source: Agri-Food and Veterinary Authority of Singapore (n.d.b.).

Prohibited or restricted goods to import

The list of prohibited and restricted goods to be imported into Singapore is highlighted in Table 9.6.

Table 9.6. List of prohibited or restricted goods to import into Singapore

Items	Description
Meat and Meat Products	Overseas food establishments for meat and meat products that contain more than 5 percent meat content required accreditation from AVA. For products that contain less than 5 percent meat content, AVA does not need to give accreditation for the overseas food establishment, though it should be regulated by the relevant authority in the exporting country. For all beef products, accreditation is required regardless of the percentage content.
Processed Eggs	AVA only allows import of processed eggs from 37 countries including: USA, Netherlands, UK, Japan, and Germany. For a full list of countries see Agri-Food and Veterinary Authority of Singapore (2016).
Fresh Table Eggs	AVA only allows import of fresh eggs from the following countries: Australia, Japan, South Korea, Malaysia (west), New Zealand, Sweden, and USA.
Live Poultry	Competent authorities and broiler farms wish to export live poultry shall seek approval from AVA.
Processed Food and Food Appliances (applicable to Malaysian establishment only)	Malaysian establishments shall seek approval from the Malaysian Ministry of Health when they intend to export the following products: infant formula, infant cereal, traditional cakes/kueh, cooked rice products, mooncakes, and dried beancurd sticks, skins and sheets.

Items	Description
Fish and Fish Products	Fish and fish products are restricted if the items are classified as high risk products and fish species listed under the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

Source: Singapore Customs (n.d.c.) and Agri-Food and Veterinary Authority of Singapore (n.d.a).

Customs Account activation

After receiving a Unique Entity Number from the ACRA or other relevant issuing agencies, the importer must activate its Customs account to be able to transact with Singaporean Customs authority. The activation of Customs Account can be done electronically at the official website of Singapore Customs (https://www.tradenet.gov.sg/TN41EFORM/tds/sp/splogin.do?action=init_acct).

Inter-Bank GIRO account registration

Following Customs Account activation as above, the importer is required to open and register for an Inter-Bank GIRO account with Singapore Customs. This account will be used for the purpose of payment of duties, GST, and other relevant fees. The registration form, which can be found in the official website of the Singapore Customs (at: <https://www.customs.gov.sg/businesses/importing-goods/>

quick-guide-for-importers), must be completed and be sent to the following address:

Head, Procedures, and Systems
Singapore Customs, 55 Newton
Road No. 07-02,
Revenue House, Singapore 307987

Once the account is approved, the importer may e-file to authorise a declaring agent to deduct any relevant payments from the importer's Inter-Bank GIRO account.

For transactions involving dutiable goods or temporary imported goods for approved purposes, the importer must furnish security in the form of a bank or finance company guarantee, or an insurance bond.

Customs Import Permit

To apply for a Customs Import Permit, an importer is required to register as a declaring agent and apply for a TradeNet user ID, which can be done electronically through the official website of the Singapore Customs (at: [https://www.](https://www.tradenet.gov.sg/TN41EFORM/tds/sp/splogin.do?action=init_acct)

[tradenet.gov.sg/TN41EFORM/tds/sp/splogin.do?action=init_acct](https://www.tradenet.gov.sg/TN41EFORM/tds/sp/splogin.do?action=init_acct)). Subsequently, all applications must be submitted electronically through the Government Front-End module, which is also available on the official website of Singapore Customs (at: <https://www.tradexchange.gov.sg/tradexchange/login.portal>), or TradeNet front-end software from an approved software vendor. The typical cost to obtain Customs Import Permit is SGD 2.88.²¹

Customs clearance

For import of containerised cargo by air or land, the importer is required to present a printed copy of the Customs Import Permit and other supporting documents to the checkpoint officers at the entry point. This is not, however, required if the import is carried out through the sea. It is generally advised that the importer keep all relevant documents relating to the purchase, import, sale, and so on for a period of five years from the date of the Customs Import Permit approval.

9.5. Setting up business in Singapore

Table 9.7. summarises the process of setting up a business, including the length of time and cost required, in Singapore.

No.	Procedure	Time to complete (day)	Cost to complete (in SGD)
1.	Online registration via BizFile* for company name, tax number (GST), and filling the company incorporation	Less than one day (online procedure)	315
2.	Make a company seal	1	70
3.	Sign up for Employee Compensation Insurance at an insurance agency	1	No charge

Note: *ACRA's electronic filing and information retrieval system.
Source: World Bank (n.d.).

9.6. Infrastructures in Singapore

Existing infrastructures in Singapore are summarised in Table 9.8.

Table 9.8. Existing infrastructures in Singapore

Infrastructure	Length / number / geographical scope / generation (of power) / network spectrums	Notes
Roads	3,496 km	Existing roads consists of: 150 km expressways, 698 km arterial roads, 578 km collector roads, and 2,055 km local roads. As of 2014, there was a total of 972,037 motor vehicles in Singapore, consisting of 536,882 private cars, 28,736 taxis, 17,554 buses, 82,141 other cars, 145,026 motorcycles, and 161,698 goods and other vehicles. Furthermore, there were 300,400 people entering the city of which 64.1 percent of them used expressways whilst 28.1 percent of them travelled through arterial roads.
Railways	154.2 km Mass Rapid Transportation and 28.8 km Light Rapid Transportation	Currently, there are 106 Mass Rapid Transportation stations and 38 Light Rapid Transportation stations.
Airports	2 public airports, including Changi International Airport (4,000m runway) and Seletar Airport (1,836m runway)	Changi International Airport is the main airport in Singapore, and is one of the busiest airports in the world. There are about 6,800 flights that land or depart from Changi, and more than 55.4 million passengers pass through the airport each year. It has flights to about 80 countries and 330 cities with more than 100 airlines.
Ports	15 seaports	The Port of Singapore is the main seaport in Singapore and is one of the busiest seaports in the world. As of December 2016, it handled 27.85 million twenty foot equivalent units. It also transhipped about 20 percent of the world's shipping containers.
Energy and power	47,513 GWh	Primary energy sources include: 45,374.9 GWh (95.5 percent) from petroleum products and 237.6 GWh (0.5 percent) from coal, natural gas, and other energy sources. In 2015, the electrification rate of Singapore was 100 percent.
Telecommunications	<p>Singapore has the following network spectrum allocations:</p> <ol style="list-style-type: none"> (1) Public Mobile Services: <ul style="list-style-type: none"> • GSM (900 MHz and 1800 MHz); • 3G services (1900 MHz and 2100 MHz); (2) Private Land Mobile Services: <ul style="list-style-type: none"> • VHF (137 to 174 MHz); • UHF (400 to 450 MHz); (3) Terrestrial Fixed Services: <ul style="list-style-type: none"> • Fixed service radio system (1 to 60 GHz); 	Singapore has the world fastest internet connection average speeds. As of 2015, its internet penetration rate was 82.1 percent, whilst its mobile penetration rate was 149.1 percent as of April 2016.

Table 9.8. Existing infrastructures in Singapore

Infrastructure	Length / number / geographical scope / generation (of power) / network spectrums	Notes
	(4) Broadcasting Services: <ul style="list-style-type: none"> • FM in the band 88 to 108 MHz; • TV and DAB in the band 174 to 230 MHz; • TV and DVB in the band 494 to 790 MHz; • Direct broadcasting sat in the band 11700 to 12200. 	

Source: Various.

9.7. Other relevant information

Labour condition landscape and employment system

Home to five internationally renowned public universities and many more international campus branches, Singapore is one of the world leaders in education, especially higher education. At above 80 percent, the country’s gross enrolment rate in tertiary education ranks highest amongst ASEAN countries.²² This translates into a very high-skilled labour force, where 40 percent of the country’s labour force have at least enrolled in post-secondary institutions. Although only slightly more than one percent of its labour force are employed in the agriculture sector, Singapore remains one of the main centres in the region for research and development in agriculture.

With a total of 1.4 million foreign workers, Singapore’s employment system is very open to foreign nationals. The Employment of Foreign Manpower Act²⁴ regulates the employment of foreign employees and protects their well-being. It also specifies different valid passes issued by the country’s Ministry of Manpower that all foreign workers must acquire to be able to work in Singapore. There are three types of professional employment passes, and five types for those of skilled and semi-skilled foreign workers (refer to Table 9.9.).

Table 9.9. Type of employment passes for foreign nationals in Singapore

Pass type	Who is it for?
Professional	
Employment pass	For foreign professionals, managers, and executives earning at least SGD 3,300 per month, and have acceptable qualifications.
Entre-Pass	For eligible foreign entrepreneurs wishing to start and operate a new business in Singapore.
Personalised Employment Pass	For high-earning existing employment Pass holders or overseas foreign professionals. This Pass offers greater flexibility than an Employment Pass.
Skilled and Semi-Skilled	
S-Pass	For mid-level skilled staff who is earning at least SGD 2,200 per month and meets the assessment criteria.
Work Permit for Foreign Worker	For semi-skilled foreign workers in the construction, manufacturing, marine, process, or services sector.
Work Permit for Foreign Domestic Worker	For foreign domestic workers to work in Singapore.
Work Permit for Confinement Nanny	For Malaysian confinement nannies to work in Singapore for up to 16 weeks starting from the birth of the employer’s child.

Table 9.9. Type of employment passes for foreign nationals in Singapore

Pass type	Who is it for?
Skilled and Semi-Skilled	
Work Permit for Performing Artist	For foreign performers working in public entertainment outlets, such as bars, hotels, and nightclubs.
Trainees and students	
Training Employment Pass	For foreign professionals undergoing practical training and is earning at least SGD 3,000 per month.
Work Holiday Programme	For students and graduates aged 18 to 25 who wish to work and holiday in Singapore for up to six months.
Training Work Permit	For semi-skilled foreign trainees or students undergoing practical training in Singapore for up to six months.

Source: Ministry of Manpower of Singapore (n.d.a.).

With regard to general employment, the Employment Act is Singapore's main labour law. It provides basic terms and conditions for all types of employment. The official website of the Ministry of Manpower of Singapore (at: <http://www.mom.gov.sg/employment-practices>) provides easy-to-digest information on details concerning employment practices in Singapore. In terms of minimum wage, the Singaporean government does not prescribe minimum wages for all workers in the country, and this applies to both local and foreign workers. The increase and decrease of wages in the city-state are determined by the market demand and the supply for labour, skills, capabilities, and competency to perform the task.²⁴

Social security system²⁵

The Central Provident Fund (CPF) is the main national social security system in Singapore. The Fund consists of: (1) the Medisave Account, which covers healthcare, sickness and maternity; (2) the Ordinary Account, which allows the beneficiary to withdraw some amount of money under specific conditions; (3) the Special Account, which allows those in possession of more

than SGD 40,000 to invest their surpluses into ventures approved by the government; and (4) the Retirement Account. The contribution of employees to this social security scheme varies. Those earning less than SGD 500 per month are not obliged to make any contributions, but those earning between SGD 500 and SGD 1,500 per month are required to pay a flat amount, whilst those with income above the aforementioned classifications are required to pay different percentage of income. Unfortunately, foreign workers are not eligible to be enrolled under the CPF scheme, and are advised to prepare individual insurance schemes before commencing their employment in Singapore.²⁵

Commercial dispute settlement²⁶

Following the examples of the United Kingdom and Hong Kong, SAR, Singapore has in recent years established itself as an internationally recognised alternative dispute resolution centre. Mediation is currently the employed method of resolving commercial disputes in the city-state, particularly since the Singaporean government is actively promoting its

development. Foreign companies wishing to seek commercial litigation may also appeal to the Singapore International Commercial Court, which is considered as one of the most prestigious courts in the world when it comes to the resolution of business-related issues.²⁷

9.8. Electronic links to relevant trade and investment portals and government agencies

- Singapore's National Trade Repository (also known as the International Enterprise Singapore): <http://www.iesingapore.gov.sg/Trade-From-Singapore/International-Agreements/free-trade-agreements>
- Singapore's National Single Window (also known as the TradeNet): <https://www.tradenet.gov.sg/>
- Agri-food and Veterinary Authority: <http://www.ava.gov.sg/>
- Ministry of Trade and Industry of Singapore: <https://www.mti.gov.sg/Pages/home.aspx>
- Singapore Economic

AEC business tip for Singapore

As one of the major commercial hubs in the world, Singapore is undoubtedly a business-friendly country. It offers numerous convenient facilities for ASEAN and non-ASEAN companies, such as well-developed infrastructure, supportive business environment, and skilled and educated labour forces. Unfortunately, with only 5.7 million inhabitants, Singapore has a limited consumer market. Despite this, many multinational companies establish their bases in Singapore as a way to access the wider ASEAN markets. The arrival of the AEC makes it even easier for Singaporean-based businesses to tap the economic potential of the entire region.

Development Board: <https://www.edb.gov.sg/content/edb/en.html>

- Singapore Customs: <https://www.customs.gov.sg/>

ENDNOTES

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20. For more detailed information concerning food importing procedure, visit the official website of the Agri-Food and Veterinary Authority of Singapore at: <http://www.ava.gov.sg/explore-by-sections/food/bringing-food-into-singapore-and-exporting/commercial-food-imports>.
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22. ASEAN Secretariat (2013).
23. The Act was last amended in

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25. *Internations* (n.d.).
26. For further details concerning the CPF scheme, visit the official website of the Fund at: <https://www.cpf.gov.sg/Members>.
27. Adapted from the Attorneys in Singapore (n.d.).
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FURTHER READINGS AND INFORMATION

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10. THAILAND

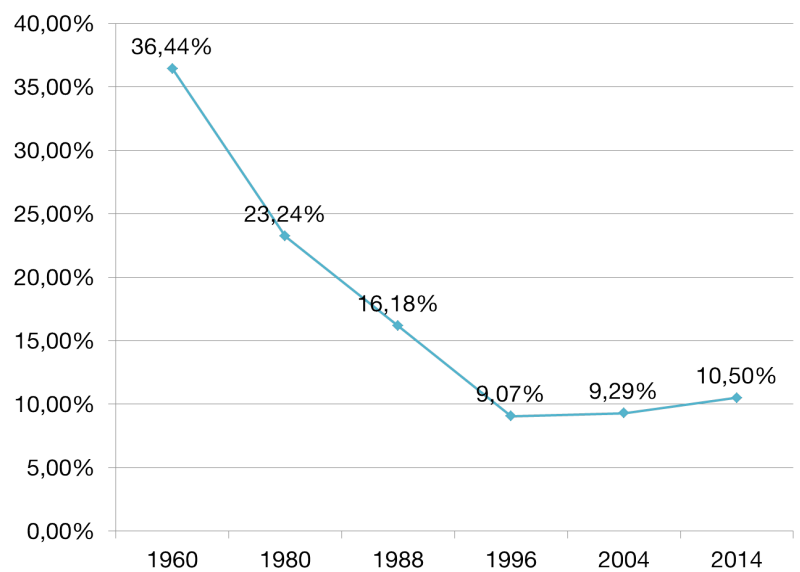


THAILAND

10.1. Brief country profile

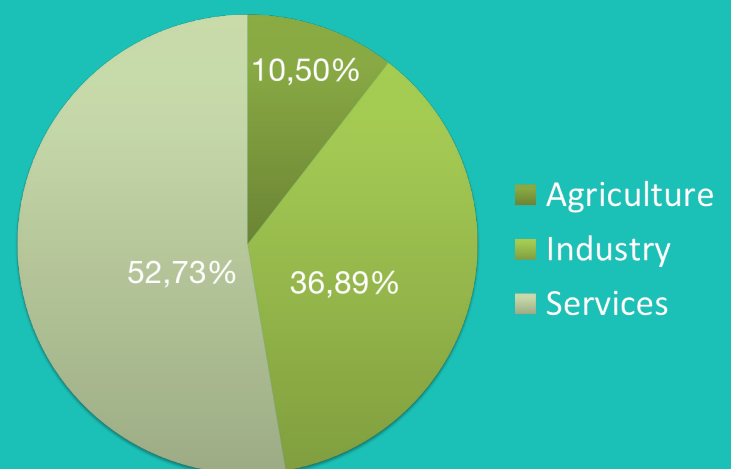
One of great development success stories in Asia, Thailand became an upper-middle income economy in 2011 and managed to increase its GDP per capita from USD 4,213.80 in 2009 to USD 5,736.90 in 2015. The country has made remarkable progress in its social and economic development despite having had 19 military coups since it became a constitutional monarchy in 1932. Thailand has been heralded for its impressive achievements in multiple dimensions of welfare.¹ Poverty, for instance, fell substantially from 67 percent in the mid-1980s to 10.5 percent in 2014. More children are reportedly obtaining more years of education, whilst nearly everyone in the Kingdom is covered by health insurance and other forms of social security. After growing at an annual average of 7.5 percent between 1986 and 1996, the country's economy managed to grow at 5 percent post-Asian financial crisis in the late 1990s. Although still trying to regain its growth momentum after the military coup in 2014, as well as the recent passing of its revered monarch, the late King Bhumibol Adulyadej, Thailand's economy is estimated to grow at 3.5 percent in 2017. In 2015, the military government of Thailand issued various economic stimulus

Figure 10.1. Share of agricultural sector in Thailand's GDP, 1960 - 2014



Source: The Global Economy (n.d.)

Figure 10.2. Share of economic sectors in Thailand's GDP, 2014



Source: Statista (n.d.).



packages worth more than THB 645.4 billion (or USD 18 billion) to counter weak local consumption and exports.² Despite economic hurdles, Thailand remains a business-friendly country, which has a relatively adequate infrastructure and promising investment policies.

10.2. Agricultural sector in Thailand

As in the case with many ASEAN countries, agriculture is the backbone of the Thai economy with the country's development previously based on the sector. Whilst relying heavily on agriculture from the 1960s until the 1980s, the contribution of the sector to the country's GDP continued to decrease significantly over the years, and dropped to 8 percent in 1993. Since then, the share

of the sector in the country's GDP has increased slightly, and reached 10.5 percent in 2015.³ Although employing around 32 percent of the country's total workforce, and despite agricultural productivity rising over the past decade, the contribution of agriculture to the GDP has been surpassed by the services and industrial sectors. That being said, the value added growth of the sector has grown at around 1.4 percent over the past ten years.

10.3. Policy context

Agricultural policy

Reducing the costs of agricultural production has been a major concern of the present government of Thailand. In order to do

so, the country's Ministry of Agriculture and Cooperatives has issued six key agricultural policies, including:⁴

- Farmer supports to make sure that they earn adequate income from a variety of sources;
- The revision of agricultural production organisations so as to enable the sector to meet the needs of the market;
- The management of the country's water resources in an integrated and unified manner to meet all needs;
- The increased role of agricultural cooperatives from producing agricultural goods to also be effective market channels of those products;
- Prevention and punishment of corruption and other inappropriate behaviour by civil servants; and

- Reforming the work of state agencies to be more transparent and open to inspection.

Agricultural trade policy

Import tariffs

One of Thailand's main trade policy instruments is tariff. The average applied MFN tariff for non-agricultural products is 10.1 percent, lower than the tariff for agricultural products which stands at 34.7 percent. A high tariff is applied to some strategic food and agricultural sectors, such as beverages, tobacco, coffee, tea, and dairy.

NTMs/NTBs and other export/import restrictions

In 2015, Thailand had a total of 1,630 coded NTMs, affecting 9,558 products, and accounting for 98.9 percent of the total products in the country. SPS contributed 48.34 percent, or 788, of all coded NTMs, followed by technical barriers to trade (34.48 percent or 562 NTMs) and export-related measures (7.85 percent or 128 NTMs). At the time, the Ministry of Public Health was the government agency that imposed the highest number of NTMs. It contributed 42.6 percent of total NTMs, of which 35.1 percent comes from the Ministry's Food and Drug Administration. The second most active government agency in issuing NTMs was the Ministry of Agriculture and Cooperatives, which imposed 29.1 percent of the total NTMs in the country. The Ministry's Department of Agriculture was responsible for about 25.7 percent of the Ministry's total NTMs. Other agencies often involved in the issuance of NTMs were the Ministry of Industry (14.5 percent) and the Ministry of Commerce (9 percent). Agricultural products such as animal products, vegetables products, and foodstuff were mostly affected by three or more NTMs.⁵

Investment policy

Foreign investment in Thailand is regulated by several key regulations, including: (1) the Investment Promotion Act of Thailand Buddhist Era (B.E.) 2520 (1977) that regulates domestic and foreign investment to boost social development in Thailand; and (2) the Foreign Business Act of 1999 that regulates foreign nationals or entities wishing to conduct business in the country.

With regard to the country's existing investment policy, the Board of Investment has recently issued its '7-Years Investment Promotion Strategy (2015-2021)', which aims to increase investment in Thailand. This broad policy framework focuses on six key areas of investments, including: (1) investment promotion to enhance national competitiveness; (2) the promotion of activities that are environmentally friendly; (3) the promotion of clusters; (4) the promotion of investment in border provinces found in the country's Southern region; (5) the promotion of special economic zones; and (6) the promotion of Thai investment abroad.⁶

Agriculture and agricultural products are some sectoral areas in which the country's Board of Investment actively promotes. The Board also offers a number of activities-based incentives, including knowledge-based activities that focuses on research and development and design (A1), infrastructure-related activities, especially those using advanced technology to create value added (A2), high technology activities (A3), activities with lower technology than A1-A3, but add value to domestic resources and strengthen supply chain (A4), and supporting industries that do not use high technology, but are still important to value chain (B1-B2). The overall investment incentives offered by Thailand is presented in Table 10.1.⁷

Special Economic Zones

In addition to the above-mentioned incentives, the Thai government has also developed Special Economic Zones (SEZs) to facilitate the country to become a centre for agricultural production, investment, business, and tourism. Ten such zones

Investment Incentives

Table 10.1. Thailand's activity-based investment incentives

	Exemption of Corporate Income Tax	Exemption of Import Duty on Machinery	Exemption of import duty on raw material imported for use in production for export	Non-tax
A1	8 years (No Cap) + Merit	√	√	√
A2	8 Years + Merit	√	√	√
A3	5 Years + Merit	√	√	√
A4	3 Years + Merit	√	√	√
B1	0 Year + Merit (for some activities)		√	√
B2	-	-	-	√

Source: Pattanapanchai (2016).

have been established in provinces such as Tak, Sa Kaeo, Trat, Mukdahan, Songkhlah, Chiang Rai, NongKhai, Nakorn, Phanom, Kanchanaburi, and Narathiwat. Each of these SEZs has different target industries determined by the National Policy Committee. SEZs dedicated for agriculture, fishery, and related industries are located in Tak, Sa Kaeo, Trat, Mukdahan, and Songkhlah.⁸ Agriculture-related activities promoted in the selected SEZs are summarised in Table 10.2.

Table 10.2. Agriculture and agricultural products promoted in Thailand's SEZs

<ul style="list-style-type: none"> Livestock and aquatic animal propagation 	<ul style="list-style-type: none"> Manufacture of natural extracts or products from natural extracts (except for medicine, soap, shampoo, toothpaste, and cosmetics)
<ul style="list-style-type: none"> Livestock husbandry or aquaculture (except for shrimp) 	<ul style="list-style-type: none"> Manufacture of primary processed rubber
<ul style="list-style-type: none"> Slaughtering 	<ul style="list-style-type: none"> Manufacture or preservation of food, beverages, food additives or food ingredients using modern technology (except for alcoholic beverages)
<ul style="list-style-type: none"> Grading, packaging, and storage of plants, vegetables, fruits, or flowers 	<ul style="list-style-type: none"> Cold storage, or cold storage and cold storage transportation
<ul style="list-style-type: none"> Manufacture or modified starch or starch made from plants that have special properties 	<ul style="list-style-type: none"> Trading centres for agricultural goods
<ul style="list-style-type: none"> Manufacture of oil or fat from plants or animals (except for soybean oil) 	

Source: Board of Investment (2015: 31-32).

Investment promotion in the SEZs is regulated by the Board of Investment Announcement No. 4/2557, dated 18th December 2014. Thailand's Board of Investment offers incentives to two types of projects, including those listed in the list of eligible activities, and those listed by the National Policy Committee on SEZs.⁹

Land Policy

In accordance with the Land Code Act B.E. 2497 (1954), land ownership by foreign nationals or foreign companies are prohibited. According to the Section 97, foreign companies that are not able to own land are defined as follows:

- a limited (or public limited) company which has more than 49 percent of its registered capital held by non-Thai nationals and/ or a Private Limited Company which has more than 50 percent non-Thai shareholders (bearer shares in limited companies being deemed to be held by non-Thai shareholders for the purpose of evaluating ownership under the Land Code);
- a limited partnership or registered ordinary partnership where more than 49 percent of the total capital was contributed by non-Thai shareholders, or where more than half of the partners are non-Thai nationals;
- associations (including cooperatives) in which more than half the members are non-Thai nationals or where the association operates primarily in the interests of non-Thai nationals; and
- foundations whose objectives are substantially in the interest of non-Thai nationals.

However, foreign companies are able to lease land, and construct and own buildings.¹⁰ Foreigners can lease land for up to 30 years with an option to extend the lease for another 30 years.

Taxes

Various taxes in Thailand are summarised in Table 10.3.

Table 10.3. Tax rates in Thailand

Individual income tax	
Income (in THB)	Progressive rates (in percent)
Up to 150,000	0
150,001-300,000	5

Table 10.3. Tax rates in Thailand

Individual income tax	
Income (in THB)	Progressive rates (in percent)
300,001-500,000	10
500,001-750,000	15
750,001-1,000,000	20
1,000,001-2,000,000	25
2,000,001-4,000,000	30
Over 4,000,000	35
Corporate taxes	
Type of taxes	Tax rates (in percent)
Small companies	15 (for companies with net profit of minimum THB 300,000, but not exceeding THB 3 million) and 20 (for companies with net profit of more than THB 3 million)
Companies listed on the Stock Exchange of Thailand	20
Companies <i>newly</i> listed on the Stock Exchange of Thailand	20
Companies newly listed in Market for Alternative Investment	20
Withholding tax for domestic payment	1-10
Withholding tax for foreign payment	10-15
Value added tax	10, although the current reduced rate is 7
Other taxes	Specific business taxes (e.g. commercial banking, life insurance, etc.), stamp duty (depending on the document, it can be between THB 1 to THB 1,000), petroleum income tax, etc.

Source: The Revenue Department (n.d.) and PWC (2015).

10.4. Export-import procedure

General requirements

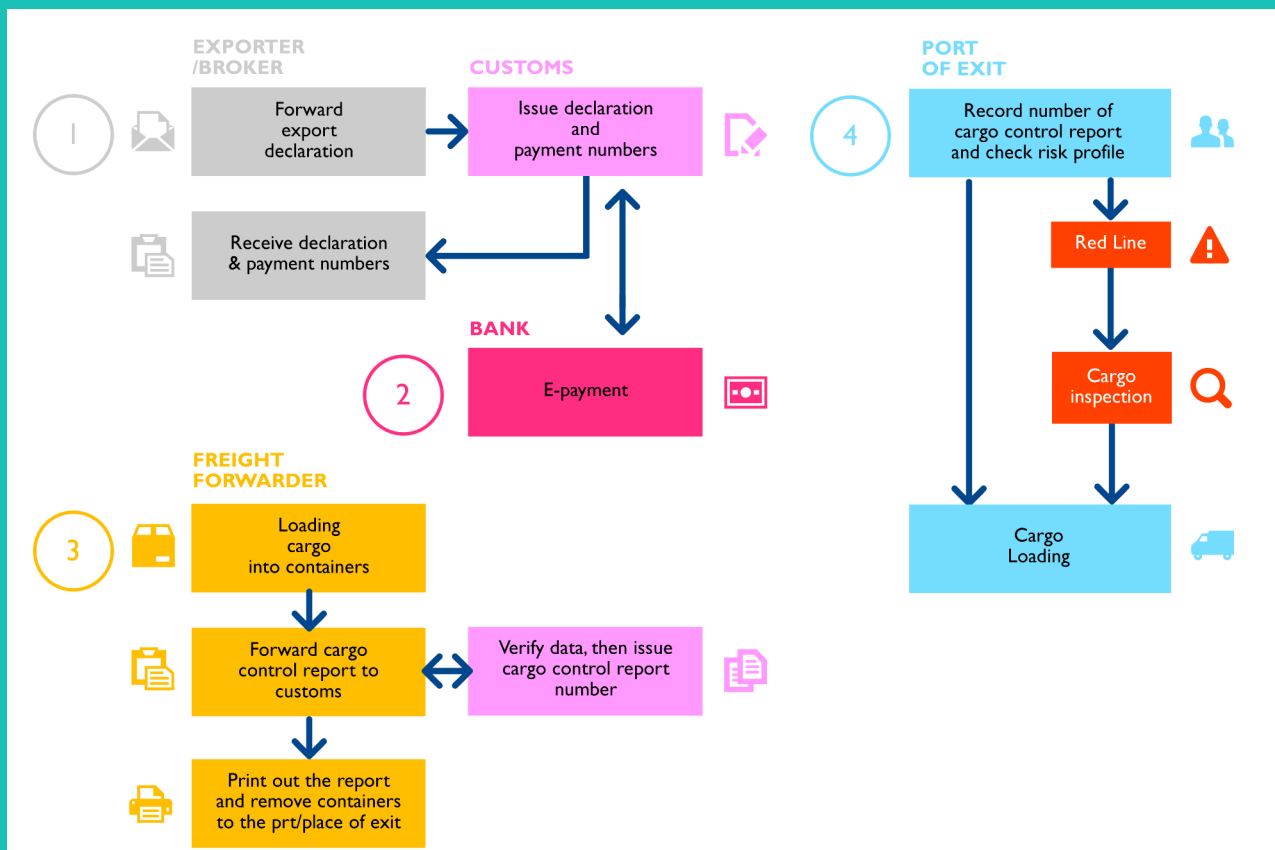
Business registration

A company wishing to carry out export activity must be registered as a Private Limited Company or Public Limited Company with the Ministry of Commerce. Afterwards, it must obtain a tax ID and number from the Revenue Department within 60 days after the business goes into operation in Thailand.

SPS and TBT requirements¹¹

- Matters concerning SPS in Thailand are handled by The following government agencies: (1) the Department of Agriculture; (2) the Department of Livestock Development; and (3) the Department of Fisheries.
- The Food and Drug Administration, under the Ministry of Public Health, is responsible for ensuring the food safety of imported food products.
- The import of plant products requires Phytosanitary Certificates from the country of origin, which has to be presented to the Department of Agriculture.
- In order to ensure food safety, up to ten percent of food products imported into the country are subjected to testing, whilst the remaining 90 percent can be released without any testing. It is important to note, however, that the sampling rate may differ from one product to another. Inspection on shrimp

Figure 10.3. Export procedure in Thailand



Source: Thai Customs (2016b).

import, for example, may cover 100 percent of products imported. The food safety check is normally carried out by a food safety inspector at the Customs.

Prohibited goods to export or import

The import of wild fauna, flora, fish and other aquatic fauna that requires permission from the National Park, Wildlife and Plant Conservation Department, the Department of Agriculture, or the Department of Fishery as the case may be.¹²

Export procedure¹³

Export licences

The Agricultural Standard Act B.E. 2551 (2008) stipulates that no person

shall be an exporter of agricultural commodity, unless the said person is licensed by the National Bureau of Agricultural Commodity and Food Standards. In order to obtain the appropriate licence from this Bureau, the exporting individual should not be younger than 20 years of age, not be a bankrupt, incompetent or quasi-incompetent person, as well as not being a person whose licence has been suspended, revoked, or otherwise for less than two years.¹⁴

Export declaration and clearance

The export procedure begins when the exporter submits an Export Declaration in ebXML to the e-Customs system.

- Verification of declaration where export declaration data

is validated, which is followed by the issuance of Good Declaration and the e-Payment system to the exporter.

Payment of duties and taxes

There are currently three means of payments for export duties and taxes, including payment at the Customs Department, payment via e-payment system, or payment at banks.

Customs clearance

This is the final stage of the exporting procedure where a freight forwarder loads cargo into containers and electronically sends a cargo control report to the e-Customs system. In the absence of error, a cargo control report number is automatically generated by the system, and a response

message is sent to the freight forwarder and the exporter or broker. Subsequently, Customs officers will check whether the declaration is a 'Red Line' (the cargo is removed for physical inspection) or a 'Green Line' (declaration is cleared within minutes).

Import procedure¹⁵

Import licences

The Agricultural Standards Act B.E. 2551 (2008) stipulates that no person shall be an importer of an agricultural commodity unless the said person is licensed by the National Bureau of Agricultural Commodity and Food Standards to be an importer for such agricultural commodity. In order to get the license, the importing individual shall not be less than 20 years of age, not be bankrupt, not be incompetent or

a quasi-incompetent person, not be a person whose license is being suspended, and not be a person whose license has been revoked or otherwise for less than two years.¹⁶ Due to import controls, some products may be required to be accompanied with an import licence from the Department of Foreign Trade of the Ministry of Commerce.

Customs declaration

The importer is required to complete an Import Declaration and submit the document through the e-Customs system. Either prior or upon the arrival of the cargo, the shipping agent is required to electronically transmit a ship or aircraft arrival report to the e-Customs system. Other documents that need to be prepared and submitted to Customs are bill of lading or airway bill, invoice, packing list, import licence (if applicable), certificates of origin

(if applicable), and other relevant documents, such as catalogue, product ingredients, and so on.

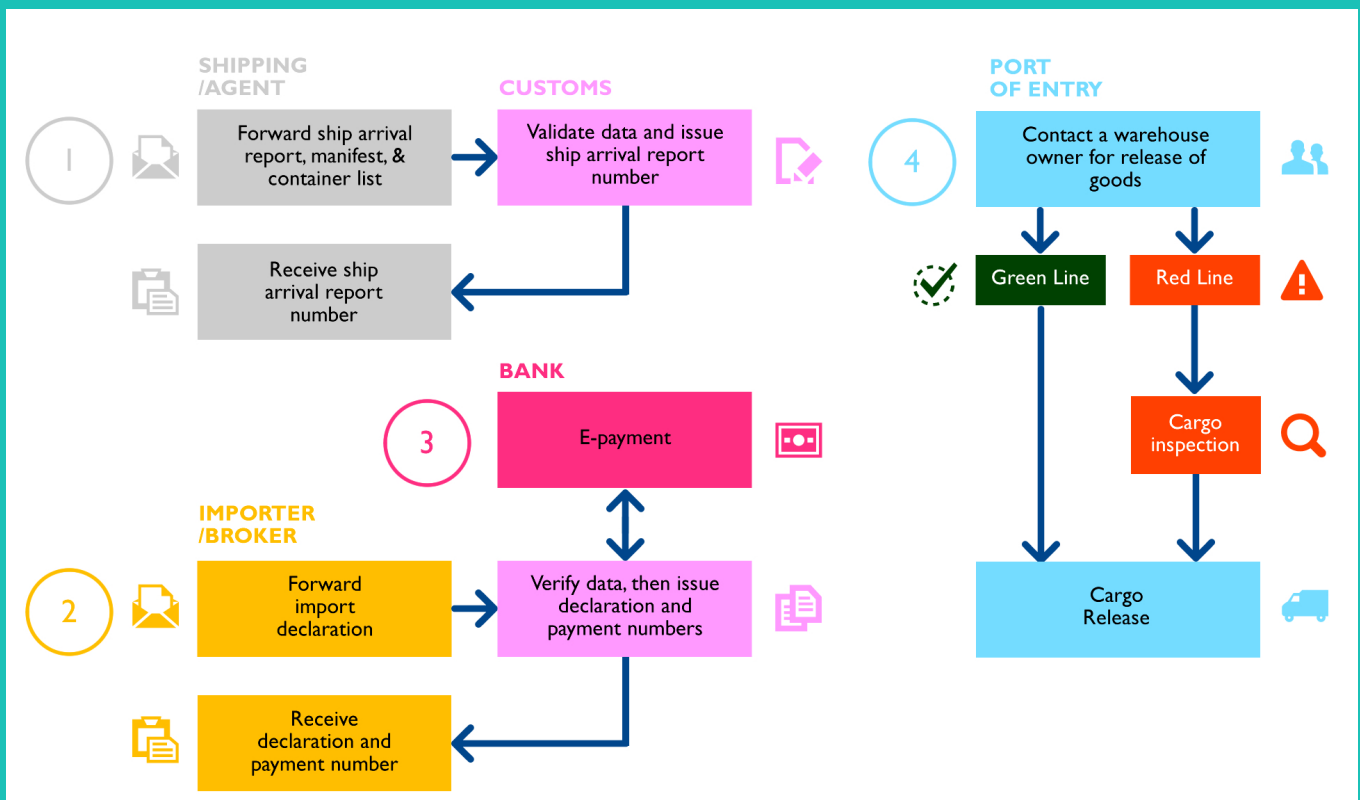
Verification of the Declaration

If the imported goods are subject to the 'Red Line', the Declaration and all supporting documents made by the importer must be verified. The e-Customs system validates the given data, and issues a Declaration and Payment Number within a few seconds in conjunction with the e-payment.

Payment of import duties and taxes

There are currently two options for the payment of import duties and taxes, including payment at the Customs Department, and payment via e-Payment system.

Figure 10.4. Import procedure in Thailand



Source: The Thai Customs Department (2016c).

Customs clearance

In the case of 'Green Line', the importer may submit the verified Declaration together with the receipt of payment at the appropriate warehouses for the release of goods. In the case of 'Red Line', however, the Port Authority removes the cargo container for physical inspection by Customs before the release of cargo.

10.5. Setting up business in Thailand

Table 10.4. summarises the process of setting up a business, including the length of time and cost required, in Thailand.

Table 10.4. The process of setting up a business in Thailand

No.	Procedure	Time to complete (day)	Cost to complete (in THB)
1.	Search and reserve a company name online	Less than one day (online procedure)	No charge
2.	Deposit paid-in capital in a bank	1 day	No charge
3.	Obtain a corporate seal	2 days	between 400-800
4.	Get approval for memorandum of association, apply and pay to register the company as a legal entity (final registration) and obtain Tax Identification Number	22 days	**
5.	Register for Value Added Tax*	1 day, simultaneous	no charge

Notes: * Takes place simultaneously with previous procedure; ** Refer to the original source of the Table.

Source: World Bank (n.d.b.).

10.6. Infrastructures in Thailand

Existing infrastructures in Thailand are summarised in Table 10.5.

Table 10.5. Existing infrastructures in Thailand

Infrastructure	Length / number / geographical scope / generation (of power) / network spectrums	Notes
Roads	396,903 km	Roads in Thailand are divided into three types: Arterial roads (51,537 km), collector roads (47,916 km), and local roads (297,450 km).
Railways	4,429 km	The railway network in Thailand consists of five different routes: northern line, north-eastern line, eastern line, southern line, and Mekong River line, covering 47 provinces.
Airports	38 airports	Thailand has seven international airports, namely Suvarnabhumi Airport, Don Mueang International Airport, Chiang Mai International Airport, Mae Fah Luang-Chiang Rai International Airport, Hat Yai International Airport, Phuket International Airport, and U-Tapao Pattaya International Airport.
Ports	6 seaports	Thailand has 3 commercial ports: Klong Toey or Bangkok Port, Laem Chabang, and Sriracha Harbour Deep Seaport. In addition, there are 3 river ports: Chiang Saen Port, Chiang Khong Port, and Ranong Port.

Table 10.5. Existing infrastructures in Thailand

Infrastructure	Length / number / geographical scope / generation (of power) / network spectrums	Notes
Energy and power	192,189.42 GWh	<p>Primary energy supplies include: 3,760.73 GWh from hydropower, 771.51 GWh from fuel oil, 16,932.30 GWh from lignite, 125.70 GWh from diesel, 1.35 GWh from geothermal, 3.98 GWh from renewable energy, and 119,099.37 GWh from other sources. As of 2013, the electrification rate of Thailand was 99 percent.</p>
Telecommunications	<p>Thailand has the following spectrum allocation list:</p> <p>(1) Broadcasting services:</p> <ul style="list-style-type: none"> • AM (526.5 to 1606.5 kHz – 193 AM stations) • VHF Band I (47 to 68 MHz – 3 analogue TV channels [CH 2 -4]) • VHF Band II (87 to 108 MHz – FM radio) • VHF Band III (174 to 230 MHz – 8 analogue TV Channels) • UHF Band IV (510 to 582 MHz – 9 analogue TV channels) • UHF Band V (582 to 790 MHz – 26 analogue TV channels) <p>(2) Mobile services:</p> <ul style="list-style-type: none"> • Total amount of spectrum is 420 MHz. • Thailand has 6 mobile operators: Jasmine, AIS, CAT, DTAC, TOT, and True. <p>(3) Fixed services:</p> <ul style="list-style-type: none"> • The 2.3 GHz, 2.5 GHz, and 3.5 GHz spectrum bands are for fixed wireless access. 	<ul style="list-style-type: none"> • Internet penetration: 39.3 internet users per 100 people (2015); • Mobile telephone subscribers: 126 subscribers per 100 people (2015).

Source: Various.

10.7. Other relevant information

Labour condition landscape and employment system

Thailand's national education policy guarantees twelve years of public schooling for all Thai children. In recent years, there has been a significant growth of tertiary education institutions in both the private and public sectors. With around four percent of the country's GDP dedicated to education, more than 30 percent of the adult population are reported to have attained an upper-secondary degree. That being said, a good deal of these high-skilled graduates tend to enter either the industrial or services sector.¹⁶ In recent years, Thailand has also shown a strong aspiration to become ASEAN's education hub. The country is now the administrative centre for both the

ASEAN University Network and the Regional Centre for Higher Education and Development.

As far as employment is concerned, foreign nationals wishing to work in Thailand are subject to the Foreign Employment Law. Under this law, a foreign national may only be permitted to carry out his or her work once a work permit has been issued by the Foreign Employment Division of the Labour Department and Social Welfare Ministry.¹⁷

With regard to employment in general, several regulations have been enacted to protect workers, and these include the Labour Protection Act B.E. 2541 (1998), the Labour Protection Act B.E. 2551 (2008), the Labour Relations Act (No. 2) B.E. 2518 (1975), and others. For non-hazardous work, employees are entitled to work eight hours a day, but must not exceed 48 hours a week. For hazardous work, employees shall not work more than seven hours a day, or 42 hours a week. The minimum age for a worker is 15 years for non-hazardous work and not less than 18 years for hazardous work.¹⁸

Social security system

The social security system in Thailand is administered by the Office of Social Security, an institution under the Ministry of Interior. According to the Social Security Act B.E. 2533 (1990), an insured person is entitled to receive several benefits, such as injury or sickness benefits, maternity benefits, invalidity benefits, death benefits, child benefits, old-age benefits, and unemployment benefits (except for an insured person under section 39 of the Social Security Act).¹⁹

Commercial dispute settlement

Thailand's jurisdiction is based on civil law with a modern set of legal codes, though litigation practice

and laws have been influenced by common law traditions. The country was one of the first contracting Asian states to the New York Convention in 1959, and its predecessors, including the Geneva Protocol 1923 and the Geneva Convention 1927. Thailand enacted its first comprehensive law on commercial arbitration in 1987, which was later updated by the Arbitration Act B.E. 2545 (2002). Some commercial arbitration in Thailand is conducted under the supervision of the International Chamber of Commerce. The country, however, has two main domestic arbitration institutes, including the Thai Arbitration Institute of the Alternative Dispute Resolution Office, Office of the Judiciary, and the Thai Commercial Arbitration Institute of the Board of Trade. Administrative and arbitrator fees under these two domestic arbitration institutions are considerably more reasonable than those charged by many international institutes.²⁰

10.8. Electronic links to relevant trade and investment portals and government agencies

- Thailand National Trade Repository: <http://www.thailandntr.com/>
- Thailand National Single Window: <http://www.thainsw.net/INSW/index.jsp>
- Ministry of Agriculture and Cooperatives: <https://eng.moac.go.th/main.php?filename=main>
- Ministry of Commerce: <https://www.moc.go.th/index.php/moc-english.html>
- Thailand Board of Investment: <http://www.boi.go.th/>
- Thai Customs: <http://en.customs.go.th/index.php?view=normal>

AEC business tip for Thailand

Thailand has an open and export-dependent economy which has seen robust growth since the economic crisis in the late 1990s. Their well-educated workforce has made Thailand one of the world's largest automobile and electronics exporter. The country's participation in the AEC provides Thai companies less fettered access to the rest of the ASEAN economy. Although their manufacturing sector is arguably one of the more competitive in ASEAN, their service sector is relatively more restricted and less productive. The regulatory and market pressure of the AEC can be expected to make Thailand's services sector more competitive.

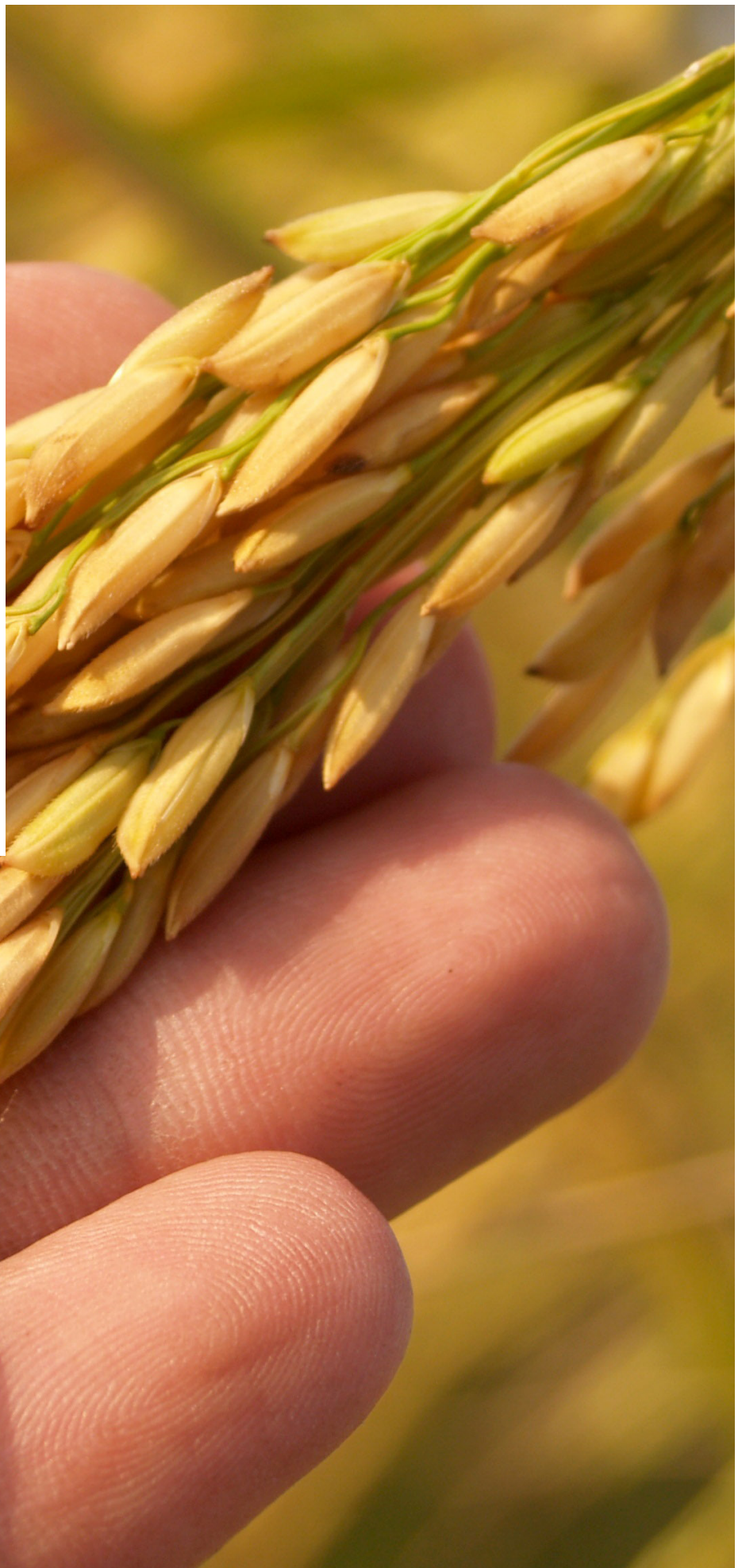
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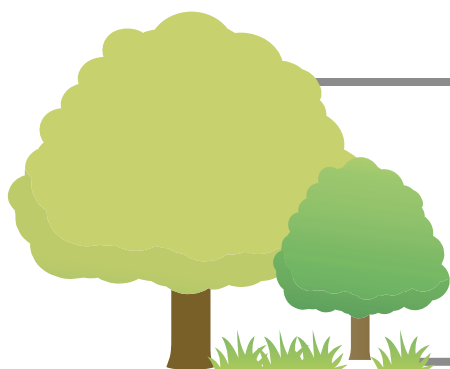
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11. VIETNAM

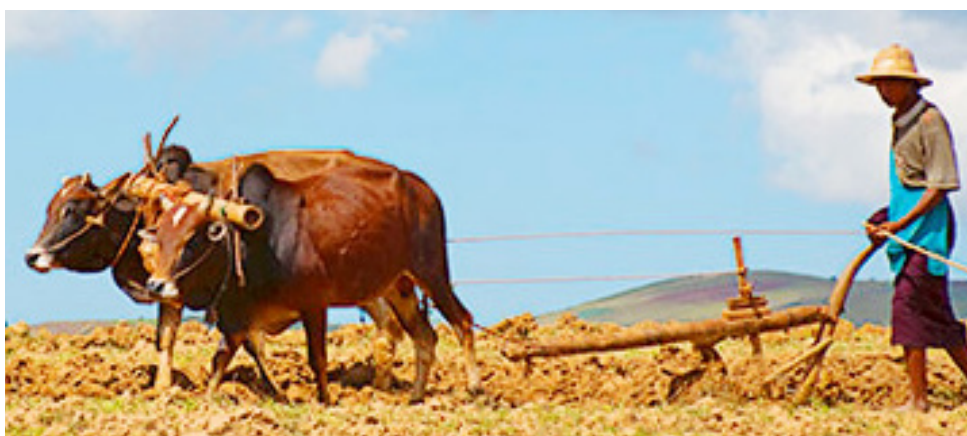
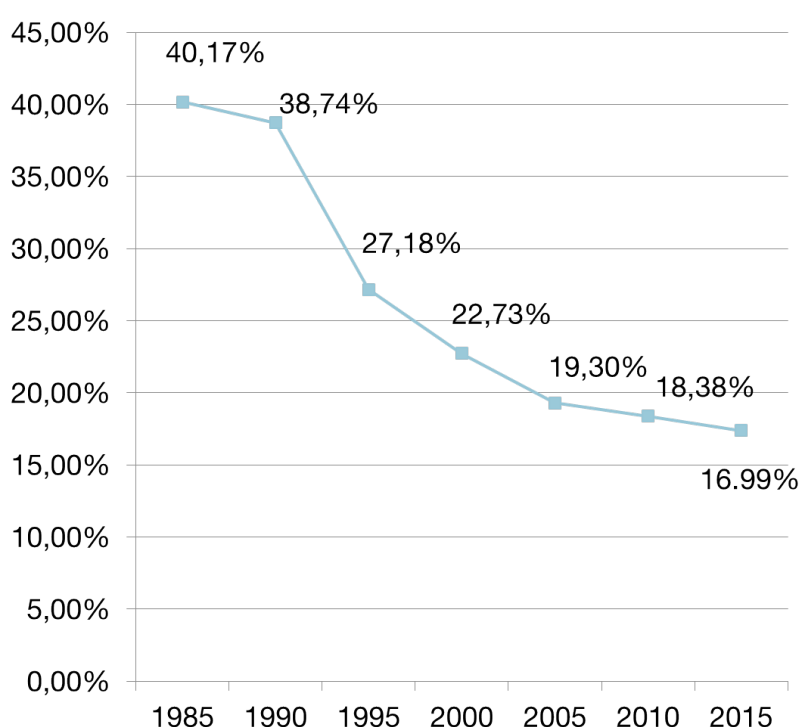


VIETNAM

11.1. Brief country profile

Another one of ASEAN's successful economic development stories, Vietnam's development record over the past 25 years has been extraordinary. Under the so-called *Đổi Mới* initiative that was launched in 1986, the country carried out major political and economic reforms that helped Vietnam transition from a centrally-planned economy to a more market driven one. Since then, the country's social indicators have improved significantly, with several elements of the Millennium Development Goals achieved ahead of time. The number of people living in extreme poverty, for instance, dropped from about 50 percent in the early 1990s to a mere three percent in 2012. Whilst better educated, the population in the country, which numbers around 94.9 million today, also has higher life expectancy than most other countries with a similar per capita income.¹ Vietnam's GDP per capita in 2015 reached USD 2,108.80. After joining the World Trade Organisation (WTO) in 2007, Vietnam has also been playing an active role in the Trans-Pacific Partnership (TPP) initiative, as well as other ASEAN-led regional

Figure 11.1. Share of agricultural sector in Vietnam's GDP, 1985-2015



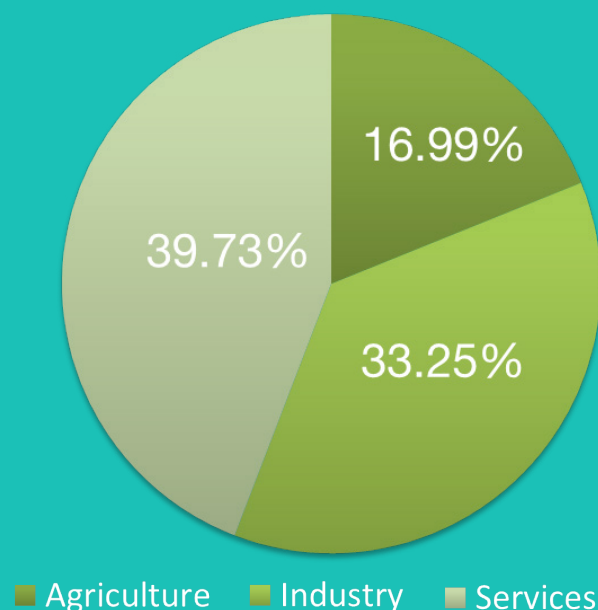
economic architectures, all of which are targeted at further reforming the country's domestic politics and economy.

11.2. Agricultural sector in Vietnam

Whilst remaining an important component of the economy, agriculture is slowly fading as the most important economic sector in Vietnam. This is especially so as the country is gearing itself towards a more manufacturing and services oriented economy. Although still employing over half of the country's population, the existing output value of both manufacturing and services is already surpassing that of agriculture in the early 1990s. Standing at a critical juncture despite a strong track record and ample growth opportunities at home and abroad, Vietnam's agricultural sector is facing major demographic, economic, and environmental challenges, and will need to be improved with stronger value added if it is to remain competitive in the international market.² That being said, Vietnam's agricultural productivity has grown the strongest amongst all ASEAN countries, or about 2.9 percent over the past decade.



Figure 11.2. Share of economic sectors in Indonesia's GDP, 2015



Source: Statista (n.d.).

11.3. Policy context

Agricultural policy

The current agricultural policy of Vietnam is guided by Prime Ministerial Decision No. 124/QD-TTg concerning the approval of a master plan to develop the country's agricultural production by 2020. The master plan also entails a 2030 agricultural

sector vision for Vietnam that aims to develop modern, sustainable, and large scale agricultural production. To attain these goals, the country intends to apply science and technology to increase the sector's productivity, as well as to ensure quality efficiency and high competitiveness in the sector. Vietnam expects to pursue this by balancing its domestic needs and exports, and by improving the efficiency of land use, water resources, labour, and capital for agricultural production. In early 2014, the government also issued Resolution No. 01/NQ-CP to better facilitate the promotion of agricultural trade activities, especially for strategic commodities such as rice, coffee, pepper, cashew nuts, seafood, and fruits. In the area of investment, meanwhile, Decree No. 210/2013/ND-CP concerning investment on agriculture and rural development is expected to encourage investment in the sector. Through its trade promotion agency, the Vietnamese government provides incentives to investors by providing the latter market information access and services.³

Import tariffs

Table 11.1. Agricultural tariff rates of Vietnam, 2015

Product Group	Average MFN applied tariff	Final bound tariff
Animal products	14.2%	15%
Dairy products	9.6%	16.6%
Fruit, vegetables, plants	20.1%	21.2%
Coffee, tea	26.8%	26.8%
Cereals and preparations	17.3%	20.9%
Oilseeds, fats, oils	8.4%	11.6%
Sugars and confectionary	17.8%	33.3%
Beverages and tobacco	43%	50.2%
Cotton	6%	14%
Other agricultural products	6.6%	7.6%
Fish	15.2%	17.7%

Source: WTO (n.d.a.).

Ever since Vietnam underwent major economic restructuring in the mid-1980s, the country has been actively seeking closer ties with the global economy through the increase of trade.⁴ After joining ASEAN in 1995 and engaging actively in the Association's internal and external integration arrangements, Vietnam decided to join the WTO in 2007, and became one of the few ASEAN countries that have bilateral free trade agreements in with the **European Union**, as well as taking part in the TPP negotiations. With an annual percentage change of 13 percent between 2010 and 2014, the country's total agricultural exports reached USD 15.2 million in 2014, whilst its import was valued at USD 13.7 million. Major agricultural export items at the time included coffee, rice, as well as coconuts, Brazil nuts, and cashew nuts. As of 2015, the country's simple average MFN applied tariff stood at 16.3 percent for agricultural products, and 8.4 percent for non-agricultural products.⁵ Table 11.1. highlights the different tariff rates applied to agricultural products in Vietnam.

NTMs/NTBs and other export/import restrictions

As tariffs are gradually phased out, NTMs are still used to restrict trade flows into Vietnam today. As of 2015, Vietnam had 121 NTM-related regulations and a total of 379 coded NTMs. Most NTMs in the country were in the form of either sanitary and phytosanitary measures or technical barriers to trade, each with a total 37.47 percent of total coded NTMs. Around 16.62 percent of the country's NTMs were in the form of export-related measures. Key government agencies issuing NTM measures included the Ministry of Agriculture and Rural Development (at 34.20 percent), and this was followed by the Government's Office (at 18.47 percent) and the Ministry of Health (at 16.62 percent). Out of the country's 9,558 tariff lines, all of them were affected by at least one NTM.⁶

Foreign investment in Vietnam is governed under the 2005 Law on Investment, which underwent several amendments over the past few years, the most recent of which was at the end of 2014, and took effect in early 2015. The new version of the Investment Law resolved the confusion found in the earlier version of the law that related to the level of foreign ownership that will result in a company incorporated in Vietnam being deemed a foreign invested enterprise, and which is subject to a more stringent requirements and restrictions than other type of companies in the country. The 2015 amendments removed the concept of foreign invested enterprise, and introduced instead the concept of a foreign invested economic organisation, which is now subject to more stringent requirements than other types of investment in the country.⁷ Whilst foreign ownership was initially limited to 49 percent, the adoption of Decree 60/2015 permits foreign investors to own up to 100 percent of the equity in most public Vietnamese companies.⁸

Investment incentives

In addition to tax incentives, including preferential, exemption, or reduction from corporate income tax rates, the Vietnamese government also offers exemptions from import duty and taxes on royalties, as well as exemption, or reduction, of land use or land rental fees to attract foreign investment into the country. Furthermore, the government also provides investment guarantees, especially in the area of expropriation, intellectual property protection, as well as protection in the event of changes in laws or policies. Additional investment incentives are also made available for

investments that facilitate value addition, and those creating employment, infrastructure, skills or technology.⁹ Specific to agriculture, breeding, rearing, growing and processing agricultural, forest and aquaculture products, salt making, the production of artificial strains, new plant varieties, and livestock breeds are some agricultural-related activities that can be subjected to the so-called special investment preferences.¹⁰

Land policy

The Vietnamese Constitution provides that land is owned by the entire people of Vietnam, with the state playing a role in administering the land to the people. In practice, however, the state allocates or leases a piece of land to individuals, households, or entities to be used in accordance with the Land Law and its implementing regulations.¹¹ Given the importance of agriculture for Vietnam, land policies hold a very special interest amongst the population of the country. In order to facilitate greater agricultural production, the National Assembly approved Resolution No. 55/2010/QH12 on agricultural land-use tax exemption and reduction in 2010, and, subsequently, issued Decree No. 20/2011/ND-CP in 2011 on the detailed provisions and implementation guidance for the above-mentioned Resolution 55. More recently, the National Assembly approved the Revised Land Law in 2013, which extends agricultural land tenure for household to 50 years, from previously 20 years.¹²

Table 11.2. Legal documents related to land policies in Vietnam, 2007-2013

No.	Legal code	Issuing date	Issuing entity	Policy name / issue
1.	84/2007/ND-CP	May 2007	Government	Additional provisions on issuance of land use right certificates; on land recovery; on exercise of land use rights; on order and procedures for compensation, assistance, and resettlement when the state seizes land; and on resolution of complaints about land.
2.	391/2008/QD-TTg	April 2008	Government	Review and supervision of the situation of land planning, management, and usage from 2006-2010 at the national level, particularly for agricultural land and paddy land.
3.	88/2009/ND-CP	October 2009	Government	On provision of certificates of land-use rights and house and land-attached assets ownership.
4.	63/2009/NQ-CP	December 2009	Government	On national food security.
5.	55/2010/QH12	November 2010	National Assembly	On agricultural land use tax exemption and reduction.
6.	20/2011/ND-CP	March 2011	Government	On detailing and guiding the implementation of the Resolution No. 55/2010/QH12 of the exemption from, reduction of tax of agricultural land use.
7.	42/2012/ND-CP	November 2012	Government	On management and use of paddy-farming land.
8.	The Revised Land Law	November 2013	National Assembly	Extending agricultural land tenure for household to 50 years from the previous 20 years.

Source: Thang and Linh (2014).

Notwithstanding these improvements, there remains certain restriction to land usage in Vietnam, particularly with regard to agricultural land. The 2003 and 2013 Land Laws allow the government to dictate usage allocation for each parcel of land. Although this land-use designation is theoretically changeable, it is generally difficult to do. The existing land laws also stipulate that the government may appropriate the land for any development purposes it sees fit, with land-right owners to be compensated at prices of current use (e.g. crop farming, etc.), rather than prices for future usage purposes (e.g. urban settlements or industry).

Taxes

Various tax rates in Vietnam are highlighted in Table 11.3.

Table 11.3. Tax rates in Vietnam

Personal income tax (per annum, for employment income of residents)		
Taxable income	Rate (in percent)	Taxed amount (in VND)
First VND 108 million	0	0
Next VND 60 million	5	3 Million
Next VND 60 Million	10	6 Million
Next VND 104 Million	15	15.6 Million
Next VND 168 Million	20	33.6 Million
Next VND 240 Million	25	60 Million
Next VND 336 Million	30	100.8 Million
Next VND over 960 Million	35	35 percent of related amount
Corporate Income Tax	20 percent flat rate	
	0 percent for exported goods/services	
Value Added Tax	5 percent for essential goods (including various agricultural products)	
	10 percent for other goods/services not exempted for lower rates	
Withholding tax	0 percent for dividends	
	5 percent for interests	
	10 percent for royalties	
Other taxes	Numerous other fees and taxes may apply, including a business licence tax and registration fees on the transfer of certain registered assets.	

Source: PWC (2016a).

11.4. Export-import procedure

Business registration

In order to carry out export and import business in Vietnam, a company must register as a trading company with the Ministry of Industry and Trade, and obtain an Investment Registration Certificate from the Ministry of Planning and Investment.

SPS and TBT requirements¹³

- A Phytosanitary Certificate applicable for exported and imported plants and plant products is issued by the Department of Plant Protection of the Ministry of Agriculture and Rural Development.

- A Sanitary Certificate is also required for exported and imported terrestrial animals and animal products, and this is issued by the Department for Animal Health of Ministry of Agriculture Rural Development.
- Meanwhile, a Sanitary Certificate for the production, import and export of aquatic animals and plants, fish feed, aquatic veterinary drugs and aquatic plant protection chemicals is issued by the National Fisheries Quality Assurance and Veterinary Directorate of the Ministry of Fisheries.

Prohibited goods to export and import

Restricted agricultural-related goods to export from Vietnam include round and sawn timber produced from domestic natural forests, as well as various categories of precious fauna and flora, animal breeds, plant varieties (as per Decree No. 32/2006/ND-CP), and precious products of aquaculture. Meanwhile, Vietnam also prohibits the importing of protection agents that are prohibited from use in the country.

Export and import licensing

In addition to the Investment Registration Certificate, the exporting or importing trading company must obtain special permits to export or import goods that are subject to export controls in accordance with international treaties with which Vietnam is a contracting party (e.g. quota set by foreign countries, goods subjected to import controls, etc.), and explosive pre-substances and industrial explosives. The government's Decree No. 12/2006/ND-CP, dated 23rd January 2006, also stipulates a number of

agricultural goods, along with other strategic items that can be exported or imported under special regulations, including rice and paddy rice.¹³

Export and import declaration

Table 11.4. Required documents to support export and import declarations in Vietnam

Export	Import
Bill of lading or airway bill;	Bill of lading or airway bill;
Certificate of origin;	Cargo release order;
Commercial invoice;	Commercial invoice;
Customs export declaration form;	Customs import declaration form;
Packing list;	Inspection report;
Technical standard or health certificate.	Packing list;
	Technical standard or health certificate;
	Terminal handling receipts.

Source: Vietnam Briefing (2013).

All export and import transactions must be reported to Vietnamese Customs who will check the goods against the conditions laid down in the export or import permit before clearing them. Trading companies that regularly export and import the same exact goods within a given period are allowed to use a single customs declaration form providing that the goods are listed under the same purchase and sales contract, and are delivered within the period listed in the purchase contract.¹⁴ Table 11.5. shows the documents required to be presented to the Customs authority when exporting from or importing goods to Vietnam.

Export and import duties

With the exception of goods in transit, goods exported abroad from a non-tariff zone, and goods passing from one non-tariff zone to another, most goods to be exported or imported across Vietnam's borders are subject to export or import duties. With regard to exports, only certain commodities are liable for an export tax, which ranges from zero to 45 percent. As for imports, most imported goods into Vietnam are subject to an import tax (which range depending on the type of products with consumer and luxury goods often highly taxed, whilst machinery, equipment, and raw materials usually being lowly taxed), value added tax, and, for certain goods, special consumption tax.¹⁵

11.5. Setting up business in Vietnam

Table 11.6. summarises the process of setting up a business, including the length of time and cost required, in Vietnam.



Table 11.5. The process of setting up a business in Vietnam

Step	Procedure	Agency	Time (days)	Cost (in VND)
1	Obtain Business Registration Certificate and Tax Registration Certificate from the Department of Planning and Investment	Business Registration Office, Department of Planning & Investment	5	200,000
2	Make company seal		2-4	165,000-370,000
3	Registration of the seal-sample with the Business Registration Office	Business Registration Office, Department of Planning & Investment	5	No charge
4	Open a bank account		1	No charge
5	Buy pre-printed VAT invoices from the Municipal Taxation Department or obtain and print self-printed VAT invoices	Municipal Taxation Department	10	200,000/book
6	Publish registration contents on National Business Registration Portal	National Business Registration Portal	5	300,000
7	Pay business licence tax	Tax office or commercial bank	1	1,000,000
8	Register use of labour at Municipal Department of Labor	Municipal Department of Labor	1	No charge
9	Register employees in Social Insurance Fund for social and health insurance	Social Insurance Fund	1	No charge

Source: World Bank (n.d.).

11.6. Existing infrastructures in Vietnam

Existing infrastructures in Vietnam are summarised in Table 11.7.

Table 11.6. Existing infrastructures in Vietnam

Infrastructure	Length / number / geographical scope / generation (of power) / network spectrums	Notes
Roads	222,179 km	Existing roads consist of: 17,295 km national roads, 27,672 km provincial roads, and 177,212 km other roads.
Railways	2,347 km	With a total 1,726 km, the North-South Railway that connects Hanoi and Ho Chi Minh City is the principal railway connection in Vietnam.
Airports	23 civilian airports	Vietnam has 11 international airports, the busiest of which are the Tan Son Nhat International Airport in Ho Chi Minh City and the Noi Bai International Airport in Hanoi.

Table 11.6. Existing infrastructures in Vietnam

Infrastructure	Length / number / geographical scope / generation (of power) / network spectrums	Notes
Ports	20 sea ports	Cam Pha, Da Nang, Haiphong, Phu My, and Quy Nhon are the main sea ports, whilst the Ho Chi Minh Port is the main river port
Energy and power	674,540 GWh (2012)	Primary energy sources include: 175,380.4 GWh (26 percent) from coal, 182,125.8 GWh (27 percent) from crude oil and petroleum, 94,435.6 GWh (14 percent) from gas, 53,963.2 GWh (8 percent) from hydropower, and 168,635 GWh (25 percent) from non-commercial energy.
Telecommunications	<ul style="list-style-type: none"> (1) International mobile telecom: 463.08-467.37/453.08-457.37 MHz; 824- 835/869-880 MHz; 880-915/925-960 MHz; 1710-1785/1805-1880 MHz, 1900 – 1980/ 2010 - 2025; 2110 – 2170; 2300-2390 MHz , 2500-2570/2620-2960 MHz; (2) Satellite: 137 MHz-138 MHz, 148-150 MHz, 387-406 MHz, 432-438 MHz, 3400-3600 MHz, 3600- 3800 MHz, 3800 MHz-4200 MHz, 4200 MHz- 4400 MHz; (3) Broadcasting: 470 MHz-806 MHz; (4) Civil aviation: 328.6-335.4 MHz, 118-137 MHz ,108-118 MHz, 960-1215 MHz, 2.7-2.9 GHz, 1.25-1.35 GHz 1030 MHz- 1090 MHz; (5) Fixed line services: ADSL, Fiber to the Home (FTTH), Fiber to the Premise (FTTx); (6) Mobile servies: 3G (based on WCDMA in big cities). 	129 cellular subscriptions per 100 people, with 53 percent internet penetration rate.

Sources: Various.

11.7. Other relevant information

Labour condition landscape and employment system

As enshrined in its constitution, education is the ‘foremost national policy’ for the Vietnamese government. It has done so by investing above six percent of the country’s GDP on education. Today, Vietnam records about 30 percent gross enrolment rate in tertiary education, whilst more than a quarter of its labour force have attained an upper secondary education.¹⁷ Although 40 percent of the country’s labour force still works in the agriculture sector, this has seen a declining trend over the past few years, especially as high productivity growth in manufacturing industry and services has enabled these sectors to absorb more employees from rural and urban areas. The 1992 Constitution and 2005 Civil Code serve as the main guidelines for employment of Vietnamese national in foreign invested enterprises. More recently, the 2012 Labour Code regulates employment relationship in the country. This, along with Decree 11/2016 ND-CP, provides guidance on matters pertaining to work permits and other related issues for foreign nationals wishing to work in Vietnam. The country’s labour legislations, however, does not apply to foreign nationals who are assigned by its parent company to work in its Vietnam-based subsidiary on a temporary basis. The processing time of a work permit normally takes about seven days, and costs about VND 400,000.¹⁸

Table 11.7. Minimum wages in Vietnam, 2017

Regions	Minimum wage per month (in VND)
Region I*	3,750,000
Region II*	3,320,000
Region III*	2,900,000
Region IV*	2,580,000

Note: *For the detailed list of districts and provinces covered by each region, see the website of the Wage Indicator (at: <http://www.wageindicator.org/main/salary/minimum-wage/vietnam>).

Source: Wage Indicator (n.d.).

Social security system

The implementation of the social security system in Vietnam is guided by Resolution No. 71/2006/QH11, dated 29th June 2006, and is administered by the Social Security Administration.¹⁷ The country currently

has three social security schemes, including social insurance, unemployment insurance, and health insurance. A social insurance contribution is mandatory for all registered companies, the contribution of which is deducted as a percentage of the employee’s gross salary. Social pension and unemployment insurance is applicable only to Vietnamese nationals where 9 percent of the insurance is paid by the employee and 19 percent by the employer. Health insurance, on the other hand, is applicable to all residents regardless of nationality (1.5 percent is paid by the employee and 3 percent by the employer).¹⁸

Commercial dispute settlement

The arbitration of commercial disputes in Vietnam is guided by the Ordinance on Commercial Arbitration of 2003, as well as Resolution No. 54/2010/QH12, dated 17th June 2010, on the Law on Commercial Arbitration. The government’s Decree No. 63/2011/ND-CP, dated 28th July 2011, provides additional implementing guidelines on the 2010 Arbitration Law. The arbitration law in the country is generally aimed at encouraging resolution of disputes through arbitration, as well as facilitating the development of commercial arbitration in Vietnam in line with the country’s on-going socio-economic development. Furthermore, the 2005 Law on Investment also stipulates that disputes between a foreign investor and a Vietnamese state-related agency concerning investment activities in the country may be settled by a Vietnamese arbitration body or by a Vietnamese court. There are about eight arbitration centres in Vietnam, with the most well-known one being the Vietnam International Arbitration Centre.¹⁹

11.8. Electronic links to relevant trade and investment portals and government agencies

- National Trade Repository of Vietnam: <http://ntr.moit.gov.vn/>
- Ministry of Agriculture and Rural Development: <http://www.mard.gov.vn/en/Pages/default.aspx>
- Ministry of Industry and Trade: <http://www.moit.gov.vn/en/Pages/default.aspx>
- Ministry of Planning and Investment: <http://www.mpi.gov.vn/en/Pages/default.aspx>
- Vietnam Customs: <http://www.customs.gov.vn/home.aspx?language=en-US>

AEC business tip for Vietnam

Vietnam's economy has seen rapid transformation from a closed and traditional economy to an open and high-productivity economy since the *Đổi Mới* reforms in the late 1980s. Although the country's agricultural productivity has grown fastest in the ASEAN region, there remains trade and investment impediments as the government maintains tight grips on some sectors in the economy. Vietnam's consistent engagements in the AEC, and other bilateral and multilateral trade and investment fora, signal the country's intent to continually open up and liberalise its economy.

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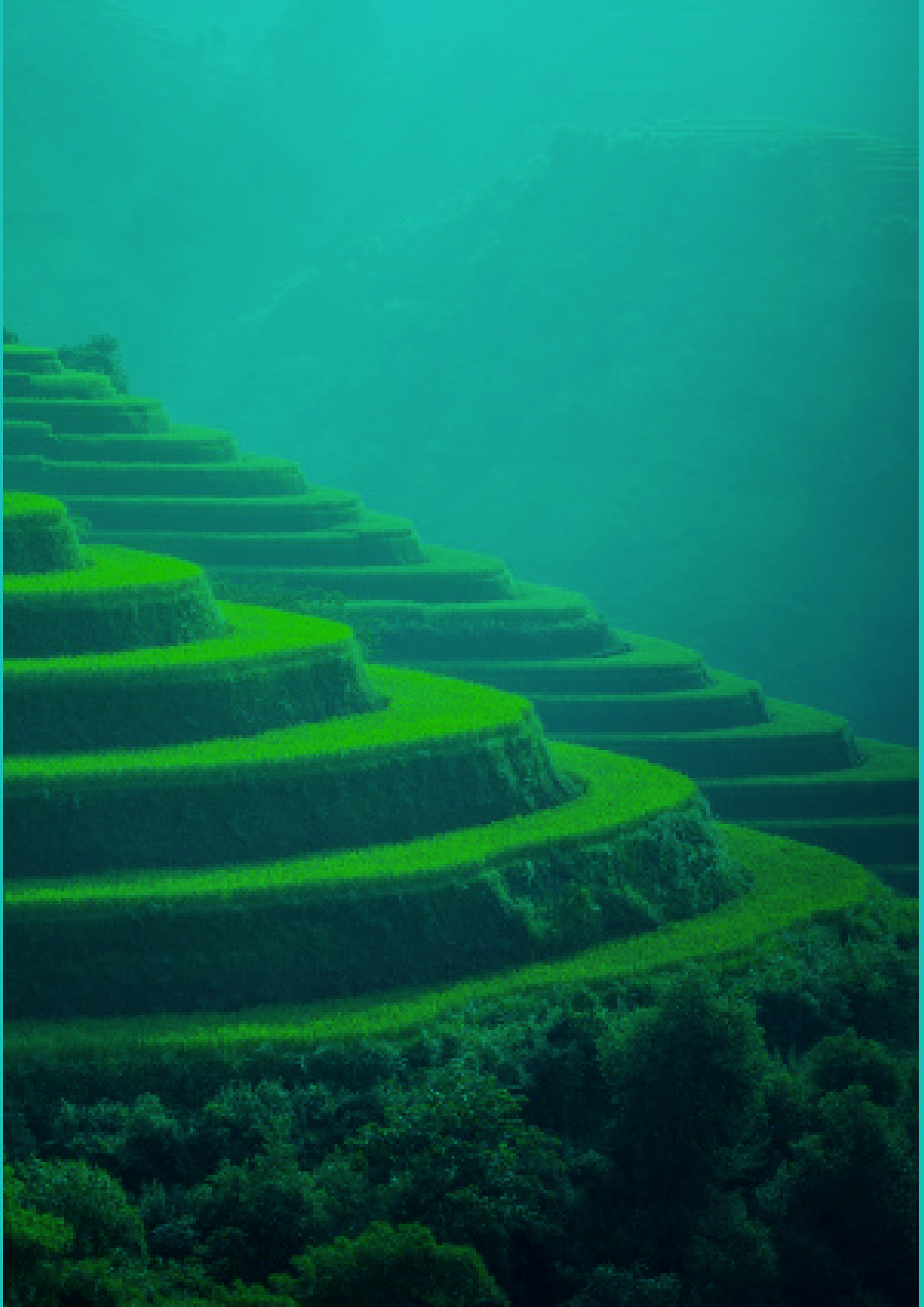
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