

Malaysia

1 Bilateral trade relations

According to China's Customs, the bilateral trade volume between China and Malaysia in 2006 reached US \$ 37.11 billion, up by 20.9%, among which China's export to Malaysia was US \$ 13.54 billion, up 27.6%, while China's import from Malaysia was US \$ 23.57 billion, up 17.3%. China had a deficit of US \$ 10.03 billion. China mainly exported cereal, machinery and electronic products, textile yarn and products thereof, clothing and accessories, steel, crude oil, footwear, and vegetables, etc. Major imported products of China from Malaysia included machinery and electronic products, palm oil, plastics, natural rubber, unprocessed wood, product oil, steel, and crude oil, etc.

According to the Ministry of Commerce (MOFCOM), by the end of 2006, the aggregate turnover of engineering contracts completed by Chinese companies in Malaysia reached US \$ 2.51 billion, and the completed labor service contracts totaled US \$ 240 million.

According to MOFCOM, China's direct investment in non financial sectors in Malaysia, approved by or registered with MOFCOM in 2006, totaled US \$ 17.83 million. Malaysian investors invested in 336 projects in China in 2006, with a contractual volume of US \$ 1.47 billion and an actual utilization of US \$ 390 million. By the end of 2006, Malaysia had accumulatively invested in 3, 947 FDI projects in China with a contractual volume of US \$ 11.2 billion and an actual paid up volume of US \$ 4.23 billion.

2 Introduction to trade and investment regime

Malaysian legislation affecting foreign trade and investment mainly includes Customs Acts, Customs Import Control Regulations, Customs Export Control Regulations, Customs (Rules of Valuation) Regulations, Plant Quarantine Act, Protection of New Plant Varieties Act, Countervailing and Anti dumping Regulations, Promotion of Investments Act, Guidelines for Foreign Investment, Exchange Control Act, Industrial Designs Act, Patents Act, and Communications and Multimedia Act.

In Malaysia, major authorities responsible for trade and investment administration include the Ministry of Trade and Industry (MITI), the Malaysian Industrial Development Authority (MIDA), the Customs, and Bank Negara Malaysia.

2.1 Trade administration and its development

2.1.1 Tariff policy

The existing laws and regulations enforced by the Customs of Malaysia consist of Customs Acts 1967, Customs Duties Order 1996, Customs Duties (Exemption) Order, ASEAN Duties (Exemption) Order, Common Effective Preferential Tariff Order 1994, Customs Duties (Exemption) (Processed Palm Oil Products) Order, and Customs Duties (Temporary Exemption) (Processed Palm Oil Products) Order 1995.

2.1.1.1 Tariff level

The simple average applied MFN rate was approximately 8.1% in Malaysia in 2005. For the purpose of achieving a more opening and liberal economy, the Government of Malaysia plans to further reduce tariff rates.

2.1.1.2 Form of tariff

Currently Malaysia has two tariff classification systems, one for intra ASEAN trade and the Harmonized System for trade with other countries up to the 6 digit level. However, efforts are now being made by Malaysia to unify the classification system into one classification system at the 8 digit level.

In Malaysia, 99.3% of tariff rates are ad valorem; the remainder are specific, mixed or alternate duties.

The Special Advisory Committee on Tariffs (SACT) under MITI receives and considers applications for tariff review, which may then be announced in the annual budget.

2.1.1.3 Tariff reduction on CBU vehicles within ASEAN

The Government of Malaysia reduced the import duty on CBU vehicles from ASEAN countries from 20% to a level below 5%, and that on CKD vehicles was brought down to zero. Import duty for CBU vehicles from non ASEAN countries dropped

from 50% to 30%, and for CKD vehicles from non ASEAN countries, tariffs were reduced, depending on engine displacement and model number, to zero for some and to 5% or 10% for most of the CKD vehicles. The above adjustment was effective as of 22 March 2006.

2.1.1.4 Agreement on Trade in Goods of Framework Agreement on Comprehensive Economic Cooperation between China and ASEAN

According to the Agreement on Trade in Goods of Framework Agreement on Comprehensive Economic Cooperation between China and ASEAN, which officially came into force in July 2005, for China and 6 original members of ASEAN (including Thailand, Malaysia, Indonesia, the Philippines, Singapore, and Brunei), tariff rates on 60% of the goods shall be below 5% by January 2007, the China ASEAN Free Trade Area shall be established by 2010 with normal tariff rates of most of the goods down to zero.

1) Knitwear

Effective as of 1 January 2007, the rate for knitwear was reduced from 20% to 12% and the rate for clothing accessories such as socks to 8%.

Despite the reduction, 20 lines covering suits, pants, shirts, cotton baby clothes, and gloves are listed by Malaysia as sensitive products, which are subject to the rate of 20% until 2018.

2) Non knitted garments

Effective as of 1 January 2007, the rate for non knitted garments such as cotton or polyester shirts and trousers dropped from 20% to 12%.

Still, 8 tariff lines covering cotton pants for men, some shirts and blouses, men's shorts, certain diapers and baby clothes are listed as general sensitive products, which are subject to the original duty of 20% until 2018.

3) Filament products

While most of the filament products are free from import duties in Malaysia, some of the yarns such as artificial filament yarn, nylon monofilament, and chemical filament are subject to a rate of 10%. Starting from 1 January 2007, the rate for these

items is down to 8%.

However, synthetic filament, unbleached or bleached pure polyester filament fabric and dyed pure polyester filament fabric are listed as general sensitive products, for which original tariff is maintained until 2018.

2.1.2 Import administration

2.1.2.1 Import restriction

The Customs (Prohibition of Imports) Order 1998 contains four schedules of items that are subject to various levels of restriction.

The First Schedule includes 14 prohibited items including the Chinese traditional patent medicine containing such ingredients as borneolum and fuzi, 45 herbal medicines, and 13 animal and mineral drugs.

The Second Schedule lists products requiring licenses, mainly for health, sanitary, security, environmental protection or intellectual property reasons. Products include poultry and beef (which requires halal certification), eggs, rice, sugar, cement clinker, fireworks, magnetic tapes for video and audio recording, explosives, wood, safety helmets, diamonds, rice milling machinery, color copying machines, some telecommunications equipment, arms and ammunition, and saccharin. According to statistics, 27% of the tariff lines still require licenses.

The Third Schedule, covering items subject to temporary import restrictions to protect a domestic industry, includes milk, coffee, cereal flours, certain wire and cables, and some iron and steel products.

The Fourth Schedule contains items that may be imported only after meeting specific criteria; these include animals, animal products, plants, plant products, cigarettes, soils, fertilizers of animal origin, bullet proof vests, electrical apparatus, safety belts, and imitation weapons.

2.1.2.2 Import licensing

To protect strategic and infant industries from import competition, Malaysia conducts an involuntary licensing administration regarding construction equipment and the agricultural, mineral, and motor vehicle sectors. For example, all imports of heavy machinery for construction need approval from MITI, which will be given only if this machinery is not available locally. The authority for granting

import licenses rests with Royal Customs Malaysia while MITI, along with other specified authorities, is responsible for the day to day administration of import licensing throughout Malaysia.

2.1.3 Export administration

According to Malaysian regulations, most goods can be freely exported to any country except Israel, and the remaining goods are prohibited from being exported. Some goods can only be exported after obtaining approval from the relevant government agency. Export control is imposed on the following goods, goods in short supply, sensitive, strategic or hazardous items, and endangered wild life species the import and export of which is regulated or prohibited by international agreements.

The Customs (Prohibition of Exports) Order 1988 imposes control on export. Of the three schedules of items under this order, the First Schedule consists of items which are absolutely prohibited from being exported to all countries, including turtle eggs and rattans. Besides, export of petroleum, petroleum products and arms and related materials of all types to Haiti is also prohibited. The Second Schedule consists of goods which can be exported if the exporter can get an Export License. The Third Schedule consists of items which can be exported only in accordance with the provided manner. Most of the goods under second and Third Schedule are primary products like livestock and its products, grains, minerals and toxic and/or hazardous wastes. Exports of arms, ammunition and antiquities which are in the Third Schedule are strictly under the government's control. The MITI and Ministry of Domestic Trade and Consumer Affairs administer licenses for most of the controlled goods.

2.1.4 Trade remedy system

Pursuant to Countervailing and Anti dumping Duties Act 1993 and Countervailing and Antidumping Duties Regulations 1994, the Trade Practices Unit (TPU) under MITI is responsible for anti dumping and countervailing investigations. Ever since TPU was created, there was only one investigation against Chinese products—bicycles, initiated in April 2002.

2.2 Investment administration and its development

In Malaysia, investment incentives are provided for in the following laws, including the Promotion of Investment Act 1986, Income Tax Act 1967, Customs Act 1967, Sales Tax Act 1972, Excise Act 1976 and Free Zones Act

1990. These Acts cover investments in the manufacturing, agriculture, tourism (including hotel) and approved services sectors as well as R&D, training and environmental protection activities. The investment incentives are delivered through direct or indirect tax cuts.

2.2.1 Investment incentives for manufacturing companies

Major tax incentives for companies investing in the manufacturing sector are the Pioneer Status and Investment Tax Allowance. Eligible projects are termed “promoted activities” or “promoted products”. For this purpose, the Government of Malaysia has made a List of Promoted Activities and Products. In June 2006, the Government updated the tax exemption rate for the eligible companies and the eligible applications.

2.2.1.1 Pioneer status

A company granted Pioneer Status enjoys a 5 year partial exemption from the payment of income tax. It pays tax on 30% of its statutory income, with the exemption period commencing from its Production Day approved by MITI.

To encourage investment foreign investment in the promoted areas, i.e. Sabah in eastern Malaysia, Sarawak and the designated “Eastern Corridor” of Peninsular Malaysia, the Government of Malaysia has the policy that any investment in these areas will enjoy a 100% tax exemption on their statutory income during their 5 year period, and all project applications submitted before 31 December 2010 will be eligible for this incentive measure.

2.2.1.2 Investment tax allowance (ITA)

A company granted ITA is entitled to an allowance of 60% on its qualifying capital expenditure (such as factory, plant, machinery or other equipment used for the approved project) incurred within five years from the date on which the first qualifying capital expenditure is incurred.

The company can offset this allowance against 70% of its statutory income for each year of assessment. Any unutilized allowance can be carried forward to subsequent years until fully utilized. The remaining 30% of its statutory income will be taxed at the prevailing company tax rate.

For investment in “Eastern Corridor”, applications received from 13 September 2003

will enjoy an allowance of 100% on the qualifying capital expenditure incurred within a period of five years. All project applications received by 31 December 2010 will be eligible for this enhanced incentive.

Apart from the above incentives, there are many similar investment incentive policies made by the Malaysian Government, such as incentives for hi tech companies, strategic projects, SMEs, the machinery and equipment industry, the production of heavy machinery, automotive component modules, and for the utilization of oil palm biomass.

Besides, there is an additional favorable policy regarding foreign investment in the manufacturing sector in the form of export rebate.

2.2.2 Incentives for Halal certification applications

In September 2005, the Government of Malaysia issued the Guidelines for Application of Incentives for Production of Halal Food. Under these guidelines, companies that produce halal food are given Investment Tax Allowance of 100% of qualifying capital expenditure incurred with a period of 5 years. Companies that are eligible for such incentives are new companies undertaking halal food production, existing halal food companies undertaking upgrading or expansion of existing plants, and existing companies diversifying into halal food production.

2.2.3 Dividend tax reduction on Real Estate Investment Trusts (REITs)

To further diversify capital market products in Malaysia to attract local and foreign investors, the Government of Malaysia proposed in the draft budget for 2007 that dividends received by local and foreign individual investors from listed REITs be taxed at a rate of 15%, while the tax rate on dividends received by foreign institutional investors be reduced from 28% to 20%. This incentive will be given for five years.

In addition, the tax treatment for REITs is further improved, whereby the undistributed income from REITs is exempted, provided REITs distribute at least 90% of their income.

2.2.4 Incentives for the development of the biotechnology industry

In the 2007 budget report, the Government of Malaysia announced a host of new incentives to encourage new investments in biotechnology activities so as to promote the development of the biotechnology industry in Malaysia. These incentives are as follows: first, biotechnology companies will be given income tax exemption for 10

years, beginning from the first year the company is profitable; second, after the expiry of the 10 year exemption period, a biotechnology company will be taxed at a rate of 20% for another 10 years; third, tax deduction equivalent to the amount of the investment made in seed capital and early stage financing will be given to companies or individuals investing in the biotechnology sector; stamp duty and real property gains tax exemptions will be given to a biotechnology company undertaking merger with or acquisition of a biotechnology company, within a period of 5 years; and fifth, buildings for research activities related to biotechnology will be given Accelerated Industrial Building Allowance.

The Government will earmark RM210 million (about US \$ 55.25 million) for the development of the biotechnology sector. In addition, RM59 million (about US \$ 15.52 million) will be allocated under the R & D initiatives for genomics and molecular biology, and production of pharmaceutical products.

2.2.5 Promoting the development of Multimedia Super Corridor (MSC)

To become a global information and communications technology (ICT) center, the Government of Malaysia created an ICT program in 1996, i.e. the Multimedia Super Corridor (MSC).

Companies which have obtained the MSC Status enjoy a set of financial and tax incentives and benefits guaranteed by the Government, mainly including access to world class hardware and communications infrastructure, unrestricted recruitment of intellectual personnel from home and abroad, privatization of company ownership, and tax exemption for 10 years or five year financial allowance.

A sum of RM154 million (about US \$ 40.52 million) has been allocated by the Government to undertake various activities. Besides, the Universal Service Provision Fund is founded to further increase access to ICT facilities.

2.3 Trade and investment related administration

2.3.1 Labor policy

The Ministry of Health Malaysia announced in 2006 that all foreign labors, including maids, would not be subject to mandatory health checks, starting from the third year of their service in Malaysia.

However, the regulations regarding three mandatory health checks within the first two years since the arrival of the foreign labor in Malaysia remain unchanged. The three health checks are to be taken within one month after arrival in Malaysia, upon

renewal of foreign labor permit during the second year, and at the end of the second year.

2.3.2 Visa policy

To get prepared for Visit Malaysia Year 2007, the Government of Malaysia announced that, since 1 September 2006, citizens from 23 countries including China, India, Pakistan, Bangladesh, and Myanmar may apply for a landing visa upon arrival at the Malaysian International Airport. Any landing visa holder may stay in Malaysia for one month, but with entry only from the airport. If one wishes to have the visa extended, one must leave the country before re-entering it. The one year multi entry visa, previously only issued to the Chinese and Indian citizens, are now extended to include all visitors from West Asia. In addition to consular offices at New Delhi and Chennai, Malaysia will set up another one in Bombay so as to speed up the visa application process.

To attract overseas technicians to Malaysia, especially in emerging sectors, the Government of Malaysia has accelerated the issuance of visas and work permits. In 2007, Malaysia will also create immigration services under the Malaysian Industrial Development Authority (MIDI) and Multimedia Development Corporation (MDeC), and authorize them to handle visas and work permits for foreigners. To provide further facilitation, the Immigration Department will set up in Cheras and Wangsa Maju 2 branches directly under the federal control, and set up specific counters at immigration offices in major cities for professionals and business people. Besides, the spouses of the foreign workers, with professional qualifications, are also allowed to work in Malaysia.

2.3.3 Automotive policy

In March 2006, the Government of Malaysia announced the new National Automotive Policy (NAP), covering the following 7 measures: (1) streamlining of excise duty structure to promote greater transparency in car pricing; (2) regular publishing of the values of imported cars to avoid tax underdeclaration; (3) reducing the ASEAN CEPT import duty to 5% for qualifying vehicles; (4) grants from the Industrial Adjustment Fund to car manufacturers with competitiveness and added value; (5) temporary freezing new manufacturing licenses until the current production overcapacity is overcome; (6) phasing out the current system of Approved Permits (AP) by 31 December 2010; (7) implementing Vehicle Type Approval processes and procedures.

Besides, the importation of second hand cars, other than individual personal imports, will be progressively phased out under NAP. To promote greater

transparency in the prices of imported cars, the NAP requires the prices of all imported cars be published on the Government Gazette for the purposes of duty computation.

2.4 Product specific administrative measures

In the beginning of 2006, Malaysia published the new Automobile Import Regulations, requiring Approved Permits (AP) be obtained for all cars importing into Malaysia with 24 hours of entry of the new cars into the Port Klang, Selangor and Port of Tanjung Pelepas.

As of 20 April 2006, neither AP nor MITI's approval is needed for the importation of Barite Sulfate.

3 Barriers to trade

3.1 Tariff and tariff administrative measures

3.1.1 Tariff peak

Though the simple average applied MFN tariff rate is around 8.1% in Malaysia, tariff protection is high for products deemed important to Malaysia, mainly including automotives, textiles, clothing and leather, food and beverages, and imported goods that compete with local production. Rates exceed 20% on 16.9% of tariff lines and several lines have rates over 100%.

While the overall tariff level of Malaysia was reduced in 2005, domestic tariff peaks increased by 50%.

Although Malaysia lowered the import duties for cars according to the ASEAN Free Trade Agreement, it started to impose high excise duty on imported cars. Adjustment was made to the excise duty in 2005, bringing down the rates of 90%—250% to 80%—200% for cars; the rates of 40%—170% to 55%—160% for imported CBU or CKD MPVs. However, the excise duty increased by 15% for MPVs with engine displacement below 2,000CC, imported from non-ASEAN countries, leading to an increase of actual rates for MPVs and lorries from non-ASEAN countries by 10%—20%. Besides, the Malaysian Government also adjusted the computation of excise duty for imported CBUs, which is now levied based on the DDP price instead of the original CIF price. This has exerted a greater burden on car importers.

Malaysian national cars, Proton and Perodua, together with cars produced by other two local JVs, receive a reduction of 50% on the excise duty, which doesn't apply to foreign-controlled car manufacturers. This constitutes a discrimination

against foreign controlled car manufacturers. Although the Government of Malaysia has the intention to eliminate the favorable policy of tax reduction for its national cars, specific timeframe hasn't been determined yet.

3.1.2 Tariff escalation

Malaysia's tariff protection is generally lower for raw materials and increases on processed goods, giving rise to tariff escalation to some extent. For example, Cocoa is duty free, but a 15% rate is levied on cocoa preparations; there is no tariff on cotton while a 10% rate is imposed on textile yarn and a 20% rate on cotton knitwear and clothing. In addition to import duties, most products are subject to an excise duty of 10%.

3.2 Technical barriers to trade

According to relevant regulations in Malaysia, effective as of 1 March 2004, 7 categories of pre-packaged processed foods must carry nutritional labels. These products include cereals, breads, milk product, canned meat, canned fish, canned fruit and vegetables, fruit juices, soft drinks, and salad dressings. Malaysia has become the 6th country that implements mandatory nutrition labeling regulations, following the U.S., Canada, Australia, New Zealand, and Japan. The Nutrition Labeling Claims Regulations of Malaysia prescribes for the type and format of the nutritional information required. Pursuant to the Regulations, information on energy value and the amounts of carbohydrate, protein, and fat in the food should be expressed per 100g or per 100ml or per package as well as per serving as quantified on the label. For soft drinks, the amount of total sugars in the food should be given. Where a claim is made regarding the amount and/or type of fatty acids, the amounts of the different types of fatty acids present in the food must be labeled, such as the amounts of monounsaturated, polyunsaturated, saturated, and trans fatty acid. Besides, the regulations limit certain kinds of nutritional claims that carry explicit or implicit meanings. Starting from July 2005, over 50 kinds of foods are required to comply with the labeling regulations.

Although the above regulations are basically in line with the General Principles of the CAC, the calculation of energy as well as the way of expressing fatty acid, vitamins and minerals is different from ordinary practices, which has made it more complicated for the enterprises to conduct product development and labeling design. The Chinese sides hopes that while trying to protect consumer rights, Malaysia can put in place reasonable food labeling requirements for the purposes of trade facilitation and reduce unnecessary barriers to international trade.

3.3 Sanitary and phytosanitary measures

All meat, processed meat products, poultry, eggs and egg products are required to be supplied from manufacturers which have been inspected and approved by the Department of Veterinary Services under the Ministry of Agriculture, and all imported products must obtain the import permit issued by the Department. The Department of Veterinary Services often imposes restrictions on the importation of chicken products through import licensing requirements, especially in cases when the local producers find that imported products are competing at low prices. All meat, processed meat products, poultry, eggs and egg products must receive halal certification from specific Islamic Centers, while slaughter houses for cattle, sheep, and poultry, as well as the processing facilities for meat and eggs must be inspected and approved by the Department of Islamic Development Malaysia (JAKIM). The halal certificate is issued on the joint recommendation of the Malaysian Department of Veterinary Services and JAKIM following an on site inspection, and the Government has the right to re-inspect the plant one year after the inspection. The halal certification in Malaysia is conducted regarding individual item instead of a processing plant by more stringent standards than those of other Muslim countries, and there are often cases where the processes are found not transparent.

Therefore, the Chinese side expresses concern over the matter and hopes that the Government of Malaysia will strengthen its regulation over the halal certification process and relevant standards to provide greater transparency and ensure that international trade activities are conducted smoothly.

3.4 Government procurement

With regard to government procurement, foreign companies don't enjoy the same opportunities to compete with local Malaysian companies. In most cases, foreign companies are required to form partnership with local companies before they are allowed to bid. Besides, there is a lack of transparency in quite a few government procurement programs.

The Malaysian Ministry of Treasury made an announcement in September 2005 that all purchases under government procurement programs regarding railways, decorative and outdoor lighting facilities, and other equipments and parts must be made from one of three designated local manufacturers. The Chinese side expresses concern over the new policy and hopes that Malaysia will extend the scope of bidding for government procurement programs so as to create a level playing field in this regard.

3.5 Subsidies

There are certain export subsidies in Malaysia. For example, under the Export Credit Refinancing Scheme (ECR) implemented by the Central Bank of Malaysia, exporters can obtain pre and post shipment financing.

3.6 Barriers to trade in services

3.6.1 Telecommunications

Malaysia imposes restrictions on foreign investment through foreign equity ownership limits. Foreign acquisition of fixed telephone services in Malaysia is limited to 30% and foreign ownership of value adding service providers is also limited to 30%.

3.6.2 Distribution and direct selling

Malaysia requires at least 30% of the Malaysian ownership in a local direct selling company before it is licensed to carry on direct sales business. Local companies are required to pay RM1.5 million (about US \$ 395, 000) for the application for a pyramid selling license while companies involving foreign ownership are required to pay RM5 million (about US \$ 1.315 million) .

In a guideline for foreign participation in distribution services, requirements are also made regarding the proportion of the interests of local traders. For examples, department stores, supermarkets, and expensive malls must reserve 30% of the shelf space for products made by Malaysian SMEs. Such demanding requirements for local content have distorted trade in services.

3.6.3 Legal services

According to relevant regulations in Malaysia, foreign lawyers are not allowed to practice law, join local law firms or conduct business using the name of their international law firm. Foreign law firms may not operate in Malaysia except as minority partners with local law firms, with their stake limited to 30%. Their scope of service is limited to advice concerning home country and international law. Pursuant to the Legal Profession Act 1976 of Malaysia, only a citizen or a permanent resident of Malaysia, who has a good command of Malay and has obtained local law degree or recognized qualifications, may practice law in Malaysia. The Attorney General has the right to revoke various restrictions provided that the

applicant has been a legal practitioner for 7 years.

3.6.4 Construction services

According to relevant Malaysian regulations, foreign architectural firms may operate in Malaysia only as a joint venture participant in a specific project with the approval of the Board of architects. Foreign architectural firms may not have Malaysian architectural firms as registered partners. Foreign architects may not be licensed in Malaysia but are allowed to be managers, shareholders, or employees of Malaysian firms. Only licensed architects are allowed to produce architectural plans.

3.6.5 Engineering services

There are harsh regulations in Malaysia regarding the provision of engineering services by foreigners. Foreign engineers may be licensed by the Board of Engineers only for specific projects, and must be sponsored by the Malaysian company carrying out the project. In this case, the license is only valid for the duration of a specific project. In general, a foreign engineer must be a registered engineer at home country with at least 10 year experience, and shall stay for a minimum of 180 days in Malaysia during one calendar year. For a foreign engineer to obtain a temporary license, the Malaysian company has to provide evidence to the Board of Engineers, stating that local qualified engineers can't be found. Foreign engineers may not conduct business independent of the Malaysian partners, or become managers or shareholders of the engineering consulting firm. Besides, foreign engineering companies may collaborate with a Malaysia firm, but the Malaysian company is to design and is required to submit the plans for domestic approval.

3.6.6 Accounting services

Foreign accountants who wish to provide auditing and taxation services in Malaysia must register with the Malaysian Association of Certified Public Accountants before applying to the Ministry of Treasury for license. The registration requires citizenship or permanent resident status. Only Malaysian citizens or permanent residents with local university degrees or members of 11 overseas professional services recognized by the Government may apply for registration with the Association.

3.6.7 Banking

To encourage domestic financial services, the Government of Malaysia imposes restrictions on foreign participation in financial services. At present, foreign institutions may own 49% of investment banks in Malaysia, but foreign commercial banks may only have a maximum ownership of 30%. Besides, foreign banks may only operate as a domestically controlled branch in Malaysia, and are allowed to open new branches only under the instruction of the Central Bank of Malaysia.

3.6.8 Insurance

Government approval must be obtained for foreign equity ownership of insurance companies exceeding 49%. The existing joint venture insurance companies are allowed to raise foreign equity ownership to 51%. However, foreign insurance companies that have just entered Malaysia are limited to equity participation in local insurance companies, with aggregate foreign ownership no more than 30%.

3.6.9 Labor services

Malaysia has not opened its labor market to general labor services and exercised a strict control over the number of employees as well as technical labors sent from China to Chinese companies in Malaysia.

3.6.9.1 Work visa

The Immigration Department of Malaysia requires Chinese professional technicians who apply for the work permit to have work experience over five years, and often rejects the applications on account of sufficient local personnel of the same kind. It has become a long standing problem for Chinese companies in Malaysia. Starting from 2005, the process for work permit applications and extensions has become even more complicated for Chinese technicians who are to work in Malaysia, which has seriously affected and restricted the development of Chinese businesses in Malaysia.

The Immigration Department of Malaysia also requires the chief representative or general manager of a foreign company to work in Malaysia for no more than 10 years; otherwise, there will be no extension of his/her work permit. This requirement is extremely harmful to the long term development of a foreign company in Malaysia.

The Chinese side hopes that Malaysia will take long term, reasonable, institutionalized and facilitation means and measures regarding the issuing of work permit to Chinese managerial and technical personnel, as well as effective steps to

further promote the normal development of economic and trade relations between China and Malaysia.

3.6.9.2 Business visa

A business visa to Malaysia is only valid for a very short period of time, but it takes a long time to get one. At present, the validity of visa issued by Malaysia to Chinese business persons is only one month, and it is quite difficult to get a multi entry visa. Besides, it has been complained by some Chinese hi tech companies that they often need short term technical support from domestic engineers during the implementation of a project, but an application for a visa to Malaysia in China often takes 1-2 weeks, which has affected the progress of the project as some emergent technical problems haven't been solved in time.

The Chinese Government has been granting Malaysia business persons in China the multi entry visa with validity up to two years, so the Chinese side hopes that the Government of Malaysia will follow the principle of reciprocity by giving equal treatment to Chinese business persons visiting Malaysia. The Chinese side thinks Malaysia should resume the previous practice of issuing the 3 month business visa to Chinese business persons.

4 Barriers to investment

While Malaysia encourages foreign direct investment in export oriented manufacturing companies and in the hi tech sector, restrictions are imposed on foreign investment in other sectors, in particular, the financial sector. Besides, foreign investment in terrestrial radio services is prohibited. In general, foreign equity ownership is limited to 30% and foreign companies are required to form joint ventures with local Malaysian companies. The Chinese side hopes that the Government of Malaysia will ease the control on foreign access and provide the foreign investors with a fair and just trade environment.

To protect the domestic auto makers, the Government of Malaysia rolled out a policy at the later half of 2005, prescribing that all auto brands, which newly entered Malaysia to have their cars produced and assembled locally, are not allowed to be sold in Malaysia and must be all exported. This policy once caused a standstill of the investment projects of the Chinese auto companies in Malaysia and has impeded the Chinese auto companies with their own brands from entering the Malaysian market. The Chinese side hopes that the Government of Malaysia will change the above policy and provide a level playing field for trade between China and Malaysia.

