



Zamroni Salim
Nika Pranata
Agustha L. Tobing



Kingdom of the Netherlands

MARITIME LOGISTICS IN ASEAN:

AN 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*

“Maritime Logistics
is an important
pillar for ASEAN’s
economic
integration, linking
ASEAN countries
closer together

FOREWORD



Maritime Logistics is an important pillar for ASEAN’s economic integration linking ASEAN countries closer together, which is vital for the economic future of more than 600 million strong population. In 2016, ASEAN’s combined GDP grew by 4.7 percent to USD 2.55 trillion, collectively higher than major economic powerhouses such as India and Brazil.

In 2017, the group’s GDP is expected to grow at a rate of 4.8 percent. By 2023, ASEAN trade volumes are predicted to increase by 130 percent with an estimated value of USD 5.6 billion.

Given its unique geography and location along global trade routes, connectivity is essential to ASEAN’s economic growth. To support and develop the Maritime Logistics Industry, governments will need to build adequate ports, airports, roads, railways and IT infrastructure with improved cargo handling capacity due to a changing global shipping landscape, where high quality-shipping lanes are crucial to achieve an effective supply chain network.

With future large investments in the pipeline aimed at overcoming infrastructural bottlenecks, individual ASEAN governments, as well as ASEAN as a whole must ensure implementing the right Maritime Logistics projects in a sustainable way. Because of Indonesia’s archipelago, Indonesia is developing deep-sea ports capable of accommodating ships with a capacity of 5,000 TEUs or more and implementing integrated transport systems to support connectivity growth. In addition, ASEAN Member States need to take into account increasing need of funding, challenges of environmental degradation and climate change. Equally important is that clear policies and agreements related to Maritime Logistics and transport facilitation are well coordinated before implementation, for example the ASEAN Single Window Policy to ensure faster cargo clearance and to improve transparency.

I am fully convinced ASEAN Member States will coordinate and implement the right projects in a sustainable way and with the right partners, in order to overcome the many infrastructure challenges.

The Embassy of the Kingdom of The Netherlands in Jakarta is proud to support the publication of this book. Looking at the Netherlands we are ranked 4th in the 2016 Logistics Performance Index released by the World Bank and have an excellent track-record being World Market Leader in Sea Port Infrastructure, Maritime and logistics systems, Vessel design, Offshore services, Hydraulic Engineering, Heavy marine transport and Construction. In addition, we have an excellent and convenient combination of large ports and efficient hinterland connections of all transport modes. The Netherlands together with the Dutch business sector are very keen in sharing knowledge and supporting you developing the Maritime Logistics sector and connectivity.

With the launch of this book by The Habibie Center, I hope that it will attract more investors in the Maritime Logistics sector in ASEAN and generate sustainable Trade with the EU and The Netherlands.

Rahimah Abdulrahim

Executive Director of The Habibie Center

“Maritime logistics is an integral part not only in ASEAN, but with the rest of the world as well.

FOREWORD



Maritime activities in Southeast Asia are expanding. By 2015, for instance, more than 9 percent of freight around the world were registered in ASEAN Member States, with almost 20 percent of the ships coming from ASEAN. The region, furthermore, contributes to around 7.5 percent of world bulk carrier ships, 25 percent of general cargo worldwide, 15 percent of world container ships, and almost 21 percent of other types of ship in the world. Southeast Asia is also home to the South China Sea which sees a third of the world's shipping pass through its waters. Hence, maritime logistics is an integral part not only in ASEAN, but with the rest of the world as well.

Today, shipping remains an essential resource, not only to transport goods across waters, but as a source of income and employment for many people as well. The wider scope of maritime logistics includes the supply of seafarers, shipbuilding and repair, and port services, among others, to ensure seamless maritime

transportation within the region. The expansion of intra-regional and international trade, the former of which accounts for about 25 percent of ASEAN's total trade, furthermore, also enhances the role that maritime logistics sector plays in boosting the economic growth of the region through shipping and port services.

Nevertheless, ASEAN's progress in attaining its connectivity goals and objectives has been relatively modest. As such, developing maritime logistics in the region is crucial. This, coupled with ASEAN's own desire to enhance the connectivity of the region, offers investors from ASEAN and beyond the opportunity to enjoy growth potential of maritime logistics sector in the region.

Given the importance of maritime transportation, the role of maritime logistics is of great importance among ASEAN member-states and non-ASEAN states as well. In this regard, The Habibie Center is proud to publish this guidebook with

the hopes of encouraging the private sector, both from ASEAN and non-ASEAN countries, to invest and participate in the advancement of maritime logistic services in the region. We believe that it is important to provide relevant and sufficient information to the private sector in order to ensure greater participation from them.

Finally, we would like to express our appreciation to the Embassy of the Kingdom of the Netherlands for the generous support for the project. We hope that the project will ultimately contribute to the potential of expansion of trade and investment between ASEAN, the Netherlands, and the EU.

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LIST OF ABBREVIATIONS

ACIA	ASEAN Comprehensive Investment Agreement	MIDA	Malaysian Investment Development Authority
AEC	ASEAN Economic Community	MISR	Malaysian International Ship Registry
AFAS	ASEAN Framework Agreement on Services	MMK	Myanmar Kyat
AMS	ASEAN Member States	MMT	Million Metrics Ton
ASEAN	Association of Southeast Asian Nations	MPA	Myanmar Port Authority
ASW	ASEAN Single Window	MPAC	Master Plan on ASEAN Connectivity
ASYCUDA	Automated System on Customs Data	MRC	Mekong River Commission
ATIGA	ASEAN Trade in Goods Agreement	MRCS	Mekong River Commission Secretariat
BKPM	<i>Badan Koordinasi Penanaman Modal</i> (Investment Coordinating Board) of Indonesia	MYR	Malaysian Ringgit
BND	Brunei Dollars	NSDP	National Strategic Development Plan
BOI	Board of Investment	NSEC	North South Economic Corridor
BOT	Build-Operate-Transfer	NT	Net Tonnage
CLMV	Cambodia, Laos, Myanmar, and Vietnam	OSV	Offshore Supply Vessels
CPR	Certificate of Philippine Registry	PHP	Philippine Peso
FDI	Foreign Direct Investment	PMA	<i>Perusahaan Penanaman Modal Asing</i> (Foreign Investment Company)
FTZ	Free Trade Zone	PMB	Pulau Muara Besar
GDP	Gross Domestic Product	PPA	Philippine Ports Authority
GMS	Greater Mekong Sub-region	PPAP	Phnom Penh Autonomous Port
GST	Goods and Services Tax	PPP	Public Private Partnerships
GT	Gross Tonnage	QIP	Qualified Investment Projects
IDR	Indonesian Rupiah	SAP	Sihanoukville Autonomous Port
ITA	Investment Tax Allowance	SBSR	Ship building and Ship repairing
IWT	Inland Waterway Transport	SEZ	Special Economic Zone
KHR	Cambodian Riel	SGD	Singapore Dollars
LAK	Laotian Kip	TEU	Twenty-foot Equivalent Unit
LNG	Liquid Natural Gas	THB	Thai Baht
LPI	Logistics Performance Index	USD	US Dollars
LTO	License to Operate	VAT	Value Added Tax
MARINA	The Maritime Industry Authority	VND	Vietnamese Dong

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In its most basic sense, an integrated economy is one in which all its constituent parts are connected to one another. By that modest standard, the ASEAN economy is still fragmented both between and even within each of its member countries, as there are still many regions virtually unconnected with each other. Transportation costs are still one of the most forbidding factors halting ASEAN into becoming an extensively

integrated economic community and is therefore obstructing the region from reaching the vast economic potential of its 600 million strong population.

Because a majority of all trading between nations is done through the sea (and a good deal of trade is done through inland waterways), it is readily apparent that a robust maritime logistics sector is a prerequisite

to releasing ASEAN's still latent economic promise. Although the governments of ASEAN Member States have taken great strides in improving its infrastructure and modernizing their maritime logistics apparatus, businesses -both domestic and foreign- will find that there are still many unrealized opportunities in ASEAN's sea transportation, seaport development, shipyard, and ship maintenance industries,

About This Guidebook

Maritime Logistics Sector



-among others- that have yet to be realized.

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 AEC. Specific to this Guidebook, this publication is specifically intended to encourage greater investment to be made into the

region's maritime logistics sector by businesses from both within and beyond ASEAN, especially those from Europe. Aside from the official websites of ASEAN Member States' relevant agencies, the 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 the intention of the authors 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 increasing transparency across ASEAN that made the completion of this project possible.







1. INTRODUCTION AND OVERVIEW

INTRODUCTION AND OVERVIEW

1.1. Overview of maritime logistics sector in ASEAN

Strategically positioned between the Indian Ocean and the South China Sea, Southeast Asia, one of the most populous and economically vibrant regions in the world, has long been a major commercial gateway between Asia and the rest of the world. Given its prominent maritime features, the region's history, trade, politics, and culture have been shaped by its seas.¹ Whilst continuing to serve as the main transit route supplying vital commodities to fuel the fast-growing economies of Asia and beyond,² the need for greater connectivity in this once fragmented region is immense. Aside from facilitating economic growth, integrating production network, enhancing intra-regional trade, attracting investments, and promoting deeper ties amongst the population and diverse cultures of the region, connecting Southeast Asia will be key to ASEAN's overall ambition to create a single community.³

Critical in enhancing the region's connectivity is effective maritime logistics, which focuses on multiple functions of sea transportation, as well as the effective flow of logistics as an entity within an integrated logistics system (refer to Table 1.1.).⁴ ASEAN recognises the importance of maritime and logistics development and integration, particularly since vast areas of the region are covered by the seas.⁵ Moreover, effective integration of maritime logistics is also essential in connecting every corner of the region, which can have a tremendous impact on the growth of the region's trade, investment, as well as people-to-people exchanges.

Table 1.1. Understanding maritime logistics

Definition	The process of planning, implementing, and managing the movement of goods and information which is involved in ocean carriage.
Focusing point	It is concerned not only on individual functions relating to sea transportation, but also an effective logistics flow as a systemic entity of the logistics integration system.
Coverage	Sea transportation activities: contracting, shipping, sea voyage, moving cargo, and (un)loading. Other logistics services: stripping/stuffing, storage, warehousing, offering a distribution centre, quality control, testing, assembly, packaging, repackaging, repairing, inland connection, and reuse.

Source: Lee, *et al.* (2015: 55-56).

Unfortunately, although in possession of the Malacca Strait, which carries over one-quarter of the world's trade, logistics efficiency remains a challenge for some ASEAN economies.⁶ As of 2016, for instance, whilst Singapore was still one of the highly ranked countries in the World Bank's annual Logistics Performance Index, the standing of other ASEAN countries was either modest (e.g. 32nd, 45th, and 63rd for Malaysia, Thailand, and Indonesia respectively) or very low (e.g. 113th and 152nd for Myanmar and Lao People's Democratic Republic respectively).⁷ Despite this, the growth potential for ASEAN's maritime logistics sector is promising. Aside from a growing middle class, which would drive the demand for better and more efficient logistics, inefficiencies in ASEAN's supply chains, such as deficiencies in skilled human capital, and others, as well as the lack of modern infrastructure are areas where foreign logistics service providers can play a greater role in the region.⁸

1.2. Overview of ASEAN cooperation in maritime logistics sector

Given the vast coverage of maritime logistics, there are a number of areas of ASEAN cooperation that are relevant to the sector, and these include cooperation in, amongst others, maritime, logistics, and connectivity (including transport and infrastructure). Despite numerous agreements, programmes, or initiatives since the early 1980s (refer to Table 1.2.), the primary policy documents of the Association that is most relevant to maritime logistics to date

include the ASEAN Transport Strategic Plan of 2016-2025 and the Master Plan on ASEAN Connectivity (MPAC) 2025. Whilst the former was launched under Malaysia's ASEAN chairmanship in 2015, the latter was launched in 2016 under the leadership of Lao PDR.

Dubbed as the Kuala Lumpur Transport Strategic Plan, the 2016-2025 ASEAN Transport Strategic Plan helps the Association to materialise the vision of the AEC 2025, which calls for a deeply integrated region that will contribute towards a highly cohesive ASEAN economy.⁹ Specific to the maritime sector, the Plan aims to establish an ASEAN Single Shipping Market and improve maritime safety in line with international standards. Amongst some of the key strategic plans are the enhanced capacity of 47 designated ports, including the so-called 'mega-ports' that can be found in Singapore and Malacca, and the development of an efficient and integrated inland waterway transport network.¹⁰

Succeeding the previous 2010-2015 MPAC, the present

2025 MPAC has a vision of 'achieving a seamlessly and comprehensively connected and integrated ASEAN that will promote competitiveness, inclusiveness, and a greater sense of community'.¹¹ A total of 52 unfinished initiatives of the 125 proposed under the 2015 MPAC will continue to be implemented under the present Master Plan.¹² Focused on five strategic areas, including sustainable infrastructure, digital innovation, seamless logistics, regulatory excellence, and people mobility, the implementation of the 2025 MPAC, is expected to further boost the connectivity in the region.

The latest monitoring and evaluation report of ASEAN connectivity suggests that, though there has been a significant increase in land crossings (especially between the Mainland Southeast Asian countries of Thailand, Lao PDR, and Cambodia) and air services liberalisation, other policy areas still require further attention. For example, despite its significant potential impacts on trade volumes and growth, indicators show that development in the maritime sector remains modest.

Aside from long gestation periods in port construction, modest progress in the sector has also been associated with poor port efficiency and quality.¹³ Assessment done on the 2010-2015 MPAC also suggests that, out of four intended initiatives to integrate maritime transport system in the region, only one initiative was completed by the end of May 2016 (refer to Table 1.3.).

Notwithstanding these setbacks, ASEAN's maritime logistics sector offers vast opportunities for potential investors. Aside from a growing consuming class, which will push the growth for intra-trade, investment, and tourism, by 2030, the region is also in need to secure up to USD 3.3 trillion in infrastructure. Despite increased availability of funds from various international development agencies (e.g. the Asia Bond Fund, the Asian Bond Market Initiative, the Asian Infrastructure Investment Bank, and so on), the development of maritime logistics infrastructure in the region can still benefit from active investment and participation from the private sector.¹⁴

Table 1.2. Milestones of maritime logistics-related initiatives of ASEAN

Year	Agreements/ programmes/ initiatives	Key points
1980	ASEAN Resolution on Shipping and Trade	The Resolution recognises, amongst others, the importance of shipping and ports to the development and expansion of ASEAN trade and economy.
1994	ASEAN Plan of Action in Transport and Communications (1994-1996)	The Action Plan facilitates the provision of safe, efficient, and innovative transportation and communications infrastructure network, as well as improving and developing the intra-country postal and telecommunications system to provide cost-effective, high-quality, and customer-oriented services.
1995	ASEAN Framework Agreement on Services	With the end aim of a regional free trade area for trade in services, the Framework Agreement sets out the liberalisation of the region's services sector (e.g. financial, air transport, tourism, logistics, electronic ASEAN, and healthcare services), eliminate the restrictions on trade in services, and expand services trade liberalisation beyond the General Agreement on Trade in Services under the auspices of the World Trade Organisation.

Year	Agreements/ programmes/ initiatives	Key points
1996	First ASEAN Transport Ministers Meeting	- The adoption of the Ministerial Understanding on ASEAN Cooperation in Transportation; - The revision of the implementation timeframe of the Plan of Action in Transport and Communications from 1994-1996 to 1996-1998.
1998	ASEAN Framework Agreement on the Facilitation of Goods in Transit (AFAFGIT)	The Framework Agreement has the objective of eliminating burdensome custom procedures in road and rail transport.
1999	ASEAN Transport Cooperation Framework Plan of 1999-2004	- The Framework Plan was the first dedicated plan for transportation sector, which is aimed in developing a harmonised, coordinated, and integrated transportation system in ASEAN; - This policy document also identifies activities in five priority sectoral programmes, including transport facilitation, air transport, land transport, maritime transport, and integrated transport development; - Specific to maritime transportation, the Framework Plan sets as its strategic thrust the creation of a competitive policy environment for ASEAN maritime transport sector in which private sector is encouraged to invest in infrastructure and in operating transport services; where ports have improved capacity, efficiency, and productivity; and with due recognition to maritime safety and the environment.
2005	ASEAN Transport Action Plan of 2005-2010	- In response to the call for the establishment of an ASEAN Community by 2020 that was made at the Ninth ASEAN Summit in 2003, the Action Plan reaffirms an efficient and integrated transport system is key for ASEAN to integrate with the global economy, improve competitiveness, and enhance the inflow of foreign direct investment; - The Action Plan also guided ASEAN cooperation towards enhancing multi-modal transport and transport facilitation, interconnectivity, the seamless movement of peoples and goods, further liberalisation in the air and maritime transport services, and further improving integration and efficiency of transport services and the supporting logistics systems; - Policy directions relevant to maritime logistics include: (1) the promotion of efficient door-to-door cargo transport and cross-border transport facilitation; (2) Improvement of land transport network infrastructure; (3) the development of responsive regional maritime transport policies to address the growing containerisation in the region; (4) the enhancement of transport security and safety in the regional supply-chain networks; (5) the pursuit of environmentally sustainable regional transport strategies; (6) the creation of enabling policy towards conducive environment for increase private sector involvement; (7) the intensification of cooperative bonds with Dialogue Partners, as well as regional and international organisations.
	ASEAN Framework Agreement on Multimodal Transport (AFAMT)	- The Framework Agreement has the objective of determining the legal liability of multimodal transport operators and standardise multimodal transport contracts; - This policy document applies to international multimodal transport services amongst AMS provided by officially registered ASEAN operators, thereby requiring domestic legislation on multimodal transport.

Year	Agreements/ programmes/ initiatives	Key points
2007	2015 ASEAN Economic Community (AEC) Blueprint	- Adopted at the 13th ASEAN Summit in 2007, in Singapore, the Blueprint revises the target date for AEC establishment from 2020 to 2015; - The Blueprint envisages four fundamental characteristics of the AEC, including: (1) single market and production base; (2) competitive economic region; (3) equitable economic development; and (4) integration into the global economy; - The four AEC characteristics above foresee substantial expected role of transportation in facilitating connectivity within ASEAN, as well as between ASEAN and the rest of the world; - Transport cooperation was incorporated under the second pillar of AEC (under infrastructure development).
	Roadmap Towards an Integrated and Competitive Maritime Transport in ASEAN	- The Roadmap has the objective of promoting progressive liberalisation of maritime transport services in AMS. It does so by providing time-bound action plan for concrete actions that AMS can pursue to achieve a more open, efficient and competitive ASEAN maritime transport system; - The coverage of the Roadmap includes the movement or carriage of both passengers and cargo or freight by maritime transport, and the provision of the port and related services necessary for the safe, efficient, secure, and reliable operation of maritime transport services.
	ASEAN Sectoral Integration Protocol for the Logistics Services Sector	Logistics was added as the 12 th Priority Integration Sectors of ASEAN, which had previously been agreed under the 2004 ASEAN Framework Agreement for the Integration of Priority Sectors.
2008	Roadmap for the Integration on Logistics Service	- The Roadmap has the objectives of creating an ASEAN single market by 2015 through the liberalisation and facilitation of logistics services, and the creation of an integrated ASEAN logistics environment to enhance the competitiveness of ASEAN production base; - This policy document provides concrete actions that AMS could pursue to achieve greater and significant integration of logistics services in ASEAN; - The coverage of the Roadmap includes freight logistics and related activities.
2009	ASEAN Framework Agreement on the Facilitation of Inter-State Transport (AFAFIST)	- The Framework Agreement has the objective of allowing ASEAN transport operators to provide services in other AMS when goods are transported from or to the country of registration; - This, along with the previous, 1998 , AFAFGIT, is expected to significantly improved the efficiency of transit transport by eliminating the need to unload and reload goods at national borders.

Year	Agreements/ programmes/ initiatives	Key points
2010	Master Plan on ASEAN Connectivity of 2011-2015	- Adopted in 2010 following ASEAN Leaders' statement on ASEAN Connectivity at the 15th ASEAN Summit, in Thailand, the Master Plan sets forth strategies for enhancing connectivity in achieving wider goal of enhancing competitiveness and economic growth, narrowing development gaps, and deepening social and cultural understanding amongst AMS; - It provides a blueprint for such advances via three strategic dimensions and their corresponding key actions, including: (1) physical connectivity; (2) institutional connectivity; and (3) people-to-people connectivity.
	ASEAN Strategic Transport Plan of 2010-2015	- Also known as the 'Brunei Action Plan', the policy document, which was adopted at the 16th ASEAN Transport Ministers Meeting, reiterates AMS' commitments to achieve an efficient, secure and integrated transport network, and enhanced transport facilitation, logistics services, and multimodal transport infrastructure and connectivity; - The Plan also serves as the main reference for ASEAN transport cooperation to support the establishment of the AEC and the implementation of the Master Plan on ASEAN Connectivity.
2014	Implementation Framework of the ASEAN Single Shipping Market (ASSM)	Endorsed at the 20 th ASEAN Transport Ministers Meeting, in Myanmar, on 2014, this Framework document provides strategic guidance in coordination of policy, rules, and regulations in liberalising the shipping market in ASEAN.
2015	ASEAN Transport Strategic Plan of 2016-2025	- Known alternatively as the 'Kuala Lumpur Transport Strategic Plan', this policy document, which was adopted at the 21st ASEAN Ministers Meeting in Malaysia, in 2015, highlights ASEAN's intention to attain regional economic development through enhanced land, air, and maritime transport in the next few years; - The Strategic Plan also aims for the Association to pursue the development of sustainable transport, and enhancing its connectivity with China (especially through the latter's 'One Belt, One Road' project), Japan, and South Korea; - Specific to maritime sector, the policy document aims for ASEAN to establish the ASSM, as well as promoting maritime safety, security, and strategic economic corridors.
	Master Plan on ASEAN Connectivity 2025	- An expansion of the previous document that covered 2011 until 2015 timeframe, the new, 2025, Master Plan has the vision of achieving a seamlessly and comprehensively connected integrated ASEAN that will promote competitiveness, inclusiveness, and a greater sense of community; - It identifies five key areas of connectivity, including: (1) sustainable infrastructure; (2) digital innovation; (3) seamless logistics; (4) regulatory excellence; and (5) people mobility.

Source: ERIA (2010: 1-6) and ASEAN Secretariat (2016a: 9, 29-30, 35, 38, 44, and 56; 2016b: 7-9, 65, and 82; n.d.).

Table 1.3. Assessment of MPAC 2010-2015

Overall strategy	Strategy	Original expected timeline													Number of total initiatives	Number of initiatives completed by the end of May 2016
		08	09	10	11	12	13	14	15	16	17	18	19	20		
Physical connectivity	Complete the ASEAN Highway Network														11	2
	Complete the implementation of Singapore-Kelang Railway Project														11	1
	Establish an integrated inland waterways network														1	0
	Establish an integrated maritime transport system														4	1
	Establish an integrated multimodal transport system														8	3
	Accelerate the development of information, communication, and technology infrastructure and services														7	6
	Prioritise processes to resolve institutional issues in energy infrastructure														13	5
	Operationalise the three framework agreements on transport facilitation (AFAFGIT, AFAFIST, and AFMT)														6	2
	Implement measures to facilitate inter-state passenger land transportation														2	0
	Develop the ASEAN Single Aviation Market														9	2
Institutional connectivity	Develop an ASEAN Single Shipping Market														2	2
	Accelerate the free flow of goods within ASEAN region by eliminating barriers to merchandise trade														15	4
	Accelerate the development of an efficient and competitive logistics sector, particularly transport, communication, and other connectivity-related services														2	0
	Substantially improve trade facilitation in the region														6	2
	Enhance border management capabilities														3	0
	Accelerate further the opening up of AMS to investment from within and beyond the region under the fair investment rules														2	2
	Strengthen institutional capacity in lagging areas and improve regional/sub-regional coordination														3	1

Overall strategy	Strategy	Original expected timeline													Number of total initiatives	Number of initiatives completed by the end of May 2016
		08	09	10	11	12	13	14	15	16	17	18	19	20		
People-to-people connectivity	Promote deeper intra-ASEAN social and cultural understanding														10	5
	Encourage greater intra-ASEAN mobility														10	1
Total															125	39

Source: ASEAN Secretariat (2016a: 22).

1.3. Maritime logistics trade and investment

Although the region's trade flows have been wavering amidst sluggish global economic growth, downward movement of world commodity prices, and an uncertain policy environment, the overall trade performance of ASEAN has been relatively positive over the past decade or so. The Association's total trade, for example, rose up to 47.2 percent from USD 1.07 billion in 2004 to USD 2.2 billion in 2015. The increase in the grouping's total trade is also reflective of trades amongst its member countries, as well as between the Association and the rest of the world, each represented an increase of 47 percent and 46.9 percent respectively (refer to Table 1.4.).

Table 1.4. Intra- and extra-ASEAN trade, 2010-2015 (in USD million)

Countries/intra-/extra-trade	2004	2010	2011	2012	2013	2014	2015
Brunei	6,576.8	10,999.2	14,822.3	16,856.3	15,507.2	14,180.7	9,592
Intra-ASEAN	1,509.2	2,267.6	2,912.1	3,340.1	4,488.0	3,860.7	2,645
Extra-ASEAN	5,067.3	8,731.5	11,910.2	13,516.2	10,569.2	10,320.1	6,947
Cambodia	4,510.8	10,480.3	12,844.1	18,663.7	18,324.2	29,654.6	19,676
Intra-ASEAN	753.7	2,384.6	3,003.8	5,142.9	4,119.1	7,615.5	4,462
Extra-ASEAN	3,757.1	8,095.8	9,840.3	13,520.8	14,205.0	22,039.1	15,214
Indonesia	118,109.1	293,442.4	380,932.3	381,721.3	369,180.5	354,471.5	293,061
Intra-ASEAN	24,680.3	80,472.6	99,353.2	95,654.5	94,661.8	90,725.3	63,610
Extra-ASEAN	93,428.8	212,969.7	281,579.1	286,066.8	274,518.7	263,746.2	229,452
Lao PDR	611.1	4,509.1	3,955.9	6,158.8	5,884.9	5,388.8	6,763
Intra-ASEAN	454.7	2,576.5	2,530.3	2,337.2	3,729.3	3,496.3	4,357
Extra-ASEAN	156.4	1,932.6	1,425.5	3,821.6	2,155.6	1,892.5	2,407
Malaysia	231,794	363,534.3	415,559.1	423,930.3	434,228.7	442,777.8	375,169
Intra-ASEAN	57,928.2	95,270.6	108,271.9	115,812.7	119,032.2	118,965.0	102,848
Extra-ASEAN	173,865.8	268,263.7	307,287.2	308,117.6	315,196.5	323,812.9	272,321

Countries/intra-/extra-trade	2004	2010	2011	2012	2013	2014	2015
Myanmar	3,920.7	11,798.3	14,925.1	18,503.3	23,445.4	27,256.7	29,104
Intra-ASEAN	1,947.9	5,733.1	7,207.7	7,525.4	9,869.0	11,455.0	11,467
Extra-ASEAN	1,972.8	6,065.2	7,717.4	10,977.9	13,576.5	15,801.8	17,637
Philippines	83,719.7	109,660.3	111,751.6	117,381.6	119,108.9	129,566.9	128,944
Intra-ASEAN	15,193.7	27,827.5	23,675.6	24,758.3	22,786.2	25,370.0	25,601
Extra-ASEAN	68,526.0	81,832.9	88,076.0	92,623.3	96,322.7	104,196.9	103,343
Singapore	372,203.1	662,658.2	775,167.2	788,116.9	783,265.5	776,016.0	663,109
Intra-ASEAN	109,948.7	181,198.4	205,673.7	209,621.3	206,672.3	203,196.4	182,051
Extra-ASEAN	262,254.5	481,459.8	569,493.4	578,495.6	576,593.2	572,819.6	481,059
Thailand	192,666.2	385,040.8	458,904.4	447,301.9	478,247.3	455,525.9	417,147
Intra-ASEAN	37,004.6	86,610.7	111,450.8	99,535.5	103,668.6	102,725.3	104,821
Extra-ASEAN	155,661.6	298,430.1	347,453.5	377,766.4	374,578.7	352,800.6	312,327
Vietnam	57,844.3	156,993.1	199,582.1	227,793.3	264,774.0	293,777.1	327,744
Intra-ASEAN	11,546.3	26,678.3	34,298.1	38,320.2	39,531.9	40,797.7	41,891
Extra-ASEAN	46,298.0	130,314.8	165,284.0	189,473.1	225,242.1	252,979.4	285,853
Total trade	1,071,955.8	2,009,115.9	2,388,444.0	2,476,427.4	2,511,516.5	2,528,615.9	2,270,310
Total intra-ASEAN	260,967.6	511,019.9	598,377.3	602,048.2	608,558.3	608,207.0	543,751
Total extra-ASEAN	810,988.1	1,498,096.0	1,790,066.7	1,874,379.2	1,902,958.2	1,920,408.9	1,726,559

Source: ASEAN Secretariat (2015b: 63-64; 2016c).

Maritime trade in the region has also been characterised by increased containerisation. Although large shipments for some low quality agricultural products are still shipped in bulk, those of premium quality are increasingly shipped in containers. Other major commodities traded internally within ASEAN and shipped in containers include consumer products, raw materials (including palm oil), electrical and electronic products, and automotive component and some built-up cars.¹⁵ The increase containerisation is also reflected in the rise of container port traffic in the region. Whereas ASEAN's container port throughput stood at 70.5 million TEU in 2008, the figure went up about 33 percent in 2014 to around 94 million TEU (refer to Table 1.5). As of 2016, it was also recorded that container ship made up 53.1 percent of the total 18,014 vessels registered in ASEAN, whilst bulk carriers took up 27.1 percent share of total fleet in the region. The number of container vessels have also been steadily increasing between 2011 and 2016 period, but this was also followed with the steady decline of bulk carriers over the same period (refer to Table 1.6).

Table 1.5. Container port throughput in ASEAN, 2008-2014 (in TEU)

Country	2008	2009	2010	2011	2012	2013	2014
Brunei	90,366	85,577	99,355	105,018	112,894	121,813	128,026
Cambodia	258,775	207,577	224,206	236,986	254,760	274,886	288,905
Indonesia	7,404,831	7,255,005	8,482,636	8,966,146	9,638,607	11,273,450	11,900,763
Laos	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Malaysia	16,093,953	15,922,800	18,267,475	20,139,382	20,873,479	21,168,981	22,718,784
Myanmar	180,000	163,692	190,046	200,879	215,945	233,005	244,888

Table 1.5. Container port throughput in ASEAN, 2008-2014 (in TEU)

Country	2008	2009	2010	2011	2012	2013	2014
Philippines	4,471,428	4,306,965	4,947,039	5,288,643	5,686,179	5,860,226	5,869,427
Singapore	30,891,200	26,592,800	29,178,500	30,727,702	32,498,652	33,516,343	34,832,376
Thailand	6,726,237	5,897,935	6,648,532	7,171,394	7,468,900	7,702,476	8,283,756
Vietnam	4,393,699	4,936,598	5,983,583	6,929,645	7,547,720	9,137,310	9,531,076
Total							
ASEAN MS	70,510,489	651,368,949	74,021,372	79,765,795	84,287,136	89,288,490	93,798,001
Total World	516,255,115	472,273,661	540,816,751	587,544,611	624,580,886	651,326,962	684,584,947
ASEAN as share of World throughput	13.65%	13.84%	13.68%	13.57%	13.49%	13.7%	13.7%

Source: UNCTAD Stat (n.d.).

Table 1.6. Merchant fleet in ASEAN, 2011-2016

Ship types and measurement	2011	2012	2013	2014	2015	2016
Oil tankers	498	560	601	701	798	885
Bulk carriers	5,010	4,969	4,984	4,880	4,889	4,894
General cargo	593	603	659	710	756	798
Container ships	7,113	7,943	8,441	9,018	9,325	9,573
Other types of ships	1,857	1,686	1,735	1,784	1,821	1,864
Total fleet	15,071	15,761	16,420	17,093	17,589	18,014

Source: Knoema (n.d.).

As far as investment is concerned, ASEAN remains an attractive investment destination for maritime logistics-related sectors. A large portion of attention, however, has been given to investment in port infrastructure development and handling (refer to Table 1.7). Aside from tackling poor infrastructure problems affecting connectivity in the region, the relative economic openness of ASEAN also means

that the region is oversupplied by other maritime logistics supporting businesses, such as shipping, ship building and repair. Another noticeable trend in the region is that most investments made in the maritime infrastructure projects are usually pursued under a public-private partnership model between foreign investors and AMS' state-owned enterprises. Despite increased investment liberalisation

in the region (e.g. through 100 percent ownership), some AMS still impose restrictions. In the shipping industry in Vietnam, for instance, although foreign investors are allowed up to 100 percent ownership, such a liberal investment regime does not extend to auxiliary services, such as towage and service, both of which are imposed with 49 percent ownership restriction.

Table 1.7. Selected cases of multinational enterprises' investment in ports in ASEAN

Companies	Activities	Headquarters	Subsidiaries/ affiliates	Host countries	Notes
DP World	Port investment and operator	United Arab Emirates	P.T. Terminal Petikemas of Surabaya	Indonesia	Owns 49 percent share of subsidiary, whilst the other 51 percent is owned by a state-owned enterprise, Pelabuhan Indonesia II.
			Asian Terminal Inc.	Philippines	Has a stake in the affiliate
			Laern Chabang International Terminal	Thailand	Owns 34.5 percent share of the affiliate
			Saigon Premier Container Terminal	Vietnam	Owns 80 percent of subsidiary, whilst the other 20 percent is owned by a state-owned enterprise, Tan Thuan Industrial Promotion Company
Hutchinson Port Holding	Port investor, developer, and operator in 26 countries	Hong Kong, China	Jakarta International Container Terminal	Indonesia	n.a.
			Koja Terminal	Indonesia	n.a.
			Port Klang	Malaysia	n.a.
			Myanmar International Terminal Thilawa	Myanmar	n.a.
			Hutchinson Laernchabang Terminal	Thailand	n.a.
			Thai Laernchabang Terminal	Thailand	n.a.
			Saigon International Terminals	Vietnam	n.a.
SSA Marine	Port investor and operator	United States	Cai Lan International Container Terminal	Vietnam	n.a.
International Container Terminal Services Inc.	Invest, develop, manage, and operate container ports and terminals	Philippines	New Muara Container Terminal Services	Brunei Darussalam	n.a.
			P.T. Makassar Terminal Services, South Sulawesi	Indonesia	n.a.
			P.T. PBM Olah Jasa Andal	Indonesia	n.a.
APM Terminals	Shipping and port terminal operations in 38 countries	Netherlands	Tanjung Pelepas	Malaysia	Has 30 percent stake in the affiliate
			Laem Chabang	Thailand	n.a.
			Chai Mep	Vietnam	n.a.
China Ocean Shipping (Cosco)	Shipping and logistics services	China	Cosco Corporation (Singapore)	Singapore	n.a.

Table 1.7. Selected cases of multinational enterprises' investment in ports in ASEAN

Companies	Activities	Headquarters	Subsidiaries/ affiliates	Host countries	Notes
Evergreen Marine	Main business in shipping logistics	Taiwan		Malaysia and Malaysia	Owns container terminals in both Thailand and Malaysia
Hanjin	Shipping logistics	Republic of Korea		Vietnam	Owns terminal in Vietnam

Source: ASEAN Secretariat (2015c: 130).

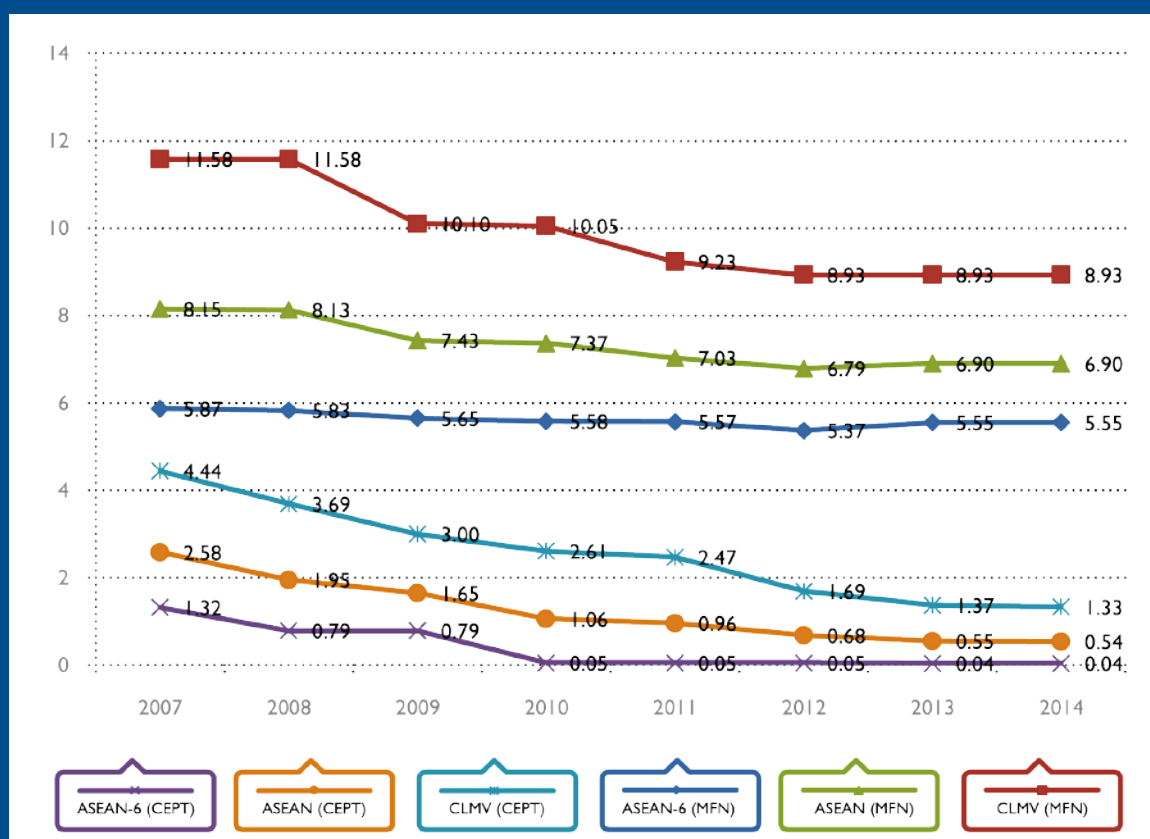
Despite this, the investment trend in the maritime logistics sector in ASEAN is moving towards more liberalisation, and this is not only applied to maritime infrastructure development. Indeed, some AMS, such as the Philippines allows foreign investors to operate the port they built for a maximum of 50 years through a build-operate-transfer mechanism.¹⁶

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.

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 (2015d: 9)

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 allows only 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.¹⁷ The agreement also obligates AMS to eliminate all import duties by 2010 for the ASEAN-6, and 2015 for the CLMV countries.¹⁸ 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 AMS (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 in 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 third-country nations 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.

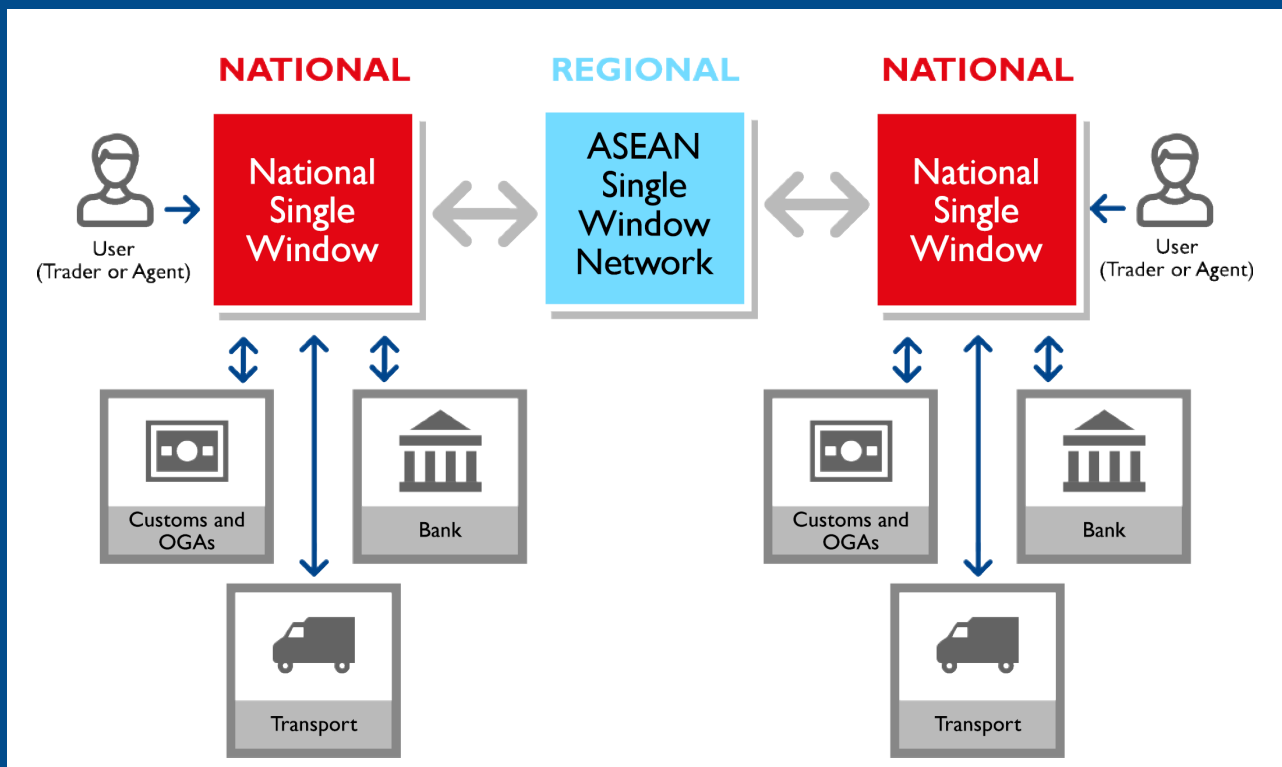
• Investment liberalisation

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.¹⁹ 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

Figure 1.2. ASEAN Single Window



Source: ASEAN Single Window (n.d.)

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 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/>.

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2. Hirst (2014).
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4. Lee, *et al.*, (2015: 55).
5. Novianti, *et al.* (2014 252).
6. Cheong and Suthiwartnarueput (2015: 479).
7. World Bank (2016).
8. Spire (2016: 5-6).
9. ASEAN Secretariat (2015a: 3).
10. Brunetti (2016).
11. ASEAN Secretariat (2016a: 7).
12. OECD (2017: 111).
13. ASEAN Secretariat (2016b: 8).
14. ASEAN Secretariat (2016a: 31).
15. Trace, *et al.* (2009: 4-5).
16. Build-operate-transfer is a type of arrangement in which private sector builds an infrastructure project, operates it and eventually transfers ownership of the project to the government. In many instances, the government becomes the firm's only customer and promises to purchase at least a predetermined amount of the project's output. This ensures that the firm recoups its initial investment in a reasonable time span.
17. See Article 8 of ATIGA.
18. 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.

19. 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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2. BRUNEI DARUSSALAM

BRUNEI

DARUSSALAM

2.1. Brief country profile

The Sultanate of Brunei Darussalam is the smallest country in ASEAN, with a population of 420,000 people. Much like the somewhat larger and wealthier city-state of Singapore, Brunei is one of the two high-income countries in ASEAN, with a GDP per capita of USD 26,938 in 2016.¹ Trade-wise, Brunei Darussalam is a relatively open country. Its trade to GDP ratio in 2016 was around 83 percent, with Malaysia, Singapore, China, United States, and South Korea as its main trading partners.² Brunei Darussalam's economy is heavily dependent on the production of oil and gas, thus the fall in oil and gas prices in recent years has had an adverse effect on the Sultanate. Under the leadership of Sultan Hassanal Bolkiah, Brunei Darussalam is attempting to diversify its economy by promoting other sectors and gradually adjusting its heavy reliance on the oil and gas sector in order to make the economy less vulnerable to shocks in commodity prices.

2.2. Maritime logistics sector in Brunei Darussalam

As a small country, Brunei Darussalam has a coastline of 161 km. Given Brunei Darussalam's focus on the oil and gas sector, the main industry linked to the maritime sector is transportation and logistics, especially sea transport, in order to mobilize oil and gas products and import products from

other countries. In terms of logistics performance, Brunei Darussalam ranked 6th of all AMS in the 2016 Logistics Performance Index with an overall score of 2.87 after Singapore, Malaysia, Thailand, Indonesia and Vietnam.³ In 2015, the transport industry represented about two percent of the country's national GDP.⁴ Despite its relatively small contribution to the country's GDP, the transport industry, including sea transportation, along with the fishing industry and the agriculture sector, are considered as potential diversification sectors for boosting the country's economy. The current biggest market of the sector is for the transportation of offshore oil and gas industry, carried by offshore supply vessels (OSVs). However, the majority of OSVs do not meet the requirement of today's need for efficient, greener, cleaner and safer fuel. To facilitate investment in this industry, the government has allocated a fifty acre site on Pulau Muara Besar with water frontage for the development of ship maintenance, repair and overhaul (MRO) facilities.

2.3. Maritime logistics-related regulatory framework and policies

In order to gradually decrease the nation's heavy dependence on the oil and gas sector, the government's national diversification plan has eyed the transport and logistics sector as one of its new champions. The sector is targeted to expand to at least five percent of the whole

economy from its current two percent, as stated in the country's long-term development plan, better known as "*Wawasan Brunei 2035*", or "*Brunei Vision 2035*".⁵ Along with trying to accelerate its logistics sector so as to catch-up with other ASEAN member states, Brunei is also aiming to be ASEAN's regional logistics hub, as the interconnectedness of ASEAN will likely be more and more extensive as the ASEAN Economic Community takes shape.⁶

Towards achieving these goals Brunei has established a Free Trade Zone, is taking an active role in the Maritime Silk Road, and implemented an ASEAN Strategic Transport Plan (ASTP) 2011-2015. These efforts have been made in order to facilitate the improvement of port quality and quantity and other maritime infrastructure, encourage innovation, and improve synchronization and integration among sectors.

Nearly all maritime logistics related services cannot be fully owned by foreign entities. In order to provide services, foreign companies should form a joint venture with a local company. Yet, to accelerate the achievement of government targets to make maritime logistics sector as part of the state's income diversification, the government has made some efforts to attract foreign investors by liberalising the industry to some extent. For instance, under the 7th package of commitments under the ASEAN Framework Agreement on Services (AFAS), a foreign entity was not allowed to

have a majority share ownership; it was restricted to a maximum of 49 percent. Yet, under the latest 9th package of commitments under AFAS, the government slightly increased the maximum foreign share ownership to a maximum of 51 percent.⁷

In addition, the government also provides various incentives and eases licensing procedures. Brunei Darussalam has already implemented a National Single Window for various procedures, such as e-Customs, which provides an integrated electronic trade documentation system that allows the trading community in Brunei Darussalam to submit applications electronically for processing of imported and exported goods (see: <https://ecustoms.mof.gov.bn/>). Furthermore, compared to many AMS, Brunei Darussalam applies a very low tariffs regime. For instance,

there is no personal income tax and no import tariff charged on basic foodstuff and goods for many industrial needs.⁸

2.3.1. Port development-related policies

Brunei Darussalam has two seaports: the Muara Port, which is the main and only deep water port of the nation, and the Kuala Belait Port. The Brunei government is currently trying to expand and transform Muara Port into a world class port and also establish an integrated logistics hub that will be developed in Pulau Muara Besar (PMB). Muara port is expected to increase its handling capacity to 1 million TEUs by 2021, from its current capacity of 330,000 TEUs per year.⁹ For the development of PMB, the

government has allocated a 995 hectare site since 2003. PMB will be developed in several phases, with the construction of a deep-water container terminal facility already completed. Starting from 2017, this terminal has been operated by a joint venture of Chinese firm Guang Xi Beibu Gulf Port Group and a local company, Darussalam Asset Sdn Bhd. For the remaining phases of the port development, the government is calling for foreign investors to take part in the development plan ranging from port construction and industrial development in the area, to infrastructure development such as construction of bridge to connect the PMB to the mainland, roads and utilities. To attract investors, the government is providing numerous incentives (see section 2.3.4.) and made regulations to support corporatization and privatization stated in Brunei Strategic Plans. Among others, the government plans to privatize four state-owned agencies namely: the Ports Department, the Maritime and Port Authority, the Postal Service Department, and Brunei International Airport Management. This strategic plan will shift the government's role from a service provider to a regulatory body.¹⁰

2.3.2. Shipyard and shipbuilding policy

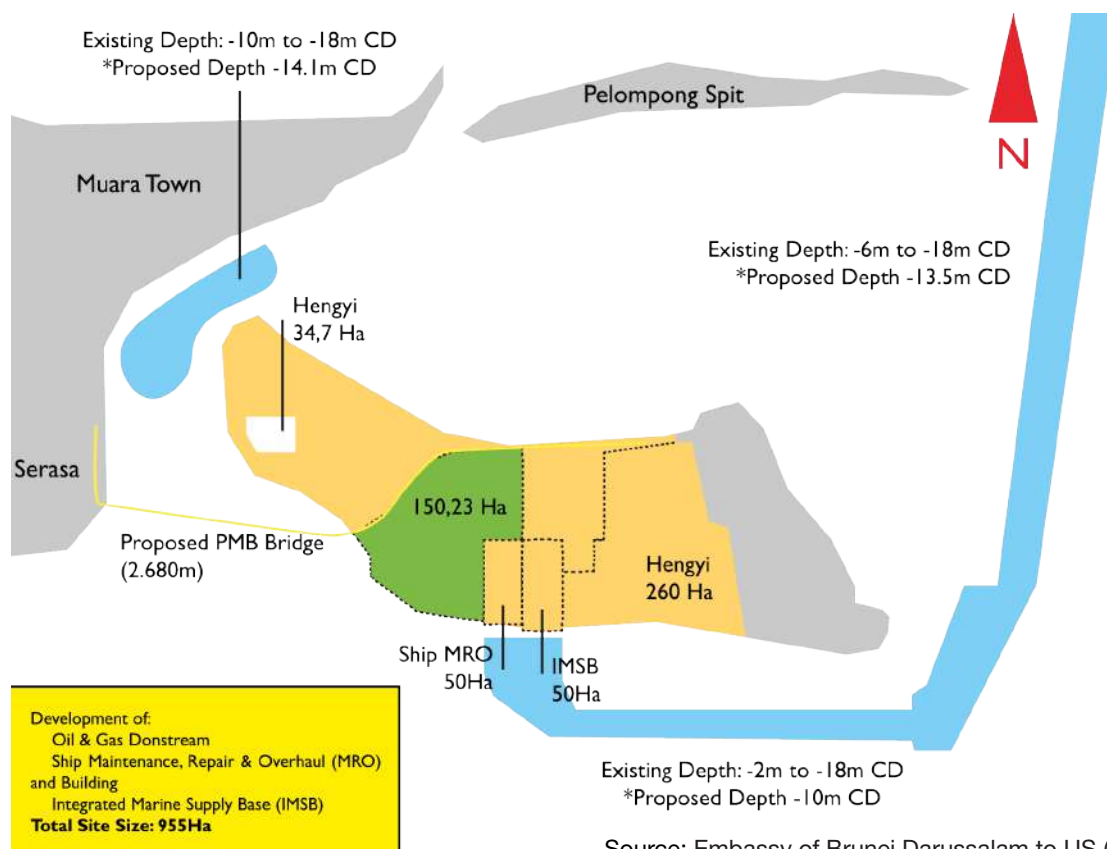
Concerning its shipyard industry, the Sultanate plans to modernize the OSVs and liquid natural gas (LNG) transport fleet. The plan is to anticipate the massive development of LNG facilities to double LNG output by 2030. Brunei Darussalam is expected to reap high potential from that the industry in the Asia Pacific region, considering that the current LNG supply chain in the region is considerably under-developed and costly.¹¹ Thus, the government plans to provide modern shipyard that can produce fuel-efficient, cleaner and safer vessels, fleets and tankers. To promote this industry, the government has prioritised the shipyard industry as a pioneer industry that will receive many privileges and incentives.¹²

Table 2.1. Maritime logistics-related rules and regulations in Brunei Darussalam

Maritime logistics-related sub-sectors	Relevant laws and regulations
Maritime cargo handling services	- Company's Act; - Labour Act; - Ports Act 1984 Chapter 144.
Storage and warehousing services	- Company's Act; - Ports Act 1984 Chapter 144; - Customs Order, 2006; - Labour Act.
Freight transport agency services	- Company's Act; - Ports Act 1984 Chapter 144; - Labour Act.
Other auxiliary services	Company's Act.
Courier services	- Company's Act; - Post office Act.
Packaging services	- Company's Act; - Customs Order, 2006; - Post office Act; - Labour Act.
Customs clearance services	- Company's Act; - Customs Order, 2006; - Labour Act.
International freight transport service, excluding cabotage	- Company's Act; - Labour Act.
Other relevant regulations	- Merchant Shipping Order, 2002 (S 27/20); - Maritime Offences (Ships and Fixed Platforms) Order, 2007; - Telecommunications Order, 2001; - Broadcasting [Act] [Notification 1].

Source: ASEAN Secretariat (n.d.)

Figure 2.1. Pulau Muara Baru development plan

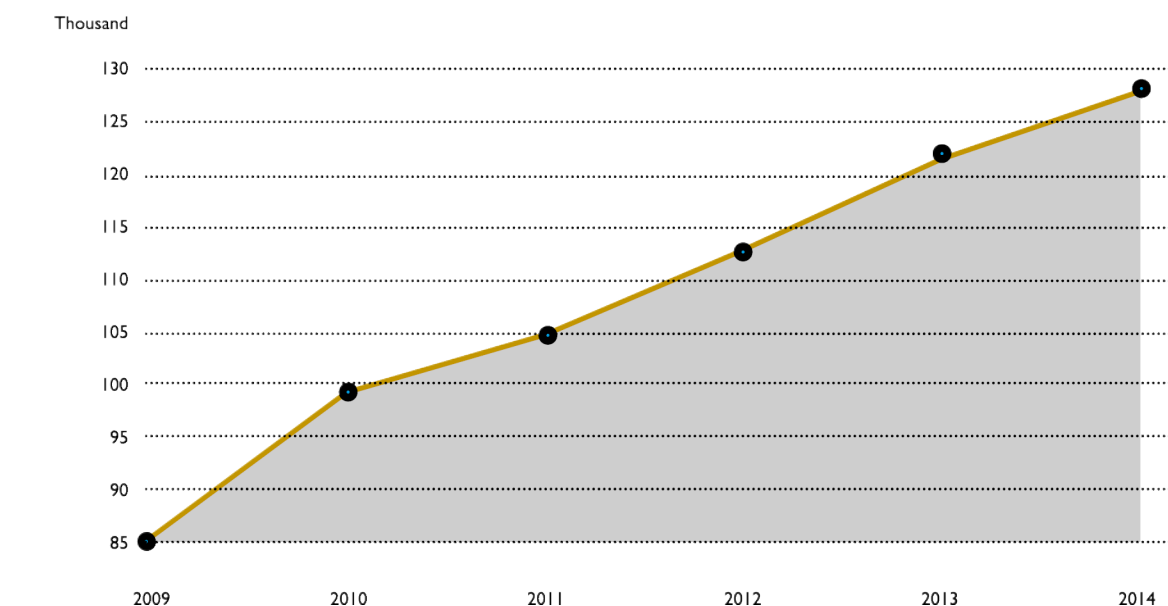


Source: Embassy of Brunei Darussalam to US (n.d.a.).

2.3.3. Shipping policy

The transport industry, including sea transportation, is one of Brunei Darussalam's targeted industries. The shipping industry recorded approximately 8.3 percent average annual growth of container port traffic between 2009 and 2014, from 85,577 TEU in 2009 to 128,025 TEU in 2014 (see Figure 2.2.).¹³ The needs of additional shipping providers are in accordance with the development of the PMB. In addition, more shipping services will also be required by the nation as the government plans to double its LNG output by 2030. As such, the shipping industry is set to be fully open for competition. In order to make the industry more free, competitive, and open, the Brunei Darussalam government does not impose cargo reservation and cabotage laws in the country. Most of Brunei Darussalam's international trade is carried by foreign ships.¹⁴ There are also no anti-trust laws in the nation in Brunei Darussalam.¹⁵

Figure 2.2. Brunei Darussalam's container port traffic 2009 – 2014 (in TEU)



Source: World Bank (n.d.).

2.3.4. Investment policy

Brunei Vision 2035 emphasises the importance of FDI as an important source of growth. Accordingly, the government actively encourages investors to invest in Brunei Darussalam by providing incentives, such as generous tax incentives. The Investment Incentives Order 2001 provides guidelines for granting pioneer status and tax relief for local and foreign investment.¹⁶ The incentives will be given to companies having a pioneer certificate on specific sectors. One of these pioneer industries related to maritime sector is shipyard, more specifically ship repair and maintenance. One of the incentives is tax exemption granted for five to eleven years, which can be extended subject to certain. The requirements to get this incentive include:¹⁷

- (1) Companies who have fixed capital expenditure of BND 500,000 to BND 2,500,000 get five years of exemption. It can be extended another three years for one time only;
- (2) Companies with more than BND 2,500,000 of fixed capital expenditure get eight years of exemption. It can be extended another three years for one time only, as long as it does not exceed eleven years of tax exemption in total;
- (3) Companies located at Hi-Tech Park (an industrial park to attract foreign direct investment) are rewarded with eleven years of exemption. It can be extended to five years at one time, as long as it does not exceed twenty years of tax exemption in total.

The other incentives are to carry forward losses and allowances, and tax exemption for imported raw materials which are not available in Brunei Darussalam.

2.4. Setting up a business in Brunei Darussalam

2.4.1. General process of setting up a business in Brunei Darussalam

All companies must be registered as a legal entity in the form of either sole proprietorship, partnership, or company with the Registry of Companies and Business Names at the Ministry of Finance.¹⁸

Table 2.2. Types of businesses in Brunei Darussalam

	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, must have at least 2 shareholders and maximum of 50 shareholders; • Public company, must have at least 7 shareholders/members.
Legal status	• 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.	• 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; • Partner's personally liable for partnership's debts and losses incurred by other partners.	• 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	• Age 18 years or above; • Brunei citizens and permanent residents only; • Undischarged bankrupt cannot manage business without court or official receiver's approval.	• Age 18 years or above; • Brunei citizens and permanent residents only; • Undischarged bankrupt cannot manage business without court or official receivers' approval.	• Age 18 years or above; • Minimum of two directors (if 2, 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.

	Sole proprietorship	Partnership	Company
Formalities and expenses	• Quick and easy to set up; • Easy to administer and manage; • Registration cost is minimal; • Less administrative duties to adhere to.	• Quick and easy to set up; • Easy to administer and manage; • Registration cost is minimal; • Less administrative duties to adhere to.	• 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.
Set-up fee	BND 30 for the registration fee	BND 30 for the registration fee	BND 300 for incorporation fees
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, compulsorily by the High Court; • Striking off.

Source: Ministry of Finance of Brunei Darussalam (2017a).

Table 2.3. below summarises the process of setting up a business, including the length of time and cost required, in Brunei Darussalam. The procedure will be slightly different between men and women.

2.4.2. Additional procedures and requirements for maritime logistics-related businesses

2.4.2.1. Marine transport (shipping) business registration

There are several types of ships that can be registered in Brunei Darussalam, namely ships belonging to Bruneian citizens and ships belonging to companies incorporated in Brunei Darussalam, which are then divided into foreign-owned companies and local-owned companies. Foreign companies are those that: (i) have more than 50 percent of share owned by non-Bruneian citizens; (ii) have at least BND 50,000 of paid-up capital; and (iii) have self-propelled vessel(s) of minimum size 1,600 GT.¹⁹ In order to register a ship in Brunei Darussalam, foreign companies should be incorporated in Brunei Darussalam. The ship registration procedure is described in Table 2.4.

Once a ship is registered, shipping companies need to obtain for each ship a License to Operate (LTO) from the Marine Department. Such license will allow the ship to operate in Brunei Darussalam's sea territory. The procedure to obtain the LTO is as presented in Table 2.5.

Table 2.3. 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 (2017b).

Table 2.4. Ship registration procedure in Brunei Darussalam

Description	Remarks
Procedure	(1) Submit and reserve vessel's name to the Marine Department, names are ordered based on preference; (2) Register to the Marine Department for official number; (3) Submit required documents: • Evidence of ownership; • Company's profile; • Tonnage certificate and value of the vessel; • Class certificate. (4) Pay for fees; (5) Vessel is registered with a status of provisional registration. It only lasts for one year and cannot be extend; (6) Before the license is expired the status should be transferred to Permanent Registration by submitting another document in addition to required documents above. The addition of required documents are: • Statutory certificate; • Evidence of cancellation of the former registry; • Certified carving and marking note. (7) Finish, vessel is registered.
Fees	• Initial registration fee: BND 2.5 per Net Tonnage (NRT), minimum of payment is 1,250 BND whereas maximum is BND 100,000; • Annual Tonnage Tax (ANT), BND 0.2 BND per Net Tonnage (NRT), minimum of payment is BND 100.

Source: Marine Department (2017a)

Table 2.5. Procedure to obtain License to Operate (LTO)

Steps	Remarks
(1) Documents verification	The company should prepare and submit several documents to be verified by the authority. The documents are: Letter of intent/ LTO application form, project award letter, vessel's registration certificate, class certificate/latest survey report, Safety of Life at Sea (SOLAS) certificate, crew list and their certificates, and insurance documents.
(2) Vessel inspection	After the required documents has been completed and submitted. A company should submit a notice of readiness at minimum one month prior to the inspection date. The inspection will be done Marine Department Survey Team. The expenses of the inspection process including the team expenses should be covered by the company.
(3) Issuance of LTO	Seven working days after the inspection, if the vessel meets all of the requirements, Marine Department will issue the LTO.

Source: Marine Department (2017b).

2.5. Export and import procedures

Goods entering or leaving Brunei Darussalam must pass import and export clearance through the following procedures:

- **Register at RCED or appoint an agent**, every company/agent/forwarder should register and submit application to the customer service counter of the RCED (Royal Customs and Excise Department) by bringing along a copy of the Company's Registration Certificate and a

copy of applicant's identity card. The registration is free of charge.

- **Apply permit for controlled or prohibited goods²⁰**, For these kind of goods, accompany/agent/forwarder should obtain an A.P. (Approval Permit) from the RCED and other license/permit from relevant authorities²¹.
- **Online declaration**, every company/agent/forwarder should declare all coming or leaving goods from/to overseas²² through online-Customs system of the RCED or the Brunei Darussalam National Single Window (BDNSW). The declaration should also include the

commercial invoice, and the air waybill or bill of lading.

- **Duty Payment**, after the online declaration has been made, company/agent/forwarder should pay duties and other charges²³ for imported goods through online payment system or at customs counter²⁴.
- **Inspection and Clearance**, goods coming or leaving from/to Brunei Darussalam will be inspected by the customs authority prior clearance at the entry/exit point. Before inspection, company/agent/

forwarder should provide some documents such as approved customs import declaration, bill of lading, and licenses or permits from relevant authorities.

2.6. Other relevant information

2.6.1. Taxes

Various taxes in Brunei Darussalam are summarised in Table 2.6.

2.6.2. Infrastructure in Brunei Darussalam

Existing infrastructures in Brunei are summarised in Table 2.7.

2.6.3. Labour condition landscape and employment system

Due to its small population, Brunei Darussalam faces a serious shortage of skilled and unskilled workers, and is forced to recruit a large number of workers 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 on short-term visas), the country's skilled labour pool usually prefer public sector work as they offer generous benefits, such as bonuses, housing allowances, etc

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.

Employment of foreign nationals is controlled by a Labour Quota System of the Labour Department, as well as the issuance of

Table 2.6. 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	- 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 (2015b) and World Bank (2016b).

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.

According to the 2009 Employment Order, an employee in Brunei Darussalam 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.

2.6.4. Land policy

Land and property in Brunei Darussalam is regulated under the Land Code (Strata) Cap 189, which came into effect in 2009. According to the law, residents of Brunei Darussalam (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. Foreigners and permanent residents are not allowed to own land property in Brunei Darussalam.

Table 2.7. Existing infrastructures in Brunei Darussalam

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 distributor, and 1,499.21 km local access roads.
Airports	1 airport	Brunei Darussalam International Airport is Brunei's only airport.
Ports	2 ports (Muara Port and Kuala Belait 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 had access to electricity in Brunei Darussalam.
Telecommunications	(1) Radio frequency: • Spectrum allocation between 9KHz and 275 GHz; • Spectrum allocation below 7 GHz. (2) Mobile services: • GSM with frequency range of 900-910 MHz/945-955 MHz; • 3G with frequency range of 1920-1980 MHz and 2110-2170 MHz. (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.	As of 2015, the level of internet penetration in Brunei reached 71.2 users per 100 people, whilst mobile phone subscribers reached 108.1 subscribers per 100 people.

Source: Various.

2.6.5. Social security system

Social security system in Brunei Darussalam 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 Darussalam only covers those who are citizens of the country and permanent residents.

2.6.6. 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 Darussalam's local tradition.

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

- Marine Department, Ministry of Communication: <http://www.mincom.gov.bn/marine>
- Brunei Port Authority: <http://www.mincom.gov.bn/ports>
- The Brunei Economic Development Board: <http://www.bedb.com.bn/>
- Brunei Darussalam National Single Window: <https://login.bdnsw.gov.bn/bdnswso/login>
- National Trade Repository of Brunei Darussalam: <http://www.bdntr.gov.bn/SitePages/home.aspx>
- Trading Across Borders: <http://tradingacrossborders.gov.bn/SitePages/Home.aspx>

- Business Brunei: <http://www.business.gov.bn/>
- Ministry of Foreign Affairs and Trade: <http://www.mofat.gov.bn/>
- Ministry of Finance: <http://www.mof.gov.bn/>

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AEC BUSINESS TIP FOR BRUNEI DARUSSALAM

With the serious intention to diversify its economy by moving away from its dependence on the oil and gas industry, Brunei Darussalam is planning to accelerate development of other priority sectors including maritime logistics. In doing so, the door of investment is widely open for foreign investors to take part actively in maritime logistics business particularly through public private partnership scheme. The country's participation in the AEC allows Bruneian businesses better access to larger ASEAN markets through a well-established maritime connectivity within AMS. Taking advantage of Brunei Darussalam's relatively relaxed regulatory environment, ASEAN and non-ASEAN companies could consider establishing a base in Brunei Darussalam not only to exploit market opportunities and maritime logistics potentials in the country, but also the wider ASEAN region.

under the Ninth package of services liberalisation under AFAS, is available on ASEAN website: http://asean.org/?static_post=member-countries-horizontal-commitments-schedules-of-specific-commitments-and-the-list-of-most-favoured-nation-exemptions.

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21. Relevant authorities to obtain specific export/import license or permit can be checked at: <http://www.mof.gov.bn/index.php/import-and-export-licencepermit>.
22. Except for hand carry and goods delivered by post for dutiable goods.

23. Rate of duties can be checked at: <http://www.mof.gov.bn/index.php/customs-import-duty>.

24. Since 1973, the government does not impose duty for exported goods to increase competitiveness of local firms.

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3. CAMBODIA

CAMBODIA

3.1. Brief Country Profile

Cambodia is home to approximately 15.3 million people. Although Cambodia has the lowest per GDP per capita in ASEAN (USD 1,020), it is one of ASEAN's fastest growing countries with an annual average growth rate of 7 percent in the last decade. Cambodia has a total GDP of about USD 18,049 million mainly contributed by garments, construction, tourism, and agriculture.¹

Cambodia's appeal for investors are its demographic condition and low labour cost. Although the poverty rate in Cambodia is still high (20 percent in 2015), it has already declined by more than a half since 2004 when the rate was about 53 percent.²

Cambodia is very open to international trade, the ratio of international trade to GDP reached 142 percent in 2015. Cambodia's major trading partners are the United States, Hongkong and Singapore with garment, fisheries and rubber as Cambodia's main exported products.

Under its National Strategic Development Plan (NSDP) 2014-2018, the Cambodian government has set four main development goals, specifically: (1) Maintaining average annual growth at seven percent with low inflation, stable exchange rate, and stable growth of international reserves; (2) Attracting investment both originating from domestic and foreign in order to create more jobs for the youth; (3) Lowering poverty rate by one percent annually; and (4) Making

public service more effective and efficient.³

3.2. Maritime logistics sector in Cambodia

Compared to most other countries in the region, Cambodia has a short coastline stretching only 443 km, but the maritime logistics industry is still growing, where it recorded a nearly eight percent average annual growth of container port traffic between 2009 and 2014, from 207,577 TEU in 2009 to 288,905 TEU in 2014 (see Figure 3.1.). Cambodia has two major international ports i.e. Sihanoukville Autonomous Port as the only deep-water seaport in Cambodia and Phnom Penh Autonomous Port (PPAP) as the largest river port of the nation. In addition to the main ports, there are two other ports serving shipment of goods from or to other countries which are Kampot Port and Koh Kong Port. Three of those ports are part of the government plans to expand the capacity of those ports as presented in Table 3.2.

To make the nation more connected to China and the Southeast Asian region, Cambodia is currently actively committed to China's landmark "Belt and Road Initiative", a transnational project to build an infrastructure network covering the whole of Asia, Europe and parts of Africa. This plan is expected to expand Cambodia's international trading capacity and speed up the transfer of goods and services, thus making the logistics sector more cost-effective.

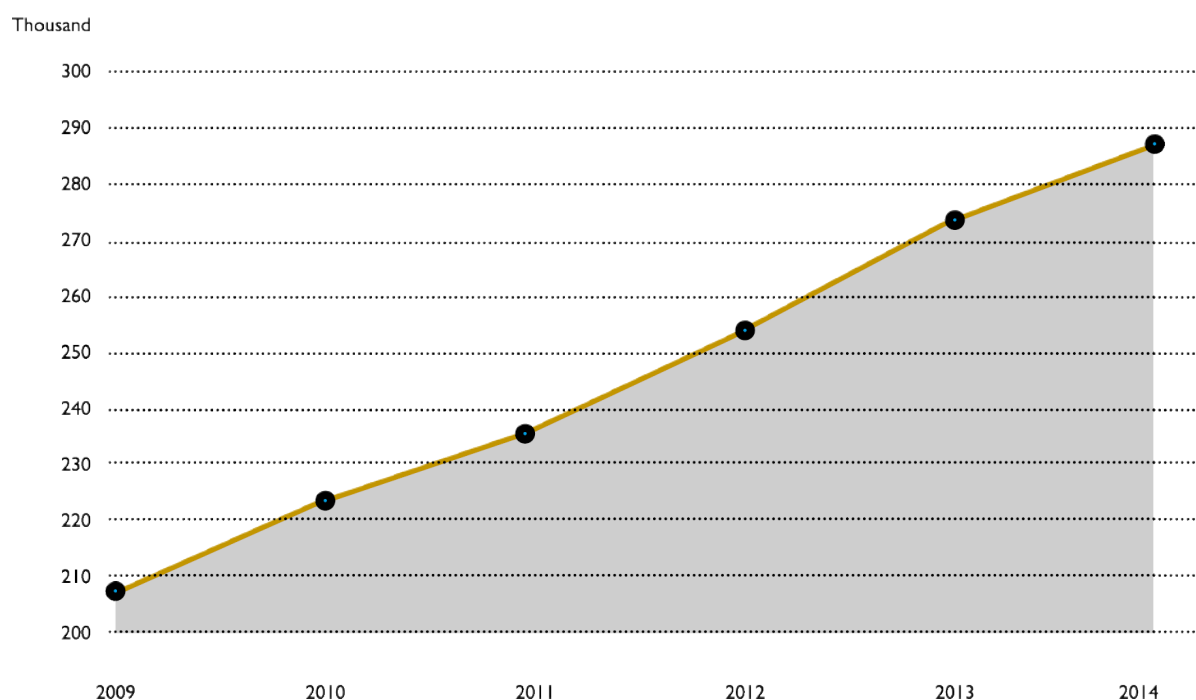
Since the implementation of the Trade Related-Assistance in Cambodia (TRAC) programme

by the World Bank, which aimed at establishing better linkages between Cambodia and its ASEAN trading partners, there has been some improvement in the logistics sector such as faster clearance time from 5.9 days in 2010 to 2 days in 2016; elimination of unnecessary procedures; simpler duration of physical inspection from 29 percent in 2010 to 22 percent in 2016; and the improvement of the nation's Logistics Performance Index (LPI) rising 56 places from 2010 to 2016 that now stands at 2.8 in 2016, a slight increase from 2014's score of 2.74.⁴

Since the late 1990s, there has been increasing participation from private companies in the transport and infrastructure construction sector. The Cambodian road network is part of the Asian Highway (AH) and a part of the arterial highway of the Greater Mekong Sub-region (GMS). Cambodia also has river crossing services/ferries, of which NR 1 (Neak Loeung) and NR 6A (Prek Tamak, Prek Kdam) are the main fluvial connecting routes operated by the Ministry of Public Works and Transport.

The transportation of goods and people are dominated by the traffic to or from Phnom Penh, comprising around 80 percent of all inter-provincial transport. Other substantial inter-provincial flows of goods and passengers are between the north-western provinces of Siem Reap, Banteay, Meanchey and Battambang. Many of the transported goods are imported from Thailand and Vietnam.

Figure 3.1. Cambodia's container port traffic 2009 – 2014 (in TEU)



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

3.3. Maritime logistics-related regulatory frameworks and policies

Technically speaking, there is no specific regulation concerning maritime logistics sector. Whilst maritime code and inland waterways laws are currently under final revision, most of maritime logistics and its related services are currently regulated under the Traffic Law 2006, the Investment Law 1994 and its 2003 amendment, the Postal Law 2002, and the Custom Law 2007.

Investment in infrastructure falls under the Law on Concession 2007.⁵ The law was passed to achieve the objective of promoting and facilitating the implementation of private projects in Cambodia in line with the public interest and national economic and social objectives. Maritime logistics and other related activities are among the sectors that should have Concession Contracts as stipulated in Article 5.

The investment process is regulated under the Amended Law on Investment 2003. The

amendment was done to make the investment process simpler and more transparent. Except for land ownership, foreign investment enjoys non-discriminatory regulations in Cambodia as stipulated under the Law on Investment. In Cambodia, there are no limitations on the proportion of shares except for joint ventures that intends to own interest in land, in which case the maximum foreign ownership is limited at 49 percent.⁶ The Cambodian government also encourages investment by establishing the Cambodian Special Economic Zone Board (the CSEZB) in 2005 under the Council for the Development of Cambodia (CDC). This board is responsible for promoting Special Economic Zones (SEZ). Under the SEZ, the investors, including foreign ones, can benefit from a one-stop service for the registration of investment projects all the way to routine export-import clearance.

Regarding the maritime logistics sector's degree of openness, Cambodia is one of the most liberal countries in ASEAN for foreign participation. The Cambodian government has made strong commitments under the Ninth

Package of Services Liberalisation under the ASEAN Framework Agreement on Services. Generally, maritime logistics and internal waterway services are widely open to foreign companies. The government allows them to fully own the business without requiring local company's share of ownership involvement.⁷

3.3.1. Port development-related policies

As mentioned before, there are two major international ports in Cambodia (SAP and PPAP) and two other smaller international ports (Kampot Port and Koh Kong Port). The only commercial and deep-water seaport in the country is SAP, which is said to be the most expensive seaport in Asia.⁸ SAP handles 35 percent of Cambodia's total trading volume. About 3.8 million cargoes are shipped through the port in 2015, which was a 10 percent increase from the previous year. The number of vessels coming through the port showed a 17 percent hike in 2015.⁹ With this increase, the government has

Table 3.1. Maritime logistics-related rules and regulations in Cambodia

Maritime logistics-related sub-sectors	Relevant laws and regulations
Maritime cargo handling services	• Maritime code is under final revision; • Inland waterways law is under final revision.
Storage and warehousing services	• Traffic Law, 2006; • Investment Law, 1994 and its 2003 amendment; • Customs Law, 2007.
Freight transport agency services	• Traffic Law, 2006; • Investment Law, 1994 and its 2003 amendment.
Other auxiliary services	• Investment Law, 1994 and its 2003 amendment.
Courier services	• Traffic Law, 2006; • Investment Law, 1994 and its 2003 amendment; • Postal Law, 2002; • Customs Law, 2007.
Packaging services	• Traffic Law, 2006; • Investment Law, 1994 and its 2003 amendment; • Postal Law, 2002; • Customs Law, 2007.
Customs clearance services	• Customs Law, 2007.
International freight transport service, excluding cabotage	• Traffic Law, 2006; • Investment Law, 1994 and its 2003 amendment; • Postal Law, 2002; • Customs Law, 2007.

Source: ASEAN Secretariat (n.d.)

estimated that the container volume will reach 450,000 TEUs in 2018. The other major international port, the publicly listed PPAP, is the largest river port in Cambodia. In 2016, it recorded a total container traffic volume of 151,788 TEU which is a 4.8 percent increase from the preceding year. Within the same period, PPAP's export rose 7.5 percent and recorded a total export figure of 76,806 TEU.¹⁰ Hence, to catch up with such traffic increases, to reduce time and the cost of cargoes handling, and to improve the nation's maritime logistics infrastructure, the government intends to expand the capacity of SAP and PPAP facilities. In addition, to anticipate growing traffic of sea transport, Cambodia also plans to transform its smaller seaport, Kampot Port, to become another major international deep-water seaport of the nation. These three maritime-logistics infrastructure development plan are summarised in Table 3.2. In addition, the government is trying to liberalize investment in Cambodia and calls for foreign participation. 25 percent share of SAP will be offered to the public through Cambodia's Security Exchange in 2017.¹¹

3.3.2. Shipping policy

Cambodia's export industry has steadily increased in the last 20 years. Cambodia's global export in 2015 was more than triple than in 2010. It is mostly dominated by the export of garment and footwear (78 percent of 2015's total export). The country's garment and footwear exports reached USD 6.3 billion in 2015 which was a 6.7 percent increase from the previous year.¹² It is estimated that the nation's export will still continue to grow with the recovery of global demand and that its competitive wages will continue to attract more investment. The same trend was also seen in the shipping industry.

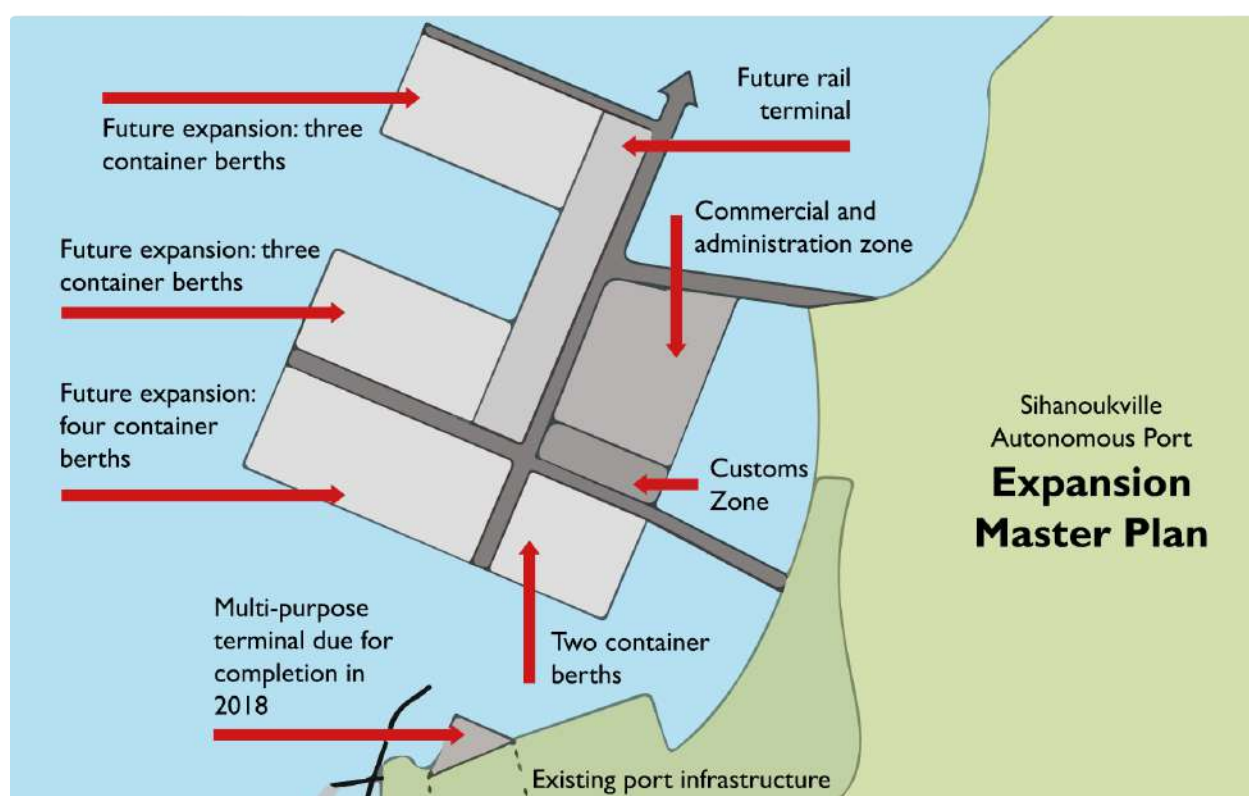
The largest seaport in the country, SAP, handled 392,000 TEUs of containers in 2015. SAP's cargo handling has steadily increased with an average growth of 10 – 15 percent annually in the last 5 years, whereas the Phnom Penh Autonomous Port's (PPAP) container traffic also increased by 8.3 percent in 2015 with total container traffic reaching 145,000 TEUs. Such an increase was mostly caused by surging exports of rice and construction materials. Although it has considerable potential, Cambodia's shipping industry is one of the most expensive in Asia. Unofficial fees charge for the shipping industry in Cambodia is about 48 percent of its total transportation cost.¹³ Therefore, the government is currently trying to eradicate corruption and to reduce official fee for the industry. For instance, in May 2015, the Ministry of Transport has signed a fee reduction by 10 percent for SAP and 5 percent for the Phnom Penh Autonomous Port.¹⁴

Table 3.2. Potential seaport investment projects

Investment project	Estimated Value	Remarks
Expansion of SAP	USD 300 million	The project is planned to start in 2019 and expected to finish in 2022. It aims to increase SAP capacity up to 1 million TEU of container and 10 million tonnes per year. The project includes: the development of new port terminals capable to serve large vessels; the construction of new container port; the construction of customs and administrative buildings; the construction of a rail terminal; and land reclamation.
Expansion of Kampot Port	USD 300 million	This project is expected to make Kampot Cambodia's international port besides SAP. It is targeted to have a 20,000 tonnes cargo handling capacity for each shipment, including oil shipment. It involves the construction of a terminal and the deepening of the harbour from 12 meters to 15 meters in order to serve large ships.
Expansion of Phnom Penh Autonomous Port	unknown	This project is divided into three phases. The first phase was completed in 2013 with Chinese funding (USD 28 million loan). The USD 12 million second phase started in 2015 and is expected to be completed in 2017, expanding the port's handling capacity to 300,000 containers. The third phase is expected to begin in 2018 and will increase the port's handling capacity to 500,000 containers in total.

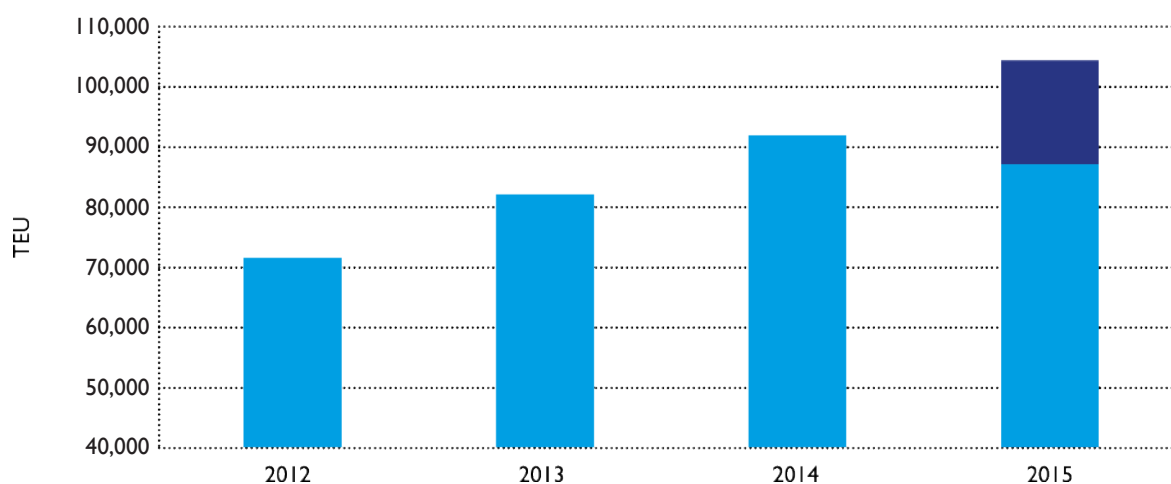
Source: Chandara (2016); Sokhorng & Kotoski (2016); Sokhorng (2016a).

Figure 3.2. SAP expansion master plan



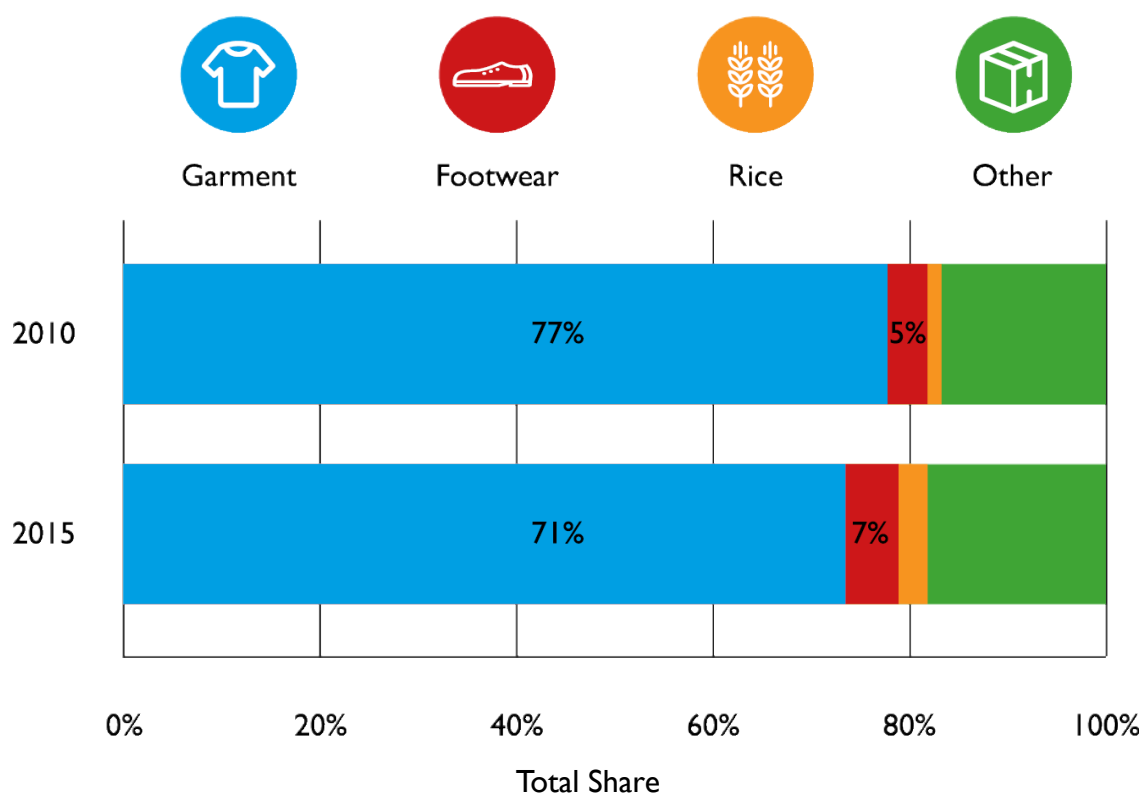
Source: Sokhorng (2016).

Figure 3.3. Global TEU exports from Cambodia, 2012 - 2015



Source: JOC (2015).

Figure 3.4. Composition of Cambodia's merchandise exports in 2010 and in 2015



Source: ILO (2016: 6).

3.3.3. Inland waterways policy

Cambodia has a 1,750 km-long network of inland waterways, comprising the Mekong River (30 percent), the Tonle Sap River (15 percent), the Basaac River (5 percent) and other tributaries (50 percent). There are six major river ports along the inland waterways (Table 3.3.). In addition, the maximum navigable vessel size in the Mekong River Basin of Cambodia is presented in Table 3.4. The waterways are mainly used for the transportation of goods in domestic market and cross-border trade with Vietnam. However, nowadays, except between Phnom Penh and Cai Mep in Vietnam, the activity of inland waterway transportation has been decreasing as a result of better road connectivity. Currently, inland waterway is used for services and access to rural areas of Cambodia.¹⁵

3.3.4. Investment policy

The 1994 Law on Investment and its 2003 amendment 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 occasionally.¹⁶

Investment incentives

- Qualified Investment Projects**

Investment incentives are given to projects that already received a status as Qualified Investment Projects (QIP). The incentives -as listed in Chapter 5 of Amended Law on Investment- are as follows:

Table 3.3. Major river ports along Cambodian inland waterways

Port	Province	Route
Stung Treng Port	Stung Treng	on the mainstream of the Mekong 1280 km up from Kratie Port
Kratie Port	Kratie	on the mainstream of the Mekong 121 km up from Kampong Cham Port
Tonle Bet Port	Kampong Cham	on the mainstream of the Mekong 106 km up from Phnom Penh
Neak Loeang Port	Prey Veng	on the mainstream of the Mekong 60 km down from Phnom Penh Port
Chong Khneas Port	Siem Reap	on the Tonle Sap River 190 km up from Phsar Krom Port
Phsar Krom Port	Kampong Chunang	on the Tonle Sap River 100 km up from Phnom Penh Port

Source: Council for the Development of Cambodia (n.d.a.).

Table 3.4. Maximum navigable vessel size in the Mekong River Basin of Cambodia

Vessels type	Mekong Mainstream up to Phnom Penh	Tonle Sap, Phnom Penh to Siem Reap
Petroleum	Tanker Barges 1,000 DWT/ Draught 4.0 m	-
Container	Barges 1,000 DWT (120 TEU) / Draught 3.8 m	-
General cargo	Barges 1,500 DWT/ Draught 4.0 m	-
Tourism cruise	50-65 passengers Draught 1.5 m	50-65 passengers Draught 1.5 m
Vessels type	25 passengers Shallow Draught	25 passengers Shallow Draught

Source: Council for the Development of Cambodia (n.d.a.).

However, as listed in Section 2 (Investment Activities Not Eligible for Incentives) of Annex 1 of the Sub-Decree No.111 on the Amendment to the Law on Investment, projects in any kind of commercial activity, import, export, wholesale, and retails; any transportation services by waterway, by road, by air (excluding the railway sector) or tourism are not eligible for investment incentives even though the projects have been honoured as QIP.

Table 3.5. Qualified Investment Projects (QIP) incentives

Incentives	Notes
Profit tax exemption (Selective)	Period of a tax holiday period consists of Trigger period + 3 years + Priority Period (Maximum total 9 years). An annual Certificate of Obligation Satisfaction has to be achieved by the QIP to be able to receive Profit Tax Exemption.
Special depreciation (Selective)	40 percent special depreciation allowance on the value of the new or used tangible properties used in the production or processing.
Duty free	For import of production equipment, construction materials, and other goods. ¹⁷
QIP located in a designated Special Promotion Zone (SPZ) or Export Processing Zone (EPZ)	A QIP located in SPZ or EPS is entitled to the same incentives and privileges as other QIP stipulated in the Amendment to the Law on Investment.
Exemption of export tax	QIP shall be entitled to 100 percent exemption of export tax, except for activities as stipulated in laws.
Transfer of rights/privileges/entitlements	The rights/privileges/entitlements of a QIP can be transferred to a person who has acquired or merged a QIP upon the approval of the Council for the Development of Cambodia (CDC) or Provincial-Municipal Investment Sub-Committee (PMIS).

Source: Council for the Development of Cambodia (2013: v-1 – v-2).

• Special Economic Zones

Introduced in 2005, Cambodia's Special Economic Zones (SEZs) provide 'One-Stop Service' and various fiscal and tax incentives for investors within the zones. Incentives include a nine-year tax holiday exemption, zero percent rate of value-added tax, 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 (for both local workers and expatriates), and on-site immediate legal and administrative assistance.¹⁸ 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 3.6. Special economic zones in Cambodia

Location	SEZs	Year established	No. of firms operating	Total employment	Employees per firm (average)
Phnom Penh	Phnom Penh	2008	50	17,000	340
Bavet	Manhattan	2006	26	28,051	1,079
	Tai Seng Bavet	2007	17	7,968	469
	Dragon King	2013	2	280	140
Sihanoukville	Sihanoukville SEZ 1	2009	2	424	212
	Sihanoukville SEZ 2	2008	40	8,967	224
	Sihanoukville Port SEZ	2012	2	416	208
PoiPet	Poi Pet O'Neang	2011	2	830	415
Koh Kong	NeangKokKoh Kong	2005	4	3,953	988
Total	9		145	67,889	468

Source: Warr and Menon (2015: 6).

3.4. Setting up a business in Cambodia

3.4.1. General process of setting up a business in Cambodia

Table 3.7. summarises the process (including estimated time and cost required) of setting up business in Cambodia.

Table 3.7. 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: World Bank (2017).

3.4.2. Additional procedures and requirements for maritime logistics-related businesses

3.4.2.1. Marine transport (shipping) business registration

Ship registration

With respect to the 2003 Prakas (Ministerial Decree) on Resolution for Registration of Merchant Vessels in Cambodia, ship registration must be made through the International Ship Registry of Cambodia (ISROC). When registering the ships, the following information need to be submitted: name of vessel, gross and net tonnage, place (where it was built), the year built, the name and residence of the owner(s). The application can be submitted by the owner(s) or by a representative with an authorization letter.¹⁹

There are two types of ship registration in Cambodia:

- Provisional registration: Registration for a provisional certificate can be processed within 24 hours (if the necessary documents and condition are fulfilled). This certificate is valid for a period of 6 months.²⁰
- Permanent registration. The certificate is valid for a period of 5 years.

3.4.2.2. Inland Waterway Transport Business Procedures and Requirements

Table 3.8. summarises IWT business procedure and requirements.

Table 3.8. IWT business procedure and requirements

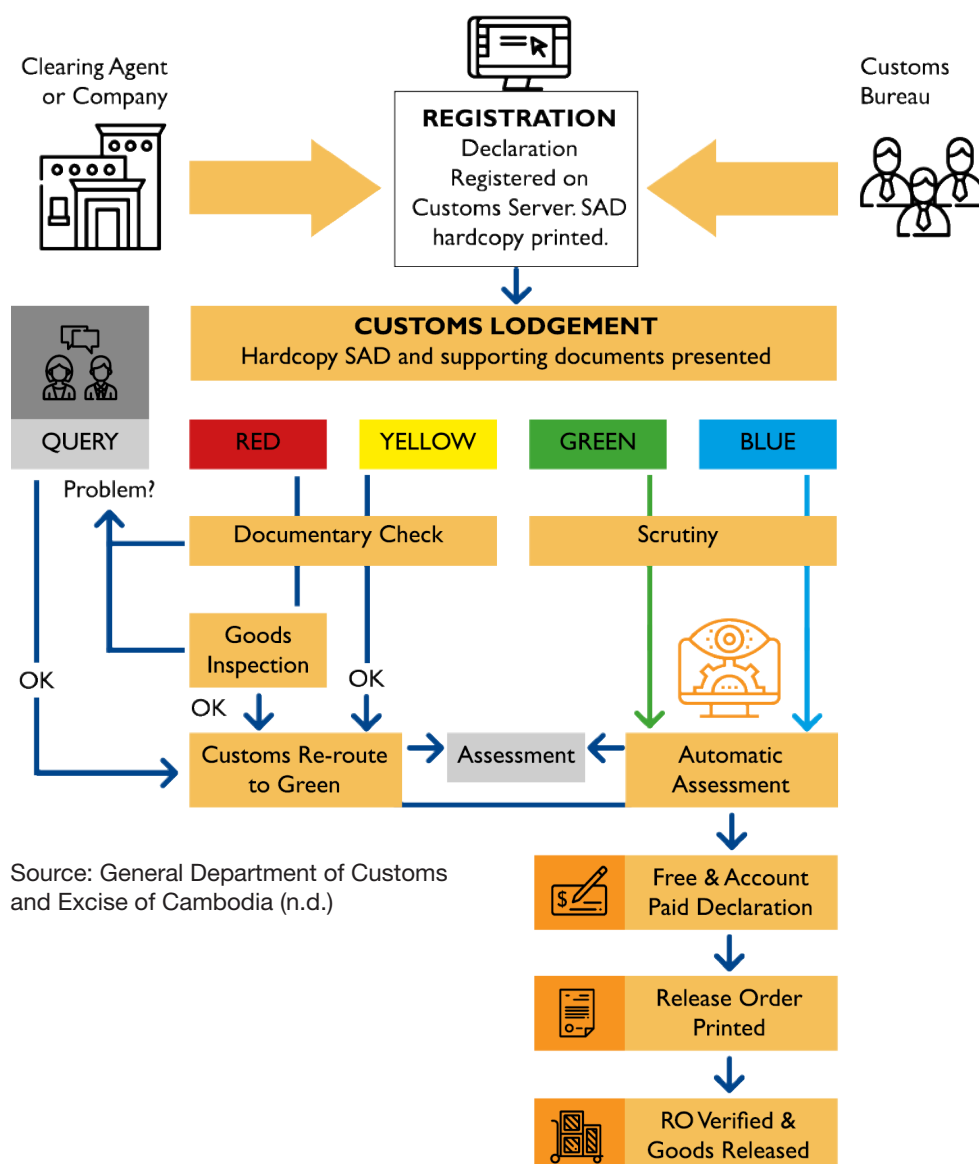
Procedure/ Requirement	Description
Documents of operating vessel	Ship registration certificate, international tonnage certificate, cargo ship safety equipment certificate, cargo ship safety construction certificate, cargo ship safety radio certificate, passenger ship safety certificate, and oil pollution prevention certificate.
Requirement of vessel equipment	Radar, automatic identification system (AIS), global positioning system (GPS), communication equipment (VHF), fog horn, search lights, navigation lights, anchor, mooring lines/steel cables.
Vessel registration	Registration should be undertaken with the Cambodian Inland Waterway Transport Department (IWTD).

Source: Mekong River Commission (2015:18).

3.5. Customs Clearance

Every goods leaving/coming from/to Cambodia must pass customs clearance of which the procedure is described as in Figure 3.5:²¹

Figure 3.5. Customs Declaration Procedure



- **Submitting customs declaration**, broker/declarant input directly information of Single Administration Document (SAD) into the Automated System on Customs Data (ASYCUDA). ASYCUDA will receive the registration when it is complete and valid. The broker/declarant should print and sign 2 (two) copies of the SAD and submit it along with all other required documents to the custom officers. Supporting documents include: invoice, bill of lading, manifest, licenses, permits, certificate of origin, certificate

of insurance, and other required documents.

- **Lodgment of the customs declaration**, customs officers will examine the SAD to ensure that it follows the regulation.
- **SAD classification**, customs officer will classify the SAD based on risk management criteria by using system into four lanes as follows:
 - o **Red Lane**: the SAD must be scrutinized (cross-checked against documents). Goods have to be inspected physically before it is re-routed to the Green Lane.

- o **Yellow Lane**: the SAD must be scrutinized (cross-checked against documents) before it is re-routed to the Green Lane.
- o **Green Lane**: the SAD is directly assessed and a clearance document will be issued. Hardcopy of SAD may be subject to post-clearance audit (PCA).
- o **Blue Lane**: same treatment as for the Green Lane but with particular reasons subject to post-clearance audit (PCA).

- **Query desk inspection**, in case of irregularities and errors in data entry, the SAD will go the query desk of customs officers. The declarant should go the query desk to clarify the problems. If an agreement is reached between the query desk and declarant, the SAD will be re-routed to the Green Lane.
- **Container scanning**, imported/exported goods have to pass scanning process, the customs officers will examine the scanning based on the SAD documents.
- **Assessment notice**, after the assessment is complete, ASYCUDA will determine the duties, taxes, and fees that should be paid.
- **Payment**, declarant should pay the amount that has been informed by ASYCUDA to a National Bank of Cambodia account or other authorized financial entities.
- **Release of goods**, after the payment is done, the declarant will receive a cargo release note to release the goods.

Table 3.9. 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).

3.6. Other relevant information

3.6.1. Taxes

Various tax rates in Cambodia are highlighted in Table 3.9.

3.6.2. Infrastructure in Cambodia

Table 3.10. below summarises existing infrastructures in Cambodia.

Table 3.10. 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 Poipet on the Thai border via Pursat and Battambang, and 266 km southern line that connects Phnom Penh and Sihanoukville.
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	2 major international ports and 2 minor international ports	The Sihanoukville Autonomous Port is Cambodia's only commercial and deep seawater port. Another major port is Phnom Penh Autonomous Port. There are also two small international ports i.e. Koh Kong port, and Kampot Port.
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.

3.6.3. Labour condition landscape and employment system

As a lower middle income country, Cambodia suffers from a lack of depth in its skilled worker pool. It has been noted, for instance, that four out of every ten Cambodian youths lack sufficient education to adequately perform their jobs. With around 90 percent of workers operating 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.

As far as the 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.

3.6.4. 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.

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. The government also adopted a Sub-Decree on Economic Land Concessions in 2005, which facilitates the granting of land concessions to foreign and local investors. 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.

3.6.5. Social Security System

Social security system in Cambodia is administered by the National Social Security Fund and regulated under the Social Security Law 2002

(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.

3.6.6. 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 with less costs 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.

3.7. Electronic links to relevant maritime logistics-related institutions and information portals

- Cambodian Development

Council: <http://www.cdc-crdp.gov.kh> and <http://www.cambodiainvestment.gov.kh>

- Ministry of Public Works and Transport: <http://www.mpw.gov.kh>
- Ministry of Land Management, Urban Planning and Construction: <http://www.mlmupc.gov.kh>
- Ministry of Commerce: <http://www.moc.gov.kh>
- Provincial-Municipal Investment Sub-Committee: <http://www.cambodiainvestment.gov.kh>
- The International Ship Registry of Cambodia (ISROC): <http://www.flagadmin.com/cambodia-en.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 seen 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, garment and agriculture, the government has been encouraging private investment to support the development of maritime logistics infrastructure in order to improve the nation's maritime connectivity and decrease logistics cost. Although continuously liberalising its economy, Cambodia's participation in the AEC provides an additional boost to reduce investment impediments in the country.

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 24. Council for the Development of Cambodia (n.d.b).
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 26. Royal Embassy of Cambodia in the United Kingdom, *op. cit.*, p.10.
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4. INDONESIA

INDONESIA

4.1. Brief country profile

Home to more than 260 million people, or around 40 percent of the total population of the Association of Southeast Asian Nations (ASEAN), Indonesia offers a vast market for investors. As the largest economy in ASEAN with a nominal GDP of more than USD 800,000 million in 2015, Indonesia's economy is driven by three main sectors, including manufacturing (20.84 percent), agriculture, livestock, and fishery (13.52 percent), and trade (13.29 percent). At around 5.52 percent per annum, Indonesia's economic growth has been relatively stable over the past five years. The vast size of Indonesian economy makes it the only ASEAN Member State (AMS) that is part of the Group of 20 (G20) major economies. Currently enjoying a demographic bonus, 50 percent of Indonesia's population is in the working age. The country's unemployment rate has also been relatively steady in the last few years, standing at about 6 percent per annum. Relatively open to the global

economy, Indonesia's international trade ratio to GDP in 2015 was about 40 percent. At the time, China, the United States and Japan were some of the country's major trade partners. Though unpopular, the government imposed a policy to remove fossil fuel subsidy in 2015. Combined with investment funds from other countries, this policy initiative allowed the government more space to spend its budget on infrastructure development.

To attract more foreign investment, the government has tried to simplify the investment process in the country through economic reform packages (Table 4.1.). In addition, the latest policy package launched in June 2017 aims to enhance logistics system and to decrease national logistics cost. This package was launched based on the consideration that about 40 percent of goods' contributed by logistics cost in which 72 percent of it is transportation cost.¹ There are four aspects that has become a focus of this package, namely (i) Providing more business opportunities and enhancing business scale for

national transport and national insurance service providers, (ii) Easing process of doing business and reducing business cost for national logistics service providers which consist of reduction of operational cost of transportation services, elimination of permit for cargo transportation services, lighten port investment cost, ease of ship procurement, and etc., (iii) Strengthening the institutional capacity of the Indonesia National Single Window (INSW) by allowing the independency of INSW to develop an electronic system of export and import services, monitoring export and import activity indicated as illegal trading, developing single risk management to decrease dwelling time, and acting as a competent authority for ASEAN Single Window and the implementation of ASEAN free trade, and (iv) Simplification of trade system by establishing Team of Export and Import Trade System aiming to decrease NTBs from 49 percent to 19 percent or close to average of NTBs in ASEAN which is 17 percent.²

Table 4.1. Jokowi's economic reform packages relevant to maritime logistics sector

Reform Package	Date unveiled	Focus
1 st Economic Reform Package	September 9, 2015	- Boost industrial competitiveness through deregulation; - Curtail red tape; and - Enhance law enforcement and business certainty.
2 nd Economic Reform Package	September 29, 2015	- Shorten the investment processing time to three hours; - Shorten the processing time for tax allowance and tax holiday services; - Remove value-added taxes for transportation-related machinery and tools; - Introduce various facilities and incentives on bonded logistics center areas; - Reduce deposits return tax.

3 rd Economic Reform Package	October 7, 2015	• Reduce tariff on electricity, gas, and fuel for industry; • Simplify land-related licenses for investment purposes.
4 th Economic Reform Package	October 15, 2015	• Review provincial minimum wage level.
5 th Economic Reform Package	October 22, 2015	• Remove double taxation on estate, property, infrastructure investment.
6 th Economic Reform Package	November 6, 2015	• Develop Special Economic Zones; • Simplify licensing process by the National Agency for Drugs and Food Control.
7 th Economic Reform Package	December 4, 2015	• Introduce tax incentives for labor intensive industries; • Shorten the processing time for land certificate issuance.
10 th Economic Reform Package	February 11, 2016	• Revise the country's negative investment list.
11 th Economic Reform Package**	March 29, 2016	• Shorten the dwelling time from 4.7 days to 3.7 days and targeted to become 3.5 days by easing the process of loading and unloading at ports, as well as applying a single billing system for port services; • Lower tax rate on property acquired by local real estate investment trusts.
12 th Economic Reform Package	April 28, 2016	• Enhance the ease of doing business in Indonesia by cutting procedures, permits, and costs.***
13 th Economic Reform Package	August 23, 2016	• Reduce the number of procedures needed for companies to develop affordable housing.
14 th Economic Reform Package	November 10, 2016	• Launch incentives and roadmap to develop the country's e-commerce industry.
15 th Economic Reform Package**	June 15, 2017	• Provide more business opportunity and enhancing business scale for national transport and national insurance service providers; • Ease process of doing business and reducing business cost for national logistics service providers; • Strengthen institutional and authority of Indonesia National Single Window (INSW); • Simplify export and import trade system.

Note: *Up to 98 regulations were reviewed and later removed to avoid duplication and accelerate national competitiveness; ** Economic reform package related to maritime logistics, *** Procedure to start a new business was cut from 94 to 49 procedures.

Source: Bappenas (2017).

4.2. Maritime logistics sector in Indonesia

Counting more than 17,000 islands, less than half of which are inhabited, Indonesia is the world's largest archipelagic country. With two-thirds of its territory covered by the sea, Indonesia has the second longest coastline (estimated to be around 54,716 km) in the world after Canada. There is little doubt, therefore, that the economic potential of the country's marine sector is vast. Although the contribution of the maritime sector is under 30 percent of the national budget,³ the optimal potential output is USD 1.3 trillion per year or approximately about ten times of the current national budget.⁴

Indonesia's maritime logistics sector is promising, particularly since 90 percent of the country's export commodities are channelled through water transportation.⁵ In 2015, Tanjung Priok, Indonesia's main seaport, was the world's 27th busiest seaport, handling a total of 5.20 million TEUs every year.⁶ In 2015 alone, 15.1 million people and 400 million tons of cargo used sea transportation in Indonesia.

Indonesia's shipbuilding industry only makes about 0.3 percent of the global market, below the Philippines (2.6 percent) and Vietnam (1.1 percent).⁷ Today, there are about 250 shipbuilders with a capacity of 1 million DWT for new ship construction and 12 million DWT for ship repair, annually.⁸ Indonesia is projected to need about 1,000 new ships each year, whilst the current domestic shipyard capability is only able

to provide 30 percent of the figure.⁹ Taking into account the amount of new ships needed in Indonesia, the country's shipyard industry remains underdeveloped.

According to the World Bank's Survey in 2016, Indonesia's Logistics Performance Index (LPI) scored 2.98 out of 4.0, which classified it as a top performer in the category of lower middle-income economies.¹⁰ The cost of logistics in Indonesia remains high and stands at around 26 percent of the country's GDP¹¹, but it is targeted to decrease to 16 percent in 2019.¹² Indonesia's LPI standing has also been improving. Compared to the country's 2010 LPI score, five out of six Indonesia's 2016 LPI indicators showed significant improvements, including: logistics quality competence, customs, infrastructure, international shipment and tracking and tracing.

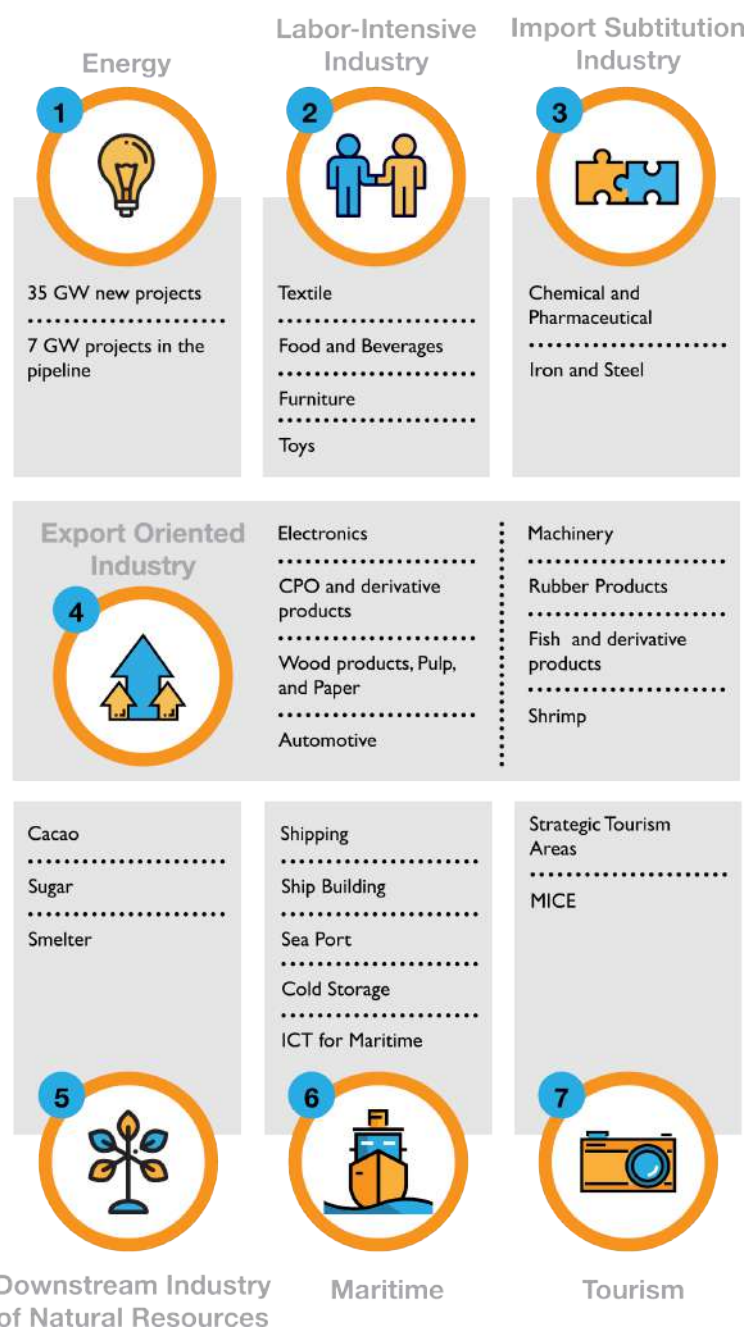
4.3. Maritime logistics-related regulatory frameworks and policies

Indonesia's current President, Joko Widodo, declared that "oceans, seas, straits and bays [are] the future of [Indonesia's] civilisation". Under his term as president, Jokowi intends to make the maritime sector as the new backbone of the Indonesian economy. Furthermore, realizing that Asia Pacific, including Indonesia, has become a new geopolitical and economic centre of gravity, he also introduced the 'Global Maritime Axis Doctrine' at the East Asian Summit in 2014. The doctrine is composed by five pillars, namely (i) Rebuild Indonesia's maritime orientation by making the sea as the nation's identity and livelihood, (ii) Improve the governance of Indonesia's ocean resources as a source of food security, for instance, through the development of fishing industry, (iii) Prioritize maritime connectivity by improving and accelerating infrastructure of the sector such as ports, logistics, shipping, and maritime tourism, (iv) To put forward diplomacy as a way to abolish conflicts in maritime sector such as illegal fishing, territorial disputes, etc., and (v) Enhance maritime defence forces to back up Indonesia's sovereignty, wealth, and maritime security.¹³

In order to achieve his vision, Joko Widodo has put in place a number of initiatives by setting the maritime

sector to become one of seven investment priority sectors. Considering the massive amount of capital resources required to achieve such a goal, the Indonesian government encourages foreign investment in the sector, particularly through public-private investment schemes. At the moment, the government and state-owned enterprises have each pledged to spend IDR 498 trillion (USD 37.3 billion) and IDR 238 trillion (USD 17.8 billion) respectively on sea transportation, whilst another IDR 163.8 trillion (USD 12.3 billion) investment in the sector is expected to come from the private sector. The government also intends to build a sea toll road to connect the most eastern and western parts of the country, as well as plans to develop sub-regional connectivity with other AMS. For instance, a Roll-on-Roll-off (Ro-Ro) sea route between Manado in Indonesia and Davao in the Philippines was made operational in April 2017. In addition, the National Ports Master Plan¹⁴, which serves as the regulatory framework and sets objective for Indonesian port development until 2030, foresees the development and construction of 24 additional national ports and hundreds of smaller feeder ports over the next few years.

Figure 4.1. Investment Priority Sectors under Investment Strategic Plan 2015 – 2019



Source: Soejoedi (2015:10).

The maritime logistics sector in Indonesia is clearly and distinctly regulated. The basis for maritime logistics services refers to Law No. 17/2008 on Shipping. This law basically promotes competition and private sector participation. In addition, under the ninth package of services liberalisation under AFAS, the Indonesian government allows foreign business entities to have a majority of the share (but not 100 percent ownership), except for storage and warehousing services, where foreign ownership is limited at a maximum of 49 percent.¹⁵

Table 4.2. Maritime logistics-related rules and regulations in Indonesia

Maritime logistics-related sub-sectors	Relevant laws and regulations
1. Maritime cargo handling services	• Law of No.17 2008 on Shipping, article 31, 32, 33, 34; • Government Regulation number 20/2010 on Inland Waterways Transport Article 111, 115, 116; • Presidential Regulation No. 36 of 2010 on Investment Negative List under 10. Transportation Sector point 17 - page 79.
2. Storage and warehousing services	• Law of No.25/2007 on Investment; • Law of No.11/1965 on Warehousing; • Trade Minister Regulation No. 16 Year 2006.
3. Freight transport agency services	• Law of No. 17/ 2008 on Shipping Art 1 (7); • Law of No.22/ 2009 on Traffic and Road Transportation; • Government Regulation No. 20/2010 on Inland Waterways Transport Article 120,121; • Presidential Regulation No. 36 of 2010 on Investment Negative List, Transportation Sector, page 75.
4. Other auxiliary services	
• Bill auditing • Freight brokerage services • Freight inspection • Freight receiving and acceptance services • Transportation document preparation services	• Government Regulation No. 20/2010 on Inland Waterways, Art 82; • Presidential Regulation No. 36 of 2010 on Investment Negative List under 10.18 –Transportation Sector– Freight Forwarder, page 79.
• Weighing and sampling services	• Government Regulation No. 20/2010 on Inland Waterways, Art 82.
a. Cargo condition survey	• Presidential Regulation No. 36 of 2010 on Investment Negative List, Transportation Sector, page 61.
5. Courier services	• Act No. 38 of 2009 on the Postal; • Presidential Regulation No. 36 of 2010 on Investment Negative List, page 86.
6. Packaging services	• Government Regulation No. 20/2010 on Inland Waterways Art 82; • Presidential Regulation No. 36 of 2010 on Investment Negative List –Transportation Sector – Freight Forwarder, page 79; • Trade Minister Regulation No, 36/2006 jo No.49/2009 regarding Trade License (Packaging Services out of manufacturing and transportation).
7. Customs clearance services	• Custom Laws of No. 10 of 1995, Article 29 as amended by No.17 of 2006; • Finance Minister Regulation No.65/PMK.04/2007 on Customs Brokerage No.PMK. 65 Year 2007.
8. International freight transport service, excluding cabotage	• Law of No. 17/ 2008 on Shipping; • Government Regulation No. 20/2010 on Inland Waterways Transport Article 120, 121; • Presidential Regulation No. 36 of 2010 on Investment Negative List; • Presidential Instruction of Rep of Indonesia No. 5 of 2005 on Empowering national shipping industry.

Source: ASEAN Secretariat (n.d.).

4.3.1. Port development-related policies

The Indonesian government is currently pursuing a 'Sea Toll Programme', a part of the National Ports Master Plan under Minister of Transportation Decree Number KP 901 Year 2016, to improve connectivity within Indonesia and beyond. The program, which attempts to complement reforms in areas such as shipping, seaport, shipbuilding, cold storage, and information and communication technology, involves the development and/or expansion of twenty-four seaports, consisting of five hub ports (red dots on the map in Figure 4.2.) and nineteen feeder ports (yellow dots on the

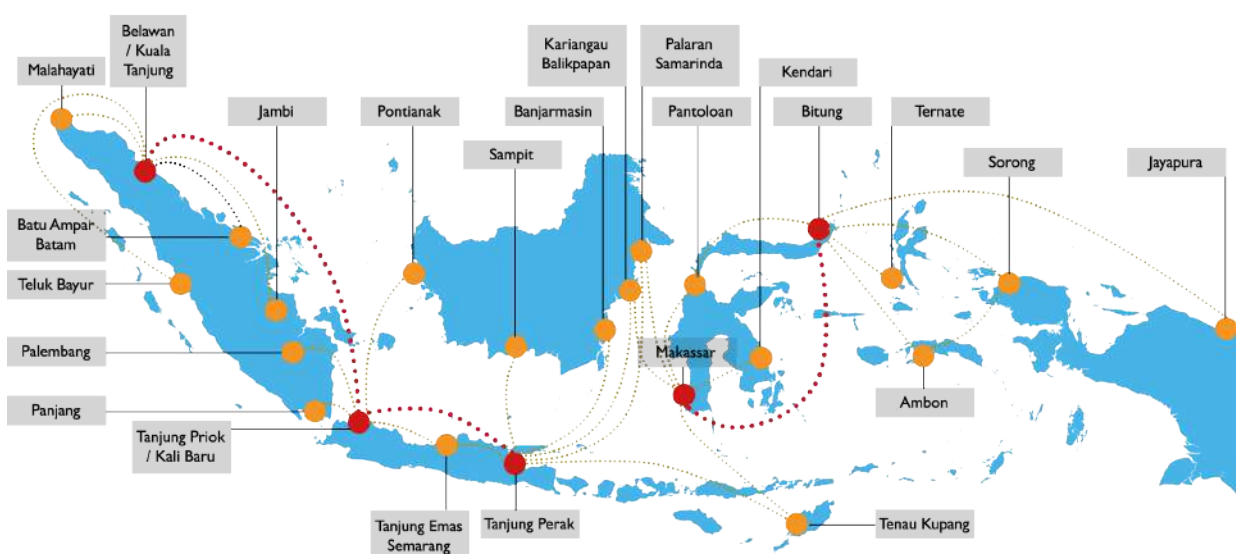
map in Figure 4.2.). To attract foreign investors, the government is opening up opportunities for foreign investors to operate private ports and port services, which were previously monopolized by the state-owned Indonesian Port Corporations. Specifically, the government allows for 49 percent foreign ownership, and even up to 95 percent ownership if the investment project is implemented under the private-public partnership scheme as stated in the Presidential Regulation 38/2015 concerning Cooperation between the Government and Business Entities in Infrastructure Provision¹⁶. Table 4.3. highlights potential seaport investment projects in Indonesia under Sea Toll Programme.

4.3.2. Shipyard and shipbuilding policy

To implement the above-mentioned Sea Toll Programme effectively, the Indonesian Ministry for Development Planning (BAPPENAS) has estimated that, between 2016 and 2021, Indonesia will need approximately 1,500 new ships with a total cost of about IDR 13 billion (USD 934 million). As of today, there are more than 7,000 ships in Indonesia, though around one-third of them are more than 20 years old (Figure 4.3.).¹⁷ Accordingly, it is estimated that up to 2,100 ships will need to be replaced in the next ten years. In order to revamp the existing ships in the country, the government has allowed up to 100 percent foreign ownership in the sector, except for vessels with wooden materials.

Figure 4.2. Indonesia Sea Toll Programme

Priority Business Fields for Investment: Indonesia Sea Toll Programs (24 Seaport, consist of 5 hub ports and 19 feeder ports)



Source: Wirana (2016:16).

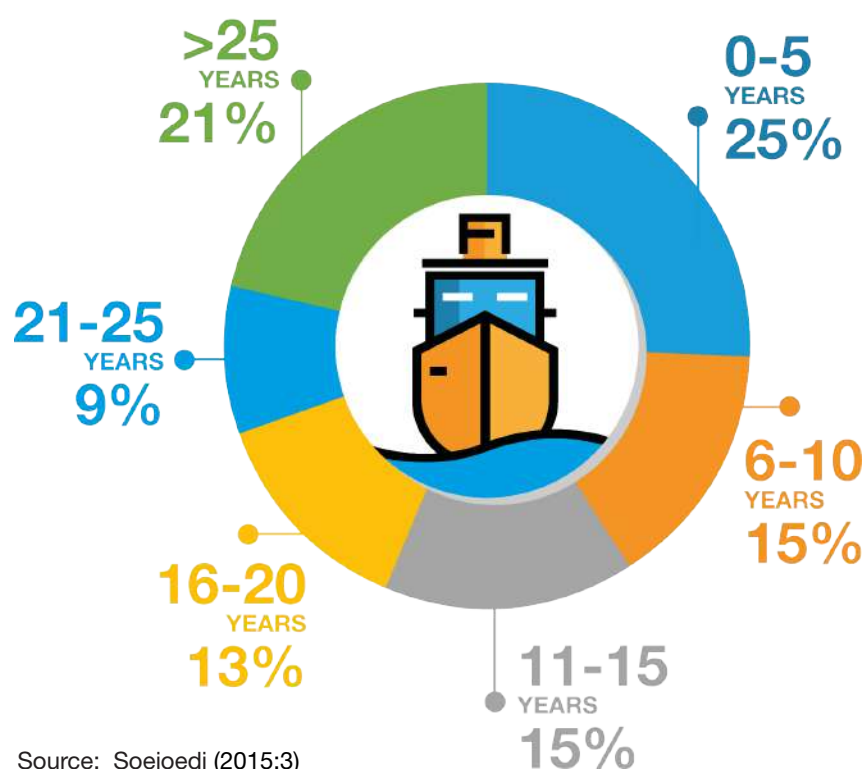


Table 4.3. Potential seaport investment projects under Sea Toll Programme

Investment project	Amount of investment needed	Remarks
New Tanjung Priok Port, Jakarta	USD 3.97 billion	Currently, this port has a capacity of about 5 million twenty-foot equivalent units (TEU) of containers, which is below the current volume [5.4 million TEU] of containers handled in the port and have caused major container traffic at the port. The new development plan is expected to increase the port's capacity to 18 million TEU.
Cargo terminal expansion of Belawan Port, North Sumatera	USD 230 million	Expected to challenge existing ports in Singapore and Johor Baru, Malaysia, this project involves harbour draft deepening to facilitate 5,000 TEU capacity vessels to enter the port.
Development of Kuala Tanjung Port, North Sumatera	USD 2 billion	The project, which will include 1,000 ha area of industrial zone and 10 ha of stacking yard. Expected to be completed in 2019, the port will have a container capacity of 400,000 TEUs per annum, as well as 4.5 million bulk capacity terminals.
Expansion of Tanjung Perak Port, East Java	USD 250 million	Far exceeding its capacity by 3.57 million cargoes per year, this port is currently facing major overcapacity problem. The expansion project is divided into two phases. Whilst the first phase, which has begun in 2010, includes the development of 500 m ² of international yard, 450 m ² of domestic yard, 10 ha of dry-bulk yard, and 15.86 ha container storage yard, the second phase is expected to add another 50 ha for the development of this port.
Expansion of Bitung Port, North Sulawesi	USD 500 million	Reaching more than 80 percent of its capacity, the expansion project of this port will include the development of an additional 130 meter berth.
Development of Makassar Port, South Sulawesi	USD 421 million	Together with the Tanjung Perak port, this port is set to become the main port in the eastern part of Indonesia. This project will include the development of a 106-ha multi-purpose terminal capable of handling between 250,000 and 300,000 TEUs annually.

Source: BKPM (2015: 14-21)

Figure 4.3. Ship's age distribution



Source: Soejoedi (2015:3)

4.3.3. Shipping policy

In the last couple of years Indonesia has seen increasing demand for sea transportation, particularly cargo. Between 2010 and 2014, for example, there was about a 24.6 percent average annual increase of cargo volume handled in the country. Given such a development in the sector, shipping has been considered as one of the investment priorities in the maritime sector in the next five years.¹⁸ In order to facilitate growth in the sector, the government has eased up previous regulations that limited foreign participation in the sector. As it stands, the government allows 100 percent foreign ownership in cargo transportation, whilst foreign ownership for passenger transportation, which was previously closed to foreign participation, is allowed up to 49 percent. Due to the shortage of Indonesian-flag carriers, the government has also loosen up the cabotage principle in the industry, especially for activities such as oil and gas survey,

drilling, offshore construction, offshore operations support, dredging, and salvage and underwater works.

4.3.4. Investment policy

Indonesia recognises two types of investments: direct investment, where investors make direct investment in a company, both to establish presence and participate in the management, and indirect investment, or portfolio investments. Direct foreign investment is regulated under Law No. 25/2007¹⁹ 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, where the former is able to hold 30-95 percent ownership in various sectors, or even up to 100 percent in some

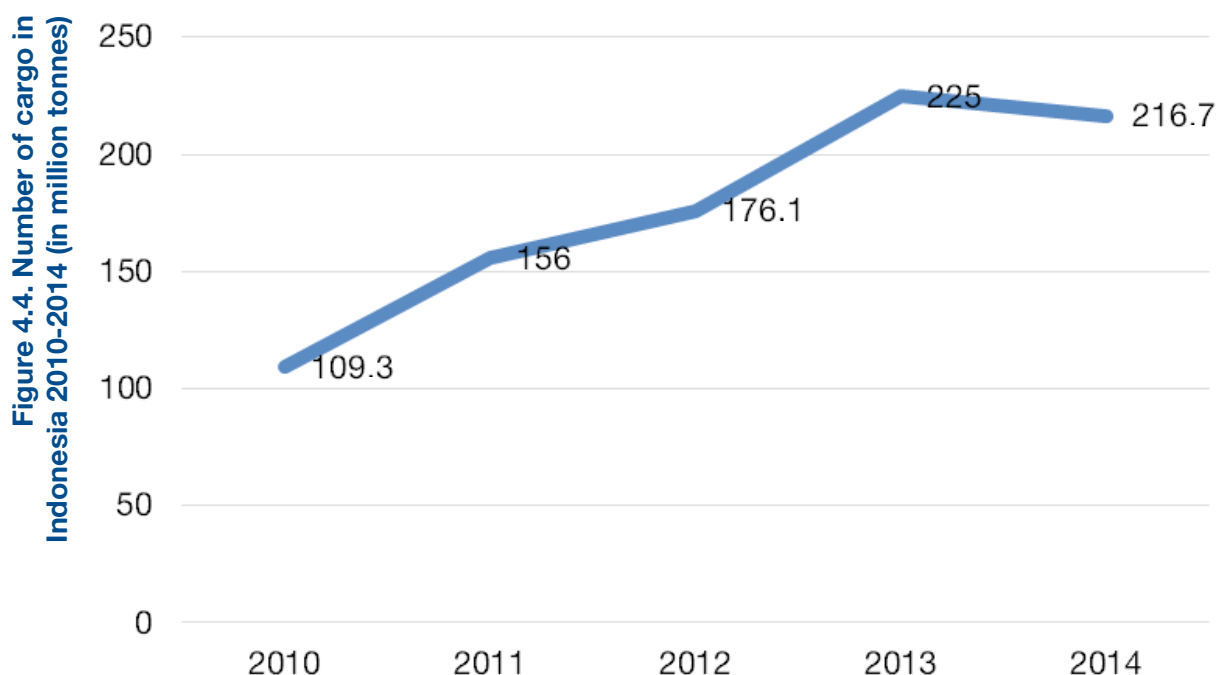
sectors.²⁰ Incorporated companies are subject to Law No. 40/2007 concerning Limited Liability Companies.²¹

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.

4.4. Setting up a business in Indonesia

4.4.1. General process of setting up a business in Indonesia

For a company to be able to operate in Indonesia, it should be registered as a legal entity in the form of either a limited partnership company (CV – *Commanditaire Vennotschap*), a



Source: Author's creation based on BKPM (2015)

firm, a Limited Liability Company (PT – *Perseroan Terbatas*), a Public Corporation, a Departmental Company, or a cooperative. Table 4.4. summarises the process of setting up a business, including the length of time and cost required, in Indonesia.

4.4.2. Additional procedures and requirements for maritime-logistics related businesses

4.4.2.1. Port development

Investors are required to observe the following procedures and requirements to invest in port development businesses:²²

- A minimum paid-capital amount must be met to enable potential investor to form a business entity in port development, including:
 - o IDR 25 billion for special and private-own terminal port;
 - o IDR 1 trillion for general ports;
 - o IDR 200 billion for domestic connecting ports; and
 - o IDR 25 billion for ferry terminals/ports.
- Potential investors are also required to obtain a harbour development permit to build a port, the process of which include the following:
 - o The potential investor sends a request to the Directorate General of Sea Transportation of the Ministry of Transportation, as well as the Governor and Mayor of the province and regency in which the port is to be built, along with other supporting documents, such as a feasibility study, the technical design, an environmental impact assessment and the grand plan of the port;
 - o Depending on the application request, relevant

authorities will evaluate the request within 30 working days;

- o If approved, licences will be issued by all relevant authorities.

4.4.2.2. Shipyard

The same procedures as above apply to investors wishing to invest in shipyard-related businesses except for shipyard investment which requires authorized capital at minimum of IDR 10 billion (USD 750 million) and issued and paid-up capital at minimum of IDR 2.5 billion (USD 187.6 million).²³

4.4.2.3. Marine transport (shipping) business registration

In order to carry out a business in marine transportation, including shipping, a potential investor is required to obtain a Marine Transport Business Permit (SIUPAL – *Surat Izin Usaha Angkutan Laut*) from the Directorate General of Sea Transportation of the Ministry of Transportation. The procedure to obtain such a permit is as follows:

- Set up a joint venture with at least 51 percent of shares to be held by local companies;
- Possess a vessel of at least 5,000 GT with Indonesian flag and Indonesian crew members, except for masters and chief engineers;
- Submit an application letter to Directorate General of Sea Transportation, along with other supporting documents, such as company's deed of establishment, tax number and owner's identity document;
- The entire application process takes about 14 working days.

Ship Registration

All ships used for business purposes in Indonesia have to be Indonesian-flagged and crewed by Indonesian citizens, except

for masters and chief engineers. Since March 2016, ship registration process can be done electronically at: <https://kapal.dephub.go.id/>. The complete procedure for ship registration is as follows:²⁴

- Assign ship name and check for name availability;
- Complete a registration form and submit required documents, including:
 - o Application letter;
 - o Tonnage measurement certificate;
 - o Ship ownership proof documents;
 - o Notarised deed of sale and purchase/deed of grant/deed of inheritance/judicial decision/deed of auction;
 - o Owner's identity documents, such as ID and deed of company's establishment; and
 - o Power of attorney, if registration is submitted by other parties.
- Documents will be checked and evaluated by the Directorate of Shipping and Sea, Ministry of Transportation, with feedback to be delivered to the registrant; If the document is considered as incomplete, the feedback will be delivered to the registrant within 3 (three) days;
- Pay registration fees through assigned banks after the request is accepted by the Directorate. Payment is made when the required data and documents is complete.

4.5. Export and import clearance procedures

4.5.1. Export clearance procedure

Every good leaving Indonesia should pass export clearance process with the following procedure:²⁵

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

No.	Procedure	Time to complete (day)	Cost to complete (in IDR)
1.	Obtain the 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 notary public	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	No charge
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 <i>Program Jamsostek</i>	7	No charge
8.	Obtain a taxpayer identification number (NPWP) and a value-added tax collector number	1	No charge

Source: World Bank (2017).

- **Fill in an export declaration form (*Pemberitahuan Ekspor Barang or PEB*)**,

which should be submitted to customs authority at least 7 days before export scheduler, along with supporting -i.e. invoice and licences. If the PEB is considered valid, the exporter will receive a notice of export approval (NPE). Certain goods may be required to be physically inspected and authorized by the Customs Service Office (CSO);

- **Pay export tax to** assigned foreign exchange bank, the payment has to be made before loading the cargo; and
- **Goods are released**, after all exported goods are approved to leave Indonesia. All

approved goods can be obtained after exporter submit manifest to the CSO.

4.5.2. Import clearance procedure

Every goods originating from overseas entering Indonesia should pass import clearance with the following procedure:²⁶

- **Inform goods attribute to custom authority**, which should be done prior to arrival of vessels, including information regarding schedule of vessel's arrival, vessel name, along with the flag carrying the goods, origin country, quantity, weight, volume, etc.;
- **Fill in an import declaration form (*Pemberitahuan Impor Barang*)**, which is to be submitted to the Customs authority upon

the vessel's arrival in order to obtain the Customs Clearance Approval (*Surat Persetujuan Pengeluaran Barang - SPPB*), along with supporting documents -i.e. invoice, paying import duties and taxes. At this stage, goods can be stored temporarily for a maximum two months (or one month if the declaration is made at the Tanjung Priok port). If unclaimed within the given period, goods might be destroyed, removed, auctioned or re-exported;

- **Examination of goods**, usually about less than 10 percent of goods imported. If there is something suspicious, customs officer will inspect thoroughly;
- **Appraisal of goods** by customs officers to estimate the amount of duty based on goods' weight,

volume or any other measurement units;

- **Duty payment**, to an assigned foreign exchange bank based on appraisal process; and
- **Release of goods**, once cleared by the Customs.

4.6. Other relevant information

4.6.1. Taxes

Table 4.5. below summarises various tax rates and facilities in Indonesia.

4.6.2. Infrastructures in Indonesia

Table 4.6. summarises existing infrastructures in Indonesia.

4.6.3. Labour condition landscape and employment system

Despite its improved standing in the global economic community, Indonesia is finding it more difficult to respond to the skills needs of its workforce at a time of increasing globalisation, new technology, and changing patterns of work. Aside from out-migration, the shortage of skilled labour in the country is also due to an ageing workforce and the lack of capacity to provide adequate training to the country's 120.1 million workforce.²⁷ 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 the 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.²⁸

Table 4.5. Tax rates in Indonesia

Personal income tax		
Taxable income	Rate (in percent)	Taxed amount
First IDR 50 million	5	IDR 2.5 million
Next IDR 200 million	15	IDR 30 million
Next IDR 250 million	25	IDR 62.5 million
Next over IDR 500 million	30	30 percent of the relevant amount
Corporate income tax	25 (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 custom 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 minim IDR 1 trillion, 10 percent of which should be deposited in local banks.	

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

Table 4.6. Existing infrastructures in Indonesia

Infrastructure	Length / number / geographical scope / generation (of power) / network spectrums		Notes
Roads	508,060		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 in 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 passengers.
Ports	1,700 seaports		Despite large number of seaports in Indonesia, the country only has 111 commercial ports, with 11 of them are container ports.
Energy and power	233,981.9 GWh, including 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 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.

Table 4.7. Minimum wages in Indonesia, 2016

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
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.).

4.6.4. 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. 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 (BPN – *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 the 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 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 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 extendable through the approval of the BPN;
- 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 (PMA) and their representative offices;

- Right to lease (*hak sewa bangunan*), which is the right to rent land for building purposes within 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 engage 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 increase number of high rise apartment building 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 foreigners who reside in or have a regular presence in Indonesia.

4.6.5. Social security system

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 2 percent contribution from employee.

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

4.6.6. 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. 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. 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.

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

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

<http://www.insw.go.id/>

- Ministry of Transportation: <http://www.dephub.go.id/?language=en>
- Ministry of Maritime Affairs and Fisheries: <http://www.kkp.go.id/>
- Investment Coordinating Board: <http://www.bkpm.go.id/>
- Directorate General for Custom and Excise: <http://www.beacukai.go.id/>
- Directorate General of Tax: <http://www.pajak.go.id/>
- Ministry of Manpower: <http://www.naker.go.id/>

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AEC BUSINESS TIP FOR INDONESIA

Having the advantage of being the largest country in Southeast Asia, Indonesia undoubtedly contains great economic potential. 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, Indonesia's logistics cost is still considerably high compared to the region. Under the leadership of President Jokowi, infrastructure development, including maritime logistics infrastructure, has become nation's top priority. In doing so, the government is actively inviting foreign investment to accelerate the achievement of such goals. 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 investment barriers in the country. ACIA, for example, encourages non-discrimination and transparency of complex rules, regulations, and standards commonly found in various sectors in the country. ASEAN's connectivity plan also facilitates infrastructure developments that are badly needed to reduce the logistics cost and cost of doing business.

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A large container ship is shown from a side-on perspective, moving across a body of water. The ship's hull is white with a red stripe at the bottom. The upper part of the ship is covered in stacks of colorful shipping containers in shades of green, orange, and red. The background features a calm sea and a distant, hazy shoreline under a sky with soft, white clouds.

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

LAO PEOPLE'S DEMOCRATIC REPUBLIC

5.1 Brief country profile

Lao PDR has a population of about 6.7 million people. Since 2011, it is a lower-middle income country with a GDP per capita of USD 1,800. Its GDP mainly consists of primary natural resources usage, such as hydropower generation, mining and forestry, which account for approximately a third of the country's GDP. Lao PDR enjoyed average annual growth of close to eight percent for the past five years, ranking second after Myanmar in Southeast Asia. This steady growth has successfully reduced the poverty rate significantly from 33.5 percent in 2002 to 23.2 percent in 2012.¹

Lao PDR openness to international trade and its membership with the WTO in 2013 has contributed to further support development and facilitate business investment, production and services in the country.² Economic structural reform is shifting along the industrialization and modernization directions, which is resulting in a reduced proportion of the agriculture sector and increased proportions of the industry and service sectors in the GDP.³ With a ratio of international trade to GDP at about 48.7 percent, Lao PDR mainly exports minerals and mining commodities (47.4 percent of total exports), mostly to Thailand, China, Australia

and Vietnam.^{4,5} Through its new Eighth National Socio Economic Development Plan (NSED) 2016-2020, Lao PDR is aiming to shift from a lower-middle income country to an upper-middle income country by 2030 through improving its connectivity with the ASEAN Community and boosting industrialization and modernization.

5.2. Logistics sector in Lao PDR

Lao PDR has no coastline. It is a landlocked nation surrounded by Vietnam, China, Thailand, Myanmar, and Cambodia. Reaching the ocean requires going through transit points either on the border with Cambodia, Vietnam, Thailand or Myanmar. Lao PDR has moved from a centrally planned economy to a decentralized economy by encouraging local governments and the private sector to take part in the economy. In terms of infrastructure development, Lao PDR still has a limited stock of infrastructure (roads, railroads, telecommunication, electricity, etc.). Since 2007, its overall logistics performance index has remained the same, scoring 2.07 continuously.⁶ Due to its landlocked status, Lao PDR relies heavily on the efficient access to border countries' infrastructure for the transit of its international trade.⁷

Currently, Lao PDR has a loan agreement with China of a value of USD 480 million with very low interest rates to build a railway for high-speed trains connecting both countries. It is a part of China's massive project to connect the Yunnan province of China to Lao PDR, Thailand, Malaysia, and Singapore with a total length of approximately 3,000 km.

To enhance the nation's output it is stated in the 8th NSED 2010-2016 that Lao PDR intends to improve its transport line with neighbouring countries by accelerating infrastructure of its planned four logistics parks namely Nateuay, Savannaketh, Vientiane Capital and Champassak.

5.3. Maritime logistics-related regulatory frameworks, policies, and plans

Generally, the transportation and logistics sector in Lao PDR is underdeveloped and international freights, exports and imports, depends largely on domestic routes connection Lao PDR with its neighbouring countries.⁸

There are three main international trade routes through Lao PDR namely, the East-West Economic Corridor (EWEC); the North-South Economic Corridor (NSEC); and the Southern Economic Corridor (SEC). The first two routes are the

most utilized transiting routes for Lao PDR's international trade. Lao PDR's logistic operators do not play an active role in the transportation value chain for transit cargoes between Lao PDR and neighbouring countries. Traffic operations are still dominated by foreign logistics companies from Thailand, China, and Vietnam. With Lao PDR's geographical position however, Lao PDR transport companies have a good opportunity to take the lead in the flow of traded goods from Thailand to China/Vietnam and vice versa, rather than just serving as a transit clearance spot and container swapping.

Lao PDR also relies on inland water transportation and has an extensive river network stretching over about 4,600 km. A large portion of the river network includes sections of the Mekong

River, 70 percent of which is navigable.⁹ Considering that the Mekong River connects Lao PDR with five other countries in the region - Vietnam, Thailand, Cambodia, Myanmar, and China- Lao PDR's Inland Waterway Transport (IWT) has long been crucial to Lao PDR's logistics chain. It is the second most important mode of transportation after the road network both for good shipment and passengers' movement. In fact, the operating cost of IWT (USD per ton) is more than 70 percent cheaper than the cost of road transportation (Figure 5.1.).

Regarding the IWT's function as a passenger transport line, about one third of Lao PDR's riverside population depends on water transportation as they live more than 10 km away from the road network.¹⁰ In addition, according to a survey conducted by the Mekong River Commission (MRC) in 2015, about 18.5 percent of surveyed IWT's passengers reported that they used the transport

daily, whereas 20 percent of them used the transport monthly and weekly, and 16.7 percent of them used IWT 3-4 times per week. In terms of goods shipment, boat owners of IWT stated that about 41 percent of the boats are used to transport goods. Furthermore, 42 percent of cargo volume in 2014 was carried through IWT whereas 58 percent of the volume was carried via the road network.¹¹

Logistics services are mostly regulated under the Inland Waterway Regulation 1997, Road Transport Law 1997, Business Law 1994, Investment Law 1994, and Customs regulation. Both maritime logistics and inland waterways services in Lao PDR are heavily supported by foreign investors' participation. In line with the commitments in transport services under the 9th package of service liberalisation, foreign investors

Table 5.1. Main routes for transit freight to and from Lao PDR

Connecting Countries	Flow of Containers	Remarks on International Trade Routes
Flow 1: Thailand-Laos-Vietnam-China Flow 2: China-Vietnam-Laos-Thailand	From South to North: Containers from Thailand (arrive on Thai trucks) are transferred by crane on Vietnamese trucks in the Customs in Savanaket. From North to the South: The Vietnamese trucks take over cargo from the Chinese border at Pingxiang (via Hanoi), enter Lao PDR (via Route 9 at Lao Bao / Dansavan - the EWEC, or via Nhon Cai on Route 12). Then, the containers are swapped in Savanaket to Thai Trucks. On the way back, the Vietnamese trucks return with containers from Thailand to China or Vietnam. <i>Transit point:</i> Mukdahan – Savanaket: the main point for container swaps in Lao	This route is part of EWEC international trade route
Thailand-Laos-Vietnam	The main traded good is Thai consumer cargo goes (delivered by Thai trucks) to Vietnam via the border area of Lao Bao (is a Free Trade Zone in Lao). Most of the cargoes are unloaded manually by local labourers. <i>Transit point:</i> Dansavan - Lao Bao: the border between Lao PDR and Vietnam	This route is part of EWEC international trade route
Laos- China	Chinese trucks are unload onto Lao domestic trucks. Most of the cargo is manually transported by gangs of Chinese and Lao labour. The number of container traffic on the bilateral China-Lao-China route is limited in numbers. <i>Transit point:</i> Mohan – Boten: Gateway from China on the North South Economic Corridor (NSEC)	This route is part of NSEC international trade route
Thailand – Lao	The cargoes are handled by Thai trucks and most is unloaded into bonded warehouses at the side of the bridge of Lao territory. <i>Transit point:</i> Nong Khai – Vientiane: the main route for cargo imported to Lao PDR	This route is part of NSEC international trade route

Source: GIZ (2014:22).

Figure 5.1. Operating cost comparison between IWT and road network in Laos PDR

	USD per tonne	USD per 1000 tonne-km
 IWT (100DWT)	12.76	14.34
 ROAD	34.56	67.76
	USD per tonne	USD per 1000 tonne-km
 IWT (500DWT)	13.94	12.76
 ROAD	34.56	67.76

Source: Mekong River Commission (2015: 15).

may provide services in maritime logistics and internal waterways sector with full foreign ownership.¹²

5.3.1. Port development-related policies

Although Lao PDR is a landlocked country, it does not mean that Lao PDR is a dormant country in terms of international trade flows of exported and imported products.

In 2017, the Vietnamese government has agreed to grant Lao PDR's a 50-year concession with an extendable option to develop one of the Vietnamese ports, Vung Ang port, for Lao PDR's logistics efficiency.¹³ Located at a shorter distance from the Lao PDR-Vietnam border (300 km) compared to other Vietnamese ports (500 km), Vung Ang port plays a vital role in Lao PDR's goods shipment to other countries, particularly China which is Lao PDR's biggest export destination for its mining commodities. Lao PDR goods comprises about 18 - 20 percent of all goods handled at Vung Ang port, yielding about USD 2.6 – 3 million of revenue each year.¹⁴ Details of the development project of Vung Ang port, including the budget and source of funding, are still in discussion between both governments.

Regarding river ports, the Golden Triangle Special Economic Zone (GTSEZ) port which is located in the northern province of Bokeo is intended to open its operation and services for international freight in 2017. Currently, the GTSEZ port is able to handle 500 tons of freight during rainy seasons and 200 tons in dry seasons. Once it becomes an international river port, it will make transportation costs more advantageous since exports to the neighboring countries such as Thailand and Myanmar can be shipped through this port. Such upgrading of the port is expected to boost Lao PDR's trade and investment.¹⁵

5.3.3. Investment policy

The 2004 Investment Promotion Law, which was just recently

Table 5.2. Maritime logistics-related rules and regulations in Lao PDR

Maritime logistics-related sub-sectors	Relevant laws and regulations
Maritime cargo handling services	Inland Waterway regulation, 1997.
Storage and warehousing services	- Road Transport Law, 1997; - Business Law, 1994; - Investment Law, 1994.
Freight transport agency services	- Road Transport Law, 1997; - Business Law, 1994; - Investment Law, 1994.
Other auxiliary services	- Road Transport Law, 1997; - Business Law, 1994; - Investment Law, 1994.
Courier services	- Road Transport Law, 1997; - Business Law, 1994; - Investment Law, 1994.
Packaging services	- Road Transport Law, 1997; - Business Law, 1994; - Investment Law, 1994.
Customs clearance services	Customs regulation.
International freight transport service, excluding cabotage	- Road Transport Law, 1997; - Business Law, 1994; - Investment Law, 1994.

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

amended in April 2017, 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 and eases requirements for investors to set up a new business, as well as expands the country's investment incentives and facilities.¹⁶ 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.¹⁷

Similar to some other ASEAN Member States, foreign investors are not allowed to own land in Lao PDR. However, foreign companies

are still able to lease land or to receive grant concession of land for foreign direct investment purposes. The period of leasing for land concession is between 35 – 50 years. The leasing can be extended for an additional 25 years to a maximum of 75 years. Land concessions are especially given to projects in the agriculture, mining and energy sectors.

To attract and serve domestic and foreign investors, the government of Lao PDR established the Committee for the Promotion and Management of Investment (CPMI). The CPMI is established at the central as well as local levels:

- At **central level**, the CPMI is chaired by the Minister of Ministry for Planning and Investment (MPI). At this level, the CPMI is composed of the Investment Promotion Division, Investment Screening Division, One Stop Service Unit (OSU) and other units.

- At **local level**, the CPMI branches are based at the Provincial Departments for Planning and Investment (DPI) and are chaired by the provincial governors. They also have OSUs.

The purpose of the OSUs is to hasten and facilitate investment in Lao PDR by pooling representatives from all relevant ministries/departments into joint facilities tasked to process investment applications and business registrations.

5.4. Setting up a business in Lao PDR

5.4.1. General process of setting up a business in Lao PDR

Table 5.3. summarises the process of setting up a business, including the length of time and cost required, in Lao PDR.

Table 5.3. 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	5-14 days	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 (2017).

5.4.2. Additional procedures and requirements for IWT related businesses

All commercial IWT vessels have to be registered. Table 5.4. summarises procedure and requirements for the registration of IWT vessels.

Table 5.4. IWT business procedure and requirements

Procedure	Description
Vessel registration	Requests for registration can be submitted at the Department of Waterways (DoW) along with required documents. Registered vessels will receive “Navigation Booklet” issued by the DoW. The Navigation Booklet will include the vessel registration number and vessel information.
	Required documents for operating vessels: Certificate of registration, load line certificate, tonnage certificate, tanker safety certificate, ship survey certificate, oil pollution prevention certificate, water transport license or vessel license.
	Required documents for vessel crew: Identity document, several crew have to hold navigation certificate, and at least one member has a dangerous goods certificate.
	Cargo requirement: Goods should follow the codes of International Maritime Dangerous Goods (IMDG).
Vessel inspection	Vessel equipment requirement: Fog horn, search lights, navigation lights, anchor, mooring lines/steel cables, communication equipment (for vessel with capacity more than 50 GT), emergency response equipment, and pollution prevention equipment.
	Yearly, following Mekong River Commission Secretariat (MRCS) checklist.

Source: Mekong River Commission (2015: 18).

5.5. Customs Clearance

Every goods leaving/coming from/to Lao PDR should pass customs clearance of which the procedure is described as follows:¹⁸

- **Submitting customs declaration**, trader has to input directly information of exported goods to the Automated System on Customs Data (ASYCUDA) at border post. The applicant should print, sign and submit two copies of the declaration along with all required documents to custom officers. Supporting documents include: invoice, bill of lading, packing list, licenses, permits, certificate of origin, and other required documents depends on the goods;
- **Lodgment of the customs declaration**, customs officers will examine the declaration to ensure that it follows all requirements;

- **Single Administration Document (SAD) classification**, customs officers will classify the declaration into four different categories which has different treatment, as follows:

- o **Red Lane**: the goods are subject to physical inspection before they are re-routed to the Green Lane and if there are no irregularities, the goods will pass clearance. If there are irregularities, trader has to amend the declaration;
- o **Yellow Lane**: customs officers will perform documentary inspection of the declared goods before they are re-routed to the Green Lane if the documents are deemed satisfactory;
- o **Green Lane**: the goods will pass the clearance without inspection;
- o **Blue Lane**: the goods will pass clearance without inspection but may be subjected to customs control at a later stage.

- **Inspection Query Desk**, in case of irregularities and errors in data entry, the declaration and declarant will be referred to an Inspection Query Desk. Once all missing or incorrect information are clarified to the satisfaction of custom officers, the declaration and goods will be re-routed to the Green Lane;
- **Container scanning**, all imported/exported goods will be scanned, based on the declaration documents;
- **Assessment notice**, once all goods are satisfactorily assessed, ASYCUDA will determine the duties, taxes, and fees that should be paid;
- **Payment**, declarants should pay the amount that has been informed by ASYUDA to the bank office at the border post;
- **Release of goods**, after payment, the declarants will receive a Cargo Release Note, before goods are being released.

5.6. Other relevant information

5.6.1. Taxes

Tax rates in Lao PDR are summarised in Table 5.5.

Table 5.5. Tax rates in Lao PDR

Personal income tax		
Income Tax	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
24 flat rate, 26 for businesses in the tobacco industry		
Corporate Income Tax		
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 PWC (n.d.b.).

5.6.2. Infrastructure

Existing infrastructures in Lao PDR are summarised in Table 5.6.

5.6.3. Land policy

Generally speaking, land in Lao PDR belongs to the population as a 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.

5.6.4. Labour condition landscape and employment system

Despite consistent economic growth in the past few years, limited human resources, weak capacity, and skill shortages represent critical constraints for Lao PDR. To keep up

Table 5.6. 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 river ports 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.

Table 5.6. Existing infrastructure in Lao PDR

Telecommunications	Bands used globally for commercial networks: • 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.
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Sources: Various.

with the pace of future economic growth, the country is said to need around 70,000 skilled foreign workers. Skill shortages are particularly evident in sectors such as construction, furniture-making, and automobile and machinery repair. 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 Lao PDR's 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 PDR 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.

5.6.5. 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.

5.6.6. 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.

5.7. Electronic links to relevant maritime logistics-related institutions and information portals

- Ministry of Public Works and Transport Department of Transport: <http://www.mpwt.gov.la>
- Ministry of Planning and Investment: <http://www.investlaos.gov.la>
- Mekong River Commission: <http://www.mrcmekong.org/>
- Ministry of Industry and Commerce: <http://www.moic.gov.la>
- National Authority of Posts and Telecommunications Department of Posts: <http://www.laotradeportal.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. The underdeveloped condition of Lao's logistics infrastructure opens a wide opportunity for private sector to improve its connectivity with other countries particularly through Mekong River. Although considered as one of the most difficult countries in the world to set up and do business in, companies do get set up, and the government has supported investment to improve its logistics infrastructure and to make logistics cost more efficient. The process of economic reforms in Lao PDR received a significant boost from its participation in the AEC, which gradually reduces investment barriers.

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6. MALAYSIA

MALAYSIA

6.1. Brief country profile

With a GDP per capita of USD 9,766, Malaysia is an upper-middle-income country and the third biggest economy in Southeast Asia. With around 30 million inhabitants, the country's economic growth has been solid with an average annual rate of 5.3 percent over the last five years. Malaysia's economy is dominated by the services sector, at 54 percent of GDP, and is followed by the manufacturing sector and the mining and quarrying sector, each with a share of 23 percent and 9 percent respectively.¹ Open to the global economy, the country's international trade was 1.34 times larger than its GDP in 2015. The country's trade is dominated by machinery and transport equipments

(40.7 percent) and mineral fuels, lubricant, and others (17.5 percent) with Singapore, China, and Japan as their main trading partners.

6.2. Maritime Logistics Sector in Malaysia

Malaysia has a 4,675 km length of coastline, making it the third longest in Southeast Asia after Indonesia and Philippines. In addition, according to the World Bank's Survey in 2016, Malaysia's Logistics Performance Index (LPI) scored 3.43 out of 4.0, which is the second-best performer in Southeast Asia after Singapore.² Malaysia also has a better logistic development than other AMS in general. As such, Malaysia's logistics cost is quite efficient, it costs thirteen percent

of GDP behind only Singapore at eight percent.³

Malaysia has seven major federal ports i.e. Port Klang, Johor Port, Port of Tanjung Pelepas, Kuantan Port, Penang Port, Bintulu Port, and Kemaman Port. Nearly all of those ports operations have been privatized except Kemaman Port that is operated by *Konsorsium Pelabuhan Kemaman*, a government-owned corporation.⁴ Among those ports, Port Klang is the largest and the busiest port in Malaysia. It acts as the main gateway of Malaysia's international trade as it is linked to more than 120 nations and deals with more than 500 ports globally.⁵ In 2015, Port Klang recorded approximately 8 million TEU of container throughput, a 12.6 percent increase from the previous year. In general, within the same period, container throughput of all ports in Malaysia reached nearly 24 million TEU, a 6.7 percent increase from preceding year.⁶

6.3. Maritime logistics-related regulatory frameworks and policies

The Malaysian government, through the Economic Planning Unit (EPU) has set up a 'Logistics and Trade Facilitation Master Plan 2015 – 2020: The Preferred Logistic Gateway to Asia'.⁷ The master plan aims to increase the contribution of transportation and storage sub-sector to the GDP from 3.6 percent in 2016 to 4.3 percent in 2020 as well as targeting cargo volume to

Table 6.1. Major port names, operators, authorities and related acts in Malaysia

Port Names	Local Authorities	Port Operators
Penang Port	Penang Port Commission	Penang Port Sdn Bhd
Port Klang	Port Klang Authority	Northports Sdn Bhd and Westports Sdn Bhd
Johor Port	Johor Port Authority	Johor Port Sdn Bhd
Port of Tanjung Pelepas	Johor Port Authority (Tanjung Pelepas)	Port of Tanjung Pelepas Sdn Bhd
Kuantan Port	Kuantan Port Authority	Kuantan Port Consortium Sdn Bhd
Kemaman Port	Kemaman Port Authority	Konsorsium Pelabuhan Kemaman Sdn Bhd
Malacca Port	Malacca Port Authority	Kumpulan Melaka Berhad Seaport Sdn Bhd
Teluk Ewa Port	Teluk Ewa Port Authority	Langkawi Port SdnBhd
Bintulu Port	Bintulu Port Authority	Bintulu Port Sdn Bhd

Source: Port Klang Authority (2012).

grow eight percent annually and hit 880 million tonnes by 2020. It is also projected to generate 146,000 new jobs, especially high-skilled jobs, by 2020. In addition, the master plan is also targeted at improving Malaysia's LPI global rank to top twenty from the latest rank of thirty-two in 2016. To smoothen the process of achieving these goals, the Ministry of Transport, initiated the National Logistic Task Force (NLTF).⁸

Furthermore, the masterplan is divided into three phases: (i) 2015 – 2016: Debottlenecking, (ii) 2017 – 2019: Enhancing domestic growth, and (iii) 2020 & beyond: Creating regional footprint. Those phases itself are comprised of five strategic shifts and twenty-one action items (Figure 6.1.). The government has evaluated the first

phase, and the result recorded that eighty-five percent of the target was accomplished indicating that the master plan is on the right track. Out of eleven actions in the first phase, eight actions were accomplished whilst the rest three actions are still ongoing. Those three actions are: (i) Improving last mile connectivity to Port Klang, (ii) Addressing bottlenecks in Padang Besar Container Terminal, and (iii) Enhancing efficiency of import/export processes by establishing uCustoms, a fully integrated and modern portal that accommodates single window for goods clearance.⁹ The Malaysian government has also set up the 'Third Industrial Masterplan 2006-2020' (IMP3).¹⁰ In line with the Logistics and Trade Facilitation Master Plan 2015 – 2020, it is also projected that by 2020 the nation will handle 880

million tonnes of cargoes in which 751 tonnes of it is originated from marine cargo.¹¹

The Malaysian maritime industry, including maritime logistics services, is under the authorisation and supervision of the Marine Department Malaysia and Maritime Division of the Ministry of Transport. The Division consist of six units i.e. Ports, Maritime Safety, Maritime Economy, Domestic Shipping Licensing, International Convention, and a Maritime Attaché office in London. Speaking of regulation, maritime logistics services is open to foreign entities. Yet, it does not allow foreigners to have a full ownership share of the company operating in the nation, although they may have a majority of the share. For instance, international maritime transport services' foreign share ownership is limited to a maximum of seventy percent, whilst the restriction for vessels maintenance and repair is up to fifty-one percent. Specifically, in case of maritime cargo handling services, foreign entities are not allowed to have a majority of the share as the ownership is limited to maximum of forty-nine percent. Mostly, they are also obliged to have a representative office, regional office, or locally incorporated joint venture company with Malaysian individuals or Malaysian corporations or both.

Table 6.2. Maritime logistics-related rules and regulations in Malaysia

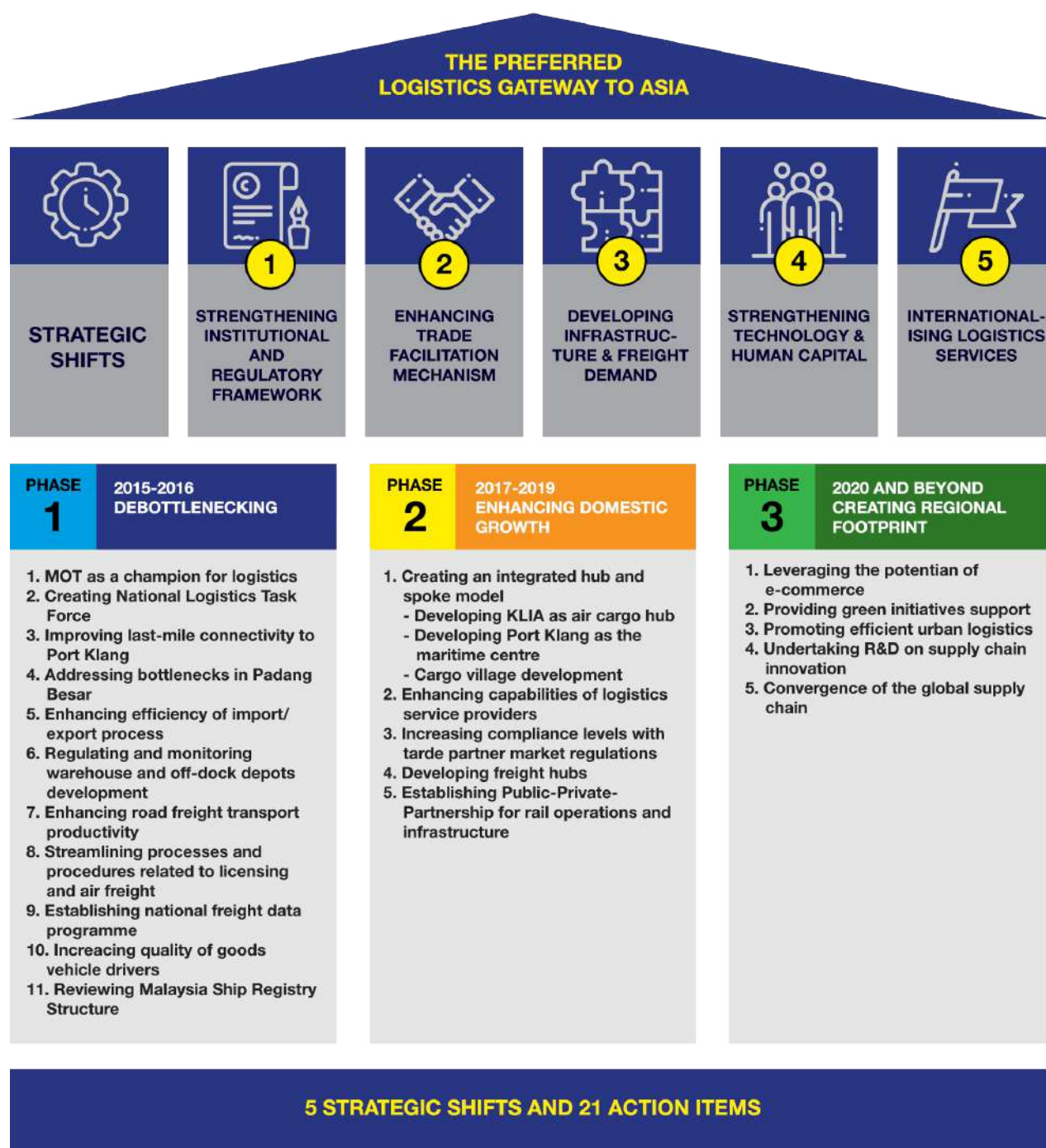
Maritime logistics-related sub-sectors	Relevant laws and regulations
1. Maritime cargo handling services	• Port Authorities Act 1963 • Penang Port Commission Act 1955 • Bintulu Port Authority Act 1981 • Carriage of Goods by Sea Act 1950 • Merchant Shipping Ordinance 1952 • Port (Privatisation) Act 1990 • Privatisation of the Federal Ports (Concession Agreement)
2. Storage and warehousing services	• Relevant Local Regulation of each state • Section 65 of Customs Act 1967
3. Freight transport agency services	• COGSA 1950 • Custom Act 1967 • Land Public Transport Act 2010
4. Other auxiliary services	• Custom Act 1967
5. Customs clearance services	
6. Packaging services	• Standards of Malaysia Act 1996
7. International freight transportation, excluding cabotage	• Merchant Shipping Ordinance 1952 • COGSA 1950

Source: ASEAN Secretariat (n.d.).

6.3.1. Port development-related policies

Malaysian ports are the second busiest in Southeast Asia; in 2015 Malaysian ports handled 24 million TEU of container throughput which is second in the region to Singapore's 30.9 million TEU.¹² Due to the increasing international trade and improved economic performance of Malaysia, the nation's maritime logistics infrastructure is closing to maximum capacity. For instance, the largest port of the country, Port Klang traffic is congested and currently near its maximum capacity. The port maximum capacity is 16 million TEU, whilst in 2016 it handled 13.2 million TEU, a 10.8 percent hike from the previous year. With such condition and a 771 million

Figure 6.1. Logistics and trade Facilitation Master Plan 2015 – 2020



Source: Ministry of Transport (2017:1).



**Table 6.3. Major Port Development/
Expansion Plan in Malaysia**

Investment project	Amount of investment needed	Remarks
Development of Carey Island Port	MYR 200 billion [USD 46.6 billion]	Carey Island Port is located on the island next to Port Klang. This development is to tackle container congestion issue of Port Klang. Currently, Port Klang has a capacity of about 13.2 million TEU, which is near its maximum capacity [16 million TEU]. The project allocates 100 square km of area covering the development of integrated port and related infrastructure, free trade zones, industrial parks, and commercial and residential buildings. Carey Island Port development is expected to have 30 million TEU capacity by 2025. ¹³
Development of Melaka Gateway	USD 10.2 billion	Expected to reduce dominance of Singaporean ports as a trading hub. Development of this off-shore trading port aims to be able to dock 100,000 ships without having to stop at Singaporean ports. The project involves land reclamation of three off-shore islands off the Malaysia's coast and development of a new deep sea port. This project is targeted to finished by 2025. ¹⁴
Expansion of Kuala Linggi International Port	USD 2.8 billion	The project, which is located only 200 km from Singapore, is aimed to compete with Singaporean port as a service provider for the storage and transshipment of crude oil and petroleum products, repair and refuelling service for large oil tankers and bunkering vessels. Expected to finish in 2025, the development involves 250 ha of reclaimed land and will provide storage facility for 1.5 million cubic and dry docks to handle large oil tankers. ¹⁵

Source: Pressreader (2017), States Times Review (2016), Maritime Herald (2016), and The Star Online (2017).

tonnes maritime cargo volume projection by 2020 as aimed in 'Logistics and trade Facilitation Master Plan 2015 – 2020' and IMP3, the Malaysian government has massive expansion plans of maritime logistics infrastructure. Specifically, those expansion plans related to port development and expansion is summarized in Table 6.3.

6.3.2. Shipyard and shipbuilding policy

Currently, Malaysia has a capability to build 30,000 DWT vessels and to repair vessels up to 450,000 DWT.¹⁶ In 2013, Malaysia contributed one percent of the world's new building order book and employed around 35,000 people. Within the same period Malaysia imported vessels/floating structure of a value about MYR 6.87 billion whilst it only exported approximately MYR 1 billion worth of vessels/floating structure.¹⁷

To tackle the issue, Prime Minister Najib Tun Razak launched the *Malaysia Shipbuilding/ Ship Repair Industry Strategic Plan 2020* (SBSR 2020), which aims to generate MYR 6.35 billion in gross national income, and create an additional 55,500 jobs for the country by 2020.¹⁸ The Plan also intends for Malaysia to grab two percent of the global shipbuilding industry's market share.

Shipbuilding and ship repair industry is designated as a strategic industry in IMP3. Largely clustered in Sarawak, Malaysian-made ships are usually purchased by neighbouring countries like Indonesia and Singapore. Through the Maritime Development Fund, which is managed by the Malaysian Development Bank (*Bank Pembangunan Malaysia*), the government has also allocated MYR 3 billion in soft loans to develop the country's maritime sector, especially in the development of shipping industry, shipyard construction, and maritime related support activities.¹⁹

6.3.3. Shipping policy

Maritime transport is vital for Malaysia, approximately ninety-five percent of Malaysia's trade is carried by sea.²⁰ The shipping industry in Malaysia recorded a noticeable growth within the past decades, where it registered around 7.1 percent average annual growth of container port traffic between 2009 and 2014, from 15.9 million TEU in 2009 to 22.7 million TEU in 2014 (see Figure 6.4.).²¹

With the massive expansion plan for maritime logistics infrastructure and optimistic cargo handling volume projection, the nation requires additional shipping providers. To tackle such issue and to enhance Malaysia's shipping industry, the government is currently formulating a 'Malaysian Shipping Master Plan (MSMP) 2020'. Two of the major proposed goals are to obtain thirty percent market share of Intra-ASEAN trade shipping and a twenty percent market share of

Figure 6.2. Map of Port Klang and Carey Island



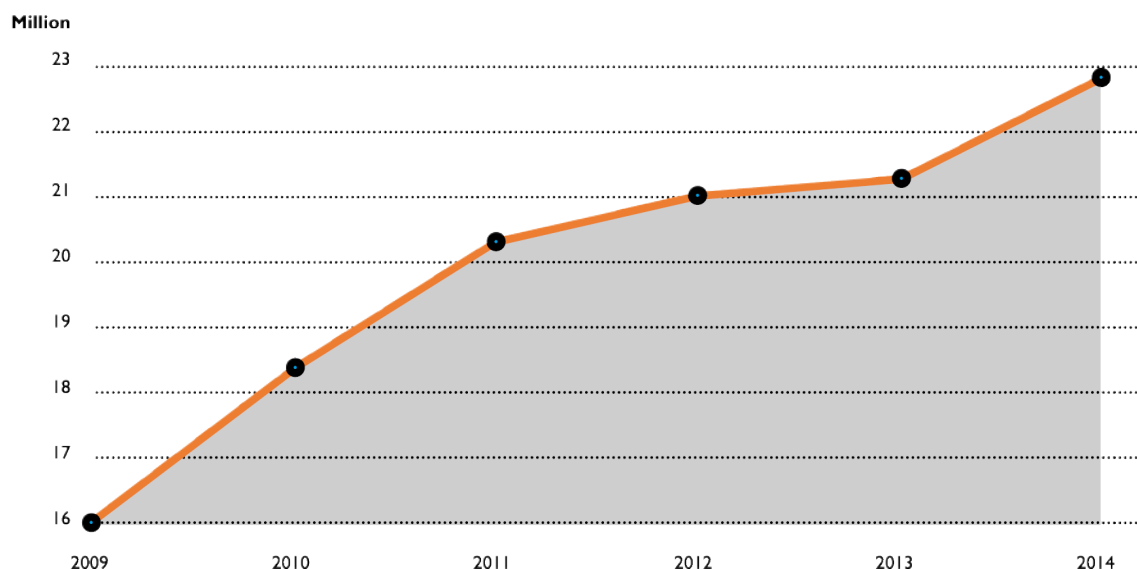
Source: The Star Online (2017).

Figure 6.3. Malaysia Shipbuilding / Ship Repair Industry Strategic Plan 2020 (SBSR 2020)



Source: Ministry of International Trade and Industry (2015b:2).

Figure 6.4. Malaysia's container port traffic 2009 – 2014 (in TEU)



Source: World Bank (n.d.).

global energy shipping.²² Although Malaysia has clear goals concerning its shipping industry, the country still imposes a cabotage policy²³ which only allows Malaysian-flagged vessels operating in Malaysian Waters and the Exclusive Economic Zone. However, foreign vessels may provide domestic shipping services if there are no single Malaysian vessels available or able to provide the required services.²⁴

6.3.4. 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.²⁵ 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.²⁶

Investment incentives

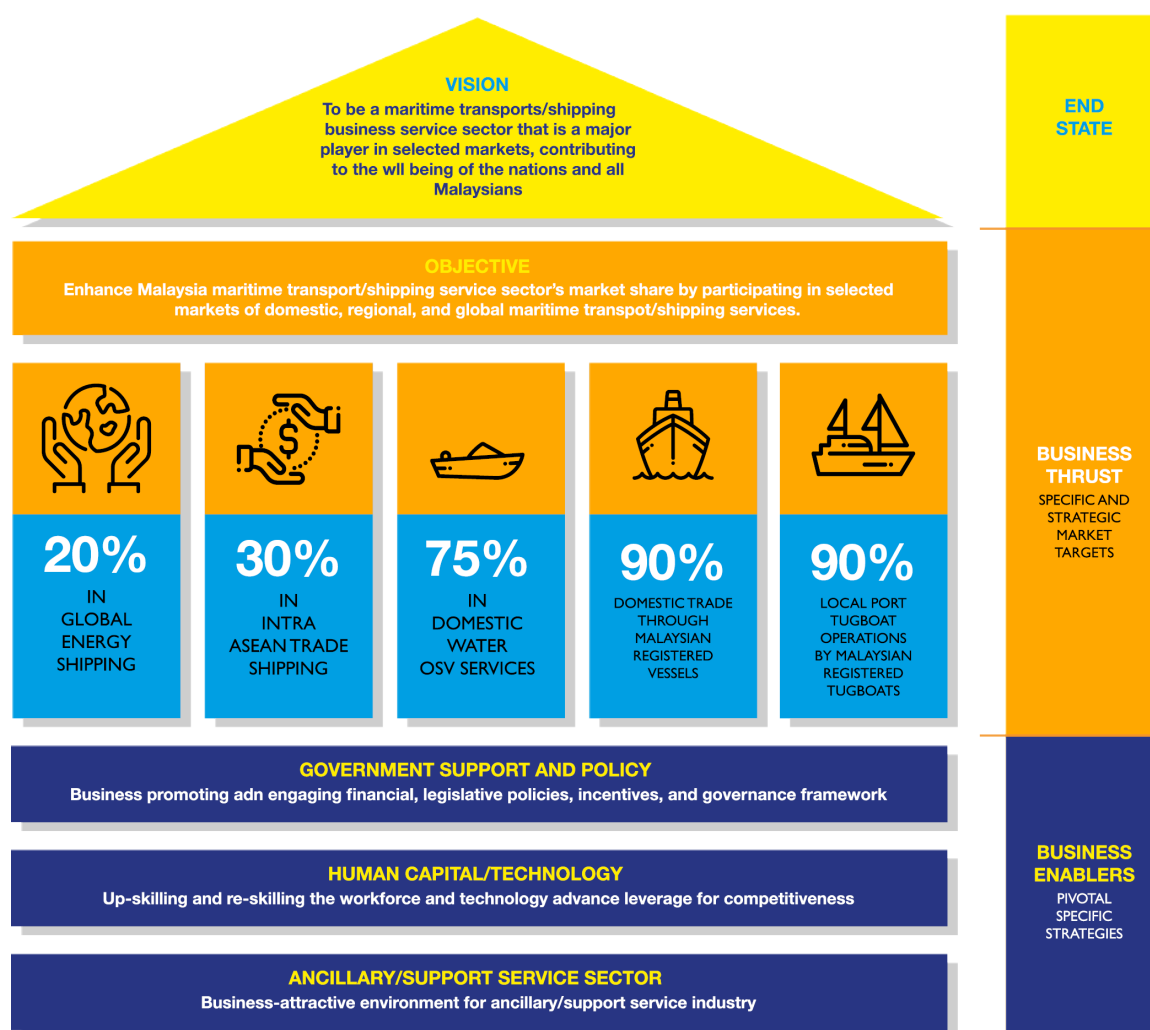
Malaysia offers a number of investment facilities and incentives, including the so-called Pioneer Company Status (PS) and Investment Tax Allowance (ITA). Both incentives are generally accorded to companies that intend to engage or which have commenced production

of less than a year in a promoted activity or promoted product in the manufacturing (including shipbuilding and shipyard), and other industrial and commercial sectors. Those with the PS may enjoy tax exemption of seventy percent of statutory income for five years from the day of the production, whilst ITA provides companies sixty percent of qualifying capital expenditure incurred within five years of approval date to be offset against seventy percent of statutory income for each assessment year until fully utilised.²⁷ Both PS and ITA are mutually exclusive, a company may only use one.

Specifically, strategic projects involving heavy capital and a long period of investment that generate extensive linkages and significantly impacts Malaysian economy will qualify for one of these two incentives:²⁸

- a. Obtaining pioneer status and 100 percent income tax exemption of the statutory income for a period of ten years. Unabsorbed capital allowances and accumulated losses during incentive period can be carried forward and deducted from the post pioneer income of the company; or

Figure 6.5. Proposed Document of Malaysian Shipping Master Plan (MSMP) 2020



Source: Thompson (2015:22).

- b. Investment Tax Allowance of 100 percent from the qualifying capital expenditure for 5 years starting from the capital expenditure is incurred. Unused allowances can be carried forward to the following years until the allowances are fully utilized.

6.4 Setting up a business in Malaysia

6.4.1. General process of setting up a business in Indonesia

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

6.4.2. Additional procedures and requirements for maritime-logistics related businesses

6.4.2.1. Marine transport (shipping) business registration

In order to carry out a business in marine transportation, including shipping, a potential investor is required to register their ships. There are two types of ship registration in Malaysia: (i) Traditional Registration (TR), for domestic shipping providers operating in domestic ports, and (ii) Malaysian International Ship Registry (MSIR), an international registry for foreign vessels.²⁹ Basically, foreign vessels are prohibited to provide domestic services in Malaysian water, unless there is no domestic provider available or able to provide required services. In order to be

registered as a domestic shipping company, foreign investors must:³⁰

- Form a joint venture company with local entities;
- Have a maximum of forty-nine percent of equity ownership;
- Have seventy percent of the ship crew is at least Malaysian;
- Have at minimum thirty percent of the board of directors and the workforce is Malaysian.

Meanwhile, foreign investors who intend to have majority shares may apply for a specific

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://ww1.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 (2017).

registration through Labuan Port known as Malaysia International Ship Registry (MISR). This kind of registration is to encourage foreign investments in Malaysian shipping industry. Ships registered under MISR will be considered as a Malaysian ship and carry a Malaysian flag. Generally, a non-Malaysian company will form a Labuan company as a way to register a vessel under MISR. In addition, a MISR registered ship has to comply below requirements:³¹

- Incorporated in Malaysia, and have principal and office company in Malaysia;
- Have at least one director and one shareholder;
- At least fifty-one percent of the shares, including voting shares, held by non-Malaysian citizens who are free of interest in favor of non-Malaysian citizens;

- The vessels have to be managed by a ship manager who is a Malaysian citizen domiciled in Malaysia or a company incorporated in Malaysia in which its principal business is located in Malaysia; and
- Ship owning entities have to be capitalized up to 10 percent of the highest ship value belongs to the company or MYR 1 million; whichever is higher.

6.5. Export and import clearance procedures

6.5.1. Export clearance procedure

Export clearance procedure in Malaysia is described as follows:³²

- Export declaration**, complete an Export Declaration form (K2) electronically using SMK

(*Sistem Maklumat Kastam*) – DNT (*Dagang Net Technologies Sdn. Bhd.*) Interface³³ of the Bureau of Customs;

- Submit required documents**, the declaration should be equipped with supporting documents such as the commercial invoice, packing list, letter of credit, purchase order, shipping instruction, freight quotation, and letter of credit;
- Goods Examination**, if needed customs authority will forward K2 to Permit Issuing Authorities (PIAs) as a basis for physical inspection to identify high risk cargo. For low-risk cargo, approval will be given automatically; Customs officer will also determine the duty amount that should be paid by the exporter (if applicable);
- Pay for duties**, the exporter should pay duties (if applicable) that has been determined by

Table 6.5. 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).

Customs officer beforehand;

- **Release of goods**, if the exported goods meet all the requirements of declaration and examination procedure, the goods will be released immediately.

6.5.2. Import clearance procedure

All goods originating from overseas entering Malaysia should pass import clearance of which the procedure is as follows:³⁴

- **Import declaration**, complete an import declaration (K1 form) form electronically using SMK-DNT Interface of the Bureau of Customs. Required information include: consignee's name, vessel's name, port of departure, port of arrival, commodity description, weight, invoice, and any other necessary information;
- **Submit required documents**, the declaration should be equipped with supporting documents such as the commercial invoice, the bill of lading, import permit, packing list, and delivery order;
- **Risk assessment**, based on the declaration Customs Verification Initiative (CVI) will do a risk assessment to identify whether or not the cargo contains high risk consignments;
- **Examination of goods**, if needed, Other Government Agencies (OGA)³⁵ will do a physical inspection of the goods. Otherwise, OGA will grant approval in SMK;
- **Appraisal of Goods**, Senior Customs Officer will determine the amount of tax, duty, and charge that should be paid by the importer;
- **Duty, tax and charge payment**, which should be paid by the importer via: (i) Electronic Fund Transfer (only available during

banking hours), (ii) Duty Net (Available anytime 24x7, through CIMB), or (iii) Manual (through cheque or bank draft); and

- **Release of goods**, if the goods meet all the requirements of declaration and examination procedure, the goods will be released immediately.

6.6. Other relevant information

6.6.1. Taxes

Table 6.5. summarize various tax rates in Malaysia.

6.6.2. Infrastructure in Malaysia

Existing infrastructures in Malaysia are summarised in Table 6.6.

6.6.3. Labour condition landscape and employment system

Despite its status as a middle-income country, Malaysia is facing a major shortage of skilled workers.³⁶ 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.³⁷ 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 2020.³⁸

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

Table 6.6. 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 TanjungPelepas, 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	Malaysia has the following spectrum allocation list: (1) Broadcasting services: • 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; (2) Mobile services: • Mobile cellular service for code division multiple access in band 450 MHz (CDMA450); • International mobile telecommunications-2000 (IMT2000); (3) Fixed services: • 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); (4) Frequency band filed by MEASAT Satellite System: • Intersatellite satellite links; • Direct to home; and • IP Internet. 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.	

Source: Various.

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 July 2017, 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.

Hoping to reduce the country's dependence on foreign workers, the Malaysian government recently increased the level of minimum wages across the country. The minimum wage for private sector

workers is MYR 1,200 per month.³⁹

6.6.4. 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.⁴⁰

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.

6.6.5. Social security system

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.⁴¹

6.6.6. 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.⁴²

6.7. Electronic links to relevant maritime logistics-related institutions and information portals

- Ministry of Transport: <<http://www.mot.gov.my>>.
- Marine Department: <<http://www.marine.gov.my/jlmeng/index.asp#.WWHzmYh97IU>>.
- Malaysian Industrial Development Agency: <<http://www.mida.gov.my/>>.

- Malaysia National Trade Repository:
<<http://mytraderepository.customs.gov.my/en/Pages/default.aspx>>.
- Malaysia National Single Window: *<<http://www.mytradelink.gov.my/>>.*
- Ministry of International Trade and Industry: *<<http://www.miti.gov.my/>>.*
- Malaysian Investment Development Authority: *<<http://www.mida.gov.my/home/>>.*
- Royal Malaysian Customs Department: *<<http://www.customs.gov.my/en>>.*

AEC BUSINESS TIP FOR MALAYSIA

As a middle-income country, Malaysia's economy is highly open and trade-dependent. To support its growing trade, the country has set up a massive improvement of its maritime logistics infrastructure, capacity, and efficiency ranging from port development, shipbuilding and ship repairing, to shipping services. At the same time, the government also considers foreign investment as an instrumental force for the sustainability of the country's economic development. Taking advantage of its strategic location, as one of the important hub of global trade, Malaysia offers competitive facilities for investors intending to serve the wider ASEAN market. The nation's involvement in the AEC will spur the region's connectivity through the promotion of region trade

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31. *Ibid* p.2-3.
32. Ministry of International Trade and Industry (2016b).
33. SMK-DNT interface is an electronic data interchange system used by Customs for export and import declaration
34. Ministry of International Trade and Industry (2016b).
35. The authorized government agency depends on the goods.
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7. MYANMAR

MYANMAR

7.1. Brief country profile

Myanmar is a lower middle income country with a population of about 56.8 million inhabitants. Since 2010, Myanmar has undergone massive and momentous political reforms which have had a noticeable impact on the country's economic development. Despite the global economic slowdown, Myanmar is fast becoming the ASEAN rising star, registering the highest average annual GDP growth amongst all other ASEAN members. With an average GDP growth of 7.5 percent over the last five years, Myanmar recorded in 2016 a GDP per capita of USD 1,279 and a total GDP value of USD 66,324 million mostly generated from the services sector (42.6 percent of the GDP).¹ Despite a favourable economic outlook, Myanmar faces several macroeconomic risks to stable growth, such as a narrow production base, a more competitive global market, a lack of diversification in commodities, vulnerability to natural disasters, and higher prices for international commodities.² Notwithstanding these challenges, Myanmar's economic prospect remains bright, especially in light of major structural reforms that the present civilian government promises to pursue.

7.2. Maritime logistics sector in Myanmar

Myanmar has a 2,228 km coastline divided into three sections, in the

Table 7.1. Main coastal ports of Myanmar

Region	Port
Rakhine State	Sittwe, Kyaukphyuand and Thandwe Ports
Ayeyardadty Region	Pathein Port
Mon State	Mawlamyine Port
Tanintharyi Region	Dawei, Myeikand and Kawthoung Ports

Source: Nederland Maritiem Land (2016:8).

northwest: Rakhine Coast (713 km); in the Yangon Area: Delta Coast (437 km); and in the south: Thanintaryi Coast (1,078 km). Myanmar counts nine main coastal ports (refer to Table 7.1. and Figure 7.1.), yet most are river ports, which are not suitable for larger seagoing vessels.³ Yangon port, which handles about 85 percent of trade in Myanmar,⁴ is the largest port in the nation. The port, which can serve vessels of up to 20,000 deadweight, and is currently expanding to serve an expected vessel capacity of 35,000 deadweight, is divided into two ports. The largest is the Myanmar International Terminal Thilawa, used mostly for roll-on/roll-off ships for the transport of cars. In the Yangon port area, there are three inland container depots and 18 international wharves, whilst in the Thilawa Port area, there are six international terminals. There are also other ports in Myanmar. The ports of Sittwe, Pathein, Mawlamyine and Myeik are international exporting ports, whereas Kyaukphyu, Thandwe and Dawei ports mainly stand for domestic coastal traffic.⁵

The Myanmar Ports Authority, the main agency that administers all ports in the country, is reported to need technological upgrading, especially concerning the design and construction of medium-sized dry docks for its port services vessels, up to the capacity of 2,000 dwt.⁶ There is also a need for modernisation of the port facilities of Yangon Port, inner harbour, and upstream terminals. Other investment opportunities include harbour tugs, supply vessels, search and rescue vessel and pilot vessel construction, marine supply base in Yangon and at Deep Sea Ports, the installation of a proper energy supply base in all ports, the development of a liquefied natural gas station for Yangon City, as well as the development of port facilities and capacity building for port management.

Myanmar's shipbuilding industry, meanwhile, is a small-scale industry, which focuses on the construction and maintenance of the domestic inland cargo and cruise vessels market. Despite the low labour

Figure 7.1. Geographical location of Myanmar's main coastal ports



Source: Nederland Maritiem Land (2016:8).

costs, the sector is not able to compete internationally due to lack of facilities, skills, shipbuilding rules and regulations, technology, as well as unfavourable tax climate.⁷

As the government attempts to boost the country's export performance, Myanmar's maritime logistics sector could potentially serve as a major industry capable of responding to increased demand

for frequent transports in the future. Although currently standing below other ASEAN countries, Myanmar's logistics performance index has recently improved from 145th in 2014 to 113th in 2016,⁸ with the government trying to attract investment to support some of its deep sea port projects as part of its national plan to enhance Myanmar's sustainable economic development.⁹ While there are noticeable efforts

by the government, there are still some challenges that need to be addressed, such as its infrastructure condition, slow dwelling time, complicated bureaucracy, inefficient regulation and complex high taxes.

7.3. Maritime logistics-related regulatory frameworks, policies, and plans

Technically speaking, Myanmar does not have a maritime logistics-specific policy. This is not to say, however, that the sector is unregulated. Months after winning the election at the end of 2015, the newly democratic government of Myanmar launched a 12 points economic policy that was aimed at supporting national reconciliation and the pursuit of market-oriented reforms. Key points of relevance to the maritime logistics sector include the civilian government's plan to develop and improve the country's battered infrastructure, including better port facilities, its intention to welcome foreign direct investment, as well as its efforts to address human capital issues and reform the country's state-owned enterprises.¹⁰

The opening up of maritime logistics-related sub-sectors in Myanmar is also linked to the country's commitment in the ASEAN Framework Agreement on Services (AFAS), which has concluded up to nine packages of commitments since the first round of negotiations took place in early 1996. Myanmar's commitment to the liberalisation of its maritime transport services sub-sectors is relatively positive. To date, for instance, the country only imposes a handful of limitation (mostly foreign equity limitation) on maritime transport services sub-sectors such as pushing and towing services, port and waterway operation services (excluding cargo handling), navigation aid services, and maritime freight forwarding services. Table 7.2. also presents various existing maritime logistics-related laws and regulations in Myanmar.

Maritime logistics-related sub-sectors	Relevant laws and regulations
Maritime cargo handling services	• The Yangon Ports Act (1905); • The Carriage of Goods by Sea Act (1925); • The Ports Act (1908); and • The Outports Act (1914).
Storage and warehousing services	• The Yangon Ports Act (1905); • The Ports Act (1908); and • The Outports Act (1914).
Freight transport agency services	• The Bill of Landing Act (1856) • The Yangon Ports Act (1905); • The Ports Act (1908); • The Outports Act (1914); • The Carriers Act (1865); • The Myanmar Carriage of Goods by Sea Act (1925).
Other auxiliary services	Not available
Courier services	Myanmar has not established any specific law concerning courier services, and, as of now, the sector is governed under the 1989 State-Owned Economic Enterprises Law
Packaging services	Not available
Customs clearance services	• The Sea Customs Act (1878); • The Land Customs Act (1924); and • The Tariff Law (1992).
International freight transportation, excluding cabotage	• The Carriers Act (1865); • The bill of Landing Act (1856); • The Maritime Transport Administration Act (1952); and • The Myanmar Merchant Shipping Act (1923).

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

Improvements in the maritime logistics sector have been seen along with the Myanmar government's commitment to open up its economy. In addition to the privatisation of the country's many state-owned enterprises, the government has also developed and expanded the country's main ports, including those in Yangon and Thilawa, adopted a national shipping policy, and is preparing itself to take part in the ASEAN Single Shipping Market. All these make maritime logistics to be one of the most promising sectors in the country. Within a ten-year period between 2003 and 2013, the number of vessels calling to the Port of Yangon has more than doubled, whilst the volume of general cargo and containers handled in Yangon port doubled in 2012 compared to the volume ten years earlier as a result of changes in the country's political system and economic reforms.¹²

7.3.1. Port development-related policies

Myanmar has nine ports, all of which are allowed to handle international trade. However, the majority of these ports, including the country's main port, or the Yangon Port, are not classified as deep sea ports. Such condition impedes the efficient transportation of goods via sea since most ports cannot

accommodate large sea vessels. To overcome this, the Myanmar government has been initiating ambitious plans to develop port infrastructure since mid-2000s, notably the development of deep sea commercial ports along the coastline of Myanmar (refer to Table 7.3.). In addition, the government plans to expand and modernise Yangon Port and particularly port facilities of the inner harbour and upstream terminals to handle the larger volume of cargo in the near future.¹³ The plans include:

- Expanding the back-up area of Botataung Foreshore, by constructing revetment and reclamation area (the plan is also expected to include the development of recreational and commercial buildings at the premises);
- Upgrading the Nanthida and Pansodan-Dala passenger jetties to a modern passenger terminal, and constructing modern commercial buildings in the back-up area;
- Upgrading and renovating the Sule Wharves as a multi-purpose terminal for international general and container cargo vessels;
- Upgrading the local jetties to international inland port terminals; and
- Constructing modern commercial buildings in the Lanmadaw Foreshore area between Ywarthitcreek and Sintoodan Jetty.¹⁴

In addition to all these plans, the Thilawa Port area has also been earmarked to be expanded with higher cargo throughput. Finally, to cope with the growth of seaborne cargo traffic, as well as to lessen logistics cost in maritime trade, the Myanmar Port Authority is now making an increased effort to improve the Yangon river access channel based on the existing natural conditions.¹⁵

Table 7.3. Deep sea projects development in Myanmar

Project Development	Specification	Impact Target
Kyaukhyu Deep Sea Port	- Located in Made Island - Approach channel: covering 24 meter of long axis diameter (LAD), and 2 - 2.7-meter tidal range - Harbour area: 20 meter LAD, and 1000 – 1600 meter searoom	- Reduce distance up to 5,000 km compared to existing route between Malacca Strait to China East Coast - Shortest trade route from China to India - Main gateway for landlocked regions' trade - Opportunities for transporting of general cargo, container, gas, and crude oil
Kalagauk Deep Sea Port	- Located in between Mawlamyine and Ye in Mon State - Approach channel: covering 15-meter LAD, and 3 – 5 meter tidal range - Harbour area: 18 meter LAD, and 4.8 km sea room	- Support industrial area between Mawlamyine and Ye coastline in Mon State - Main connector of Indian Ocean and the Pacific, shorten distance up to 67% of the existing route (route via Malacca Strait) - Gateway for Thailand, Laos, Vietnam, Cambodia, and China
Dawei Deep Sea Port	- Located in Nabule area, North-West of Dawi City - Approach channel: covering 15-meter LAD, and 5 meter tidal range - Harbour area: 15 meter LAD, and 3.2 km sea room	- Become a hub for ASEAN countries and South Asian countries - Serve a range of multi-sectoral businesses including fisheries, industry, tourism, to mining and energy - Establish direct communication link between Greater Mekong Sub Region countries to Indian Ocean and Andaman Sea for more efficient good shipment - Establish deep sea port, industrial area, shipyard, oil refinery plant, power plant, steel mill, fertilizer plant, oil and gas pipeline, and road and railway to Thailand

Source: Nederland Maritiem Land (2016:14).

7.3.2. Shipyard and shipbuilding policy

Compared to other ASEAN Member States, Myanmar's shipyard and shipbuilding industry is relatively small. The sector primarily focuses on the construction and maintenance of domestic inland cargo and cruise vessels market. Notwithstanding low labour costs, the lack of facilities, skills, technologies, as well as adequate rules and regulations hinder the competitiveness of the country's shipyard and shipbuilding industry. Myanmar is also planning to develop deep sea ports in Kyaukpu and Dawei, whilst new opportunities to develop the industry can also be found in many offshore blocks developed in the country.¹⁶ Back in 2015, Myanma Shipyards, a state-owned enterprise, also announced its intention to build 30 merchant vessels in a USD 175 million deal that is expected to be completed in 2017. The project, which is being carried

out through a joint venture initiative with a Vietnamese company, Dong A Shipbuilding Industry, will enable Myanmar to build up to 22,000 dwt and repair vessels of up to 30,000 dwt, and is expected to attract more foreign orders for vessels built in the country.¹⁷

7.3.3. Shipping policy

At present, the Law Amending the Myanmar Merchant Shipping Act of 2007 (also known as the State Peace and Development Council Law No. 1/2007) serves as the main law that regulates the country's shipping industry. The Law changes all references made to the so-called 'home-trade' ship in the previous 1924 Merchant Shipping Act with the expression of 'near coastal voyage ship', in addition to numerous other amendments.¹⁸ The industry also observes the Law Amending the Myanmar Registration of Ships Act

of 2003 (also known as the State Peace and Development Council Law No. 4/2003), which replaces the Myanmar Registration of Ships Act of 1841.¹⁹ The development of the industry is also complemented by other supporting policies, including export and import policies, as well as the government's overall maritime sector liberalisation plans that are in line with the country's regional and global commitments.²⁰

By and large, Myanmar's shipping industry is expected to experience a steady increase along gradual economic opening of the country. The country's trade with the world reached USD 29.1 billion in 2015, which was an increase of 16.8 percent compared to the previous year (refer to Figure 7.3.). Given the inability of Myanmar's shipping industry to accommodate, in its current state, the growing commercial exchanges of the country, the government pursues

Figure 7.2. Deep sea projects spots in Myanmar



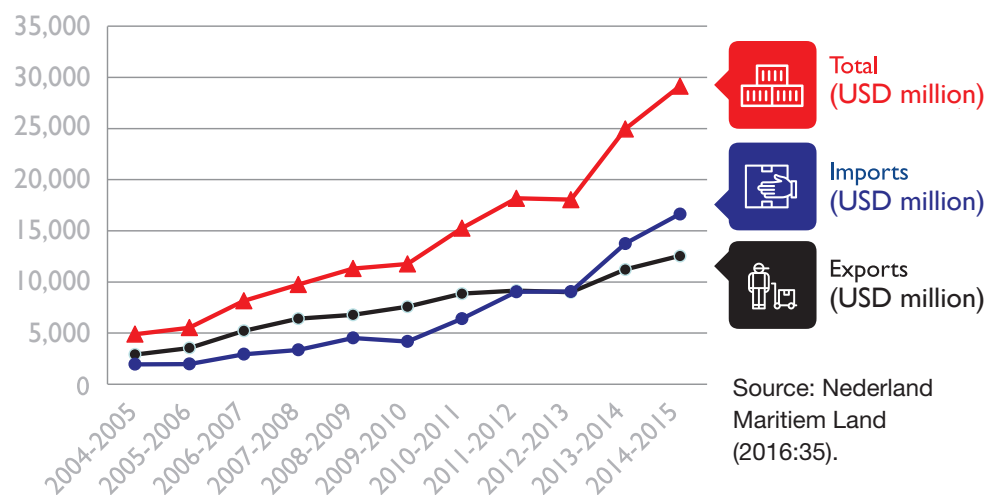
Source: Nederland Maritiem Land (2016:14).

efforts to liberalise the industry and foster competition in the shipping market. To do so, the government already privatised the only state-owned shipping company in the country, or the Myanma Five Star Line, and, as of 2016, there were 17 foreign shipping lines operating in the country.²¹ The development of the industry is also to be complemented by the improvement in communication infrastructure, information exchanges, and the banking system. Foreign investments are particularly expected in maritime education and training centres, and shipping lines.²²

7.3.4. Investment policy

Foreign investment in the country is guided by the 2016 Myanmar Investment Law.²³ According to this law, 100 percent foreign ownership (participation), especially in international container multi-modal transport, is allowed. Myanmar's government also encourages foreign investors to expand multi-modal transport, such as business expansion in deep-water container-dock construction, improve the road, railway, coastal, and freshwater transport system; container fleet; container transport information technology, including electronic data interchange and other related supporting business.

Figure 7.3. Total of Myanmar's international trade value 2004 - 2015



Source: Nederland Maritiem Land (2016:35).

7.4. Setting up a business in Myanmar

7.4.1. General process of setting up a business in Myanmar

General process of setting up a business in Myanmar, including the length of time and cost required, is highlighted in Table 7.4.

Table 7.4. 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	500,000 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.).

7.4.2. Additional procedures and requirements for maritime-logistics related businesses

7.4.2.1. Port development

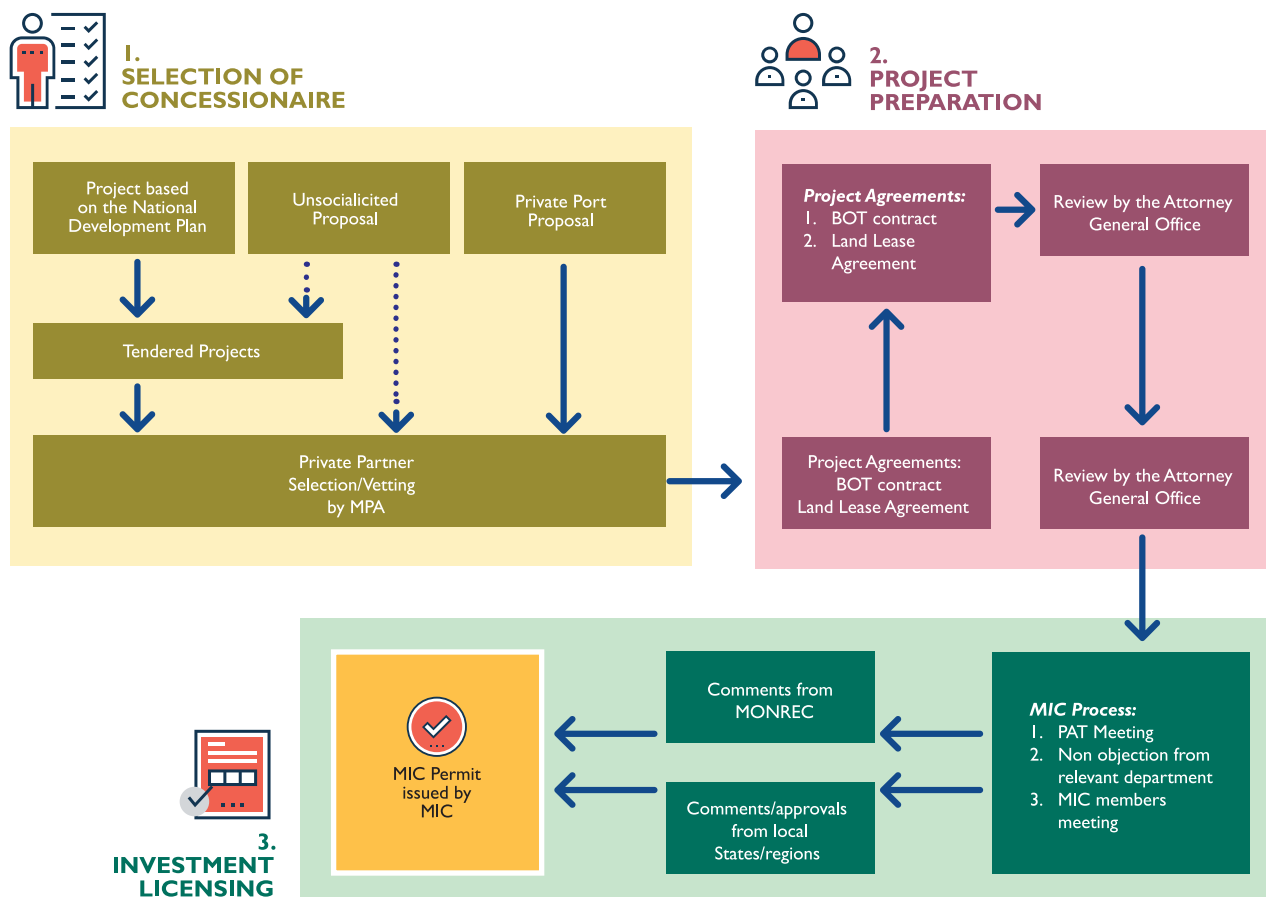
The investment process in Myanmar is centralised at the Myanmar Investment

Commission (MIC), and this also applies for port development or expansion. The 2016 Myanmar Investment Law identifies two types of investment licenses, including: (1) a full MIC permit for large and strategic projects; and (2) a simpler approval for small projects. Although the said Law does not specify which permit is needed for port development projects, it is likely that such projects are considered strategic, and, therefore, would require a full permit from the MIC. In addition, port development projects also require an initial environmental examination or an environmental impact assessment, depending on the size of the projects to be submitted to and approved by the Ministry of Natural Resources and Environmental Conservation.²⁴

Port development procedures under Joint Venture Company

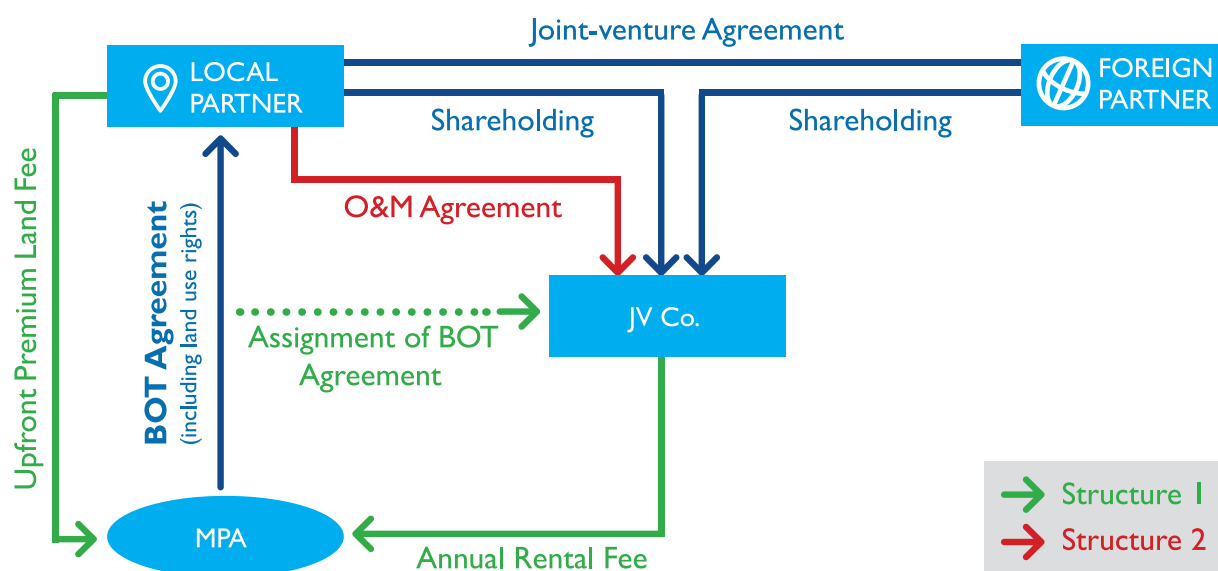
Foreign investors can generally work on a project that has previously been secured by a local company. There are two schemes in which a foreign investor can pursue collaboration with a local company, and these include: (1) Structure 1: assignment of the project rights; or (2) Structure 2: execution of an Operation and Maintenance agreement with the local partner. Either structure requires an establishment of a Joint Venture Company. Under Structure 1, a local company that has secured a project is allowed to lease agreement and ownership (including the project) to the Joint Venture Company under a Build-Operate-Transfer agreement. In short, the said partnership is allowed to implement all projects secured by its local company. The transfer of ownership, however, is subject to 10 percent capital gain tax, in addition to other fees. Structure 2, meanwhile, is the most favoured scheme of most foreign investors as it involves less burden and costs associated with the implementation of Structure 1 scheme. In Structure

Figure 7.4. Approval procedure for port development projects



Source: VDB Loi (2017:3).

Figure 7.5. Procedure for port development project through a joint venture scheme



Source: VDB Loi (2017:4).

2 scheme, the local partner still acts as the developer whereas the Joint Venture Company is in charge of administering the operation and maintenance services of the operation of the terminal. The port construction process may either be carried out solely by the local partner, or through a separate construction agreement between the Joint Venture Company and the local company.²⁵

7.4.2.2. Marine transport (shipping) business registration

According to the Myanmar Registration of Ships Law of 1841, all ships registered in Myanmar are considered as ships of the country. Ships can only be registered by Myanmar citizens. In addition, foreign-owned ships are only allowed under a bareboat charter basis. Foreign vessels entering Myanmar waters should report to the Shipping Agency Department of Myanmar Port Authority (MPA).

Table 7.5. Procedures and requirements for shipping-related businesses

Procedure/Requirement	Description
Requirements for operating a shipping business	To be able to operate in Myanmar, foreign vessels must have company affiliation in Myanmar, and are registered under a bare boat charter with dual registration (Myanmar and foreign registration).
Procedures and Requirements for transporting cargo	In order for foreign ships to be able to transport cargo to/from Myanmar. The shipment process should be registered to Shipping Agency Department by submitting the required documents as follows: • Estimated time of arrival of the ship; • Estimated time of departure of the ship; • Specification of the cargo; • Shipping particulars, person responsible for shipping charges; • Compulsory pilot if ship is above 200 GRT; and • Shipping Agency Fee: USD 385/ship.
Registration fee for transporting cargo	The registration fee varies according to tonnage level – for example: a 5,000 tonnes ship is subject to a registration fee of approximately USD 10,000.

Source: Finch (2014:9).

7.5. Export and import procedures²⁶

7.5.1. Export procedure

Every goods leaving Myanmar must pass the following procedure:

- **Application for export license:** the exporter should apply for an export license from the Directorate of Trade of the Ministry of Commerce. All export transaction must use the freight on board incoterm. The Directorate of Trade will examine the price of export transactions. The application might be rejected if the examination reveals that the price level of export transaction is against national economic interest. An export license is issued based on recommendations by relevant ministries, agencies, and business association. There is no charge fee for the issuance of the export license;

- **Making Export Declaration:** all exported goods must be declared to the Customs Department by completing the Export declaration form (CUSDEC-2) prior to shipment. The CUSDEC-2 should be submitted together with the supporting documents that include: export license, invoice, packing list, sales contract, shipping instruction, sample of goods, letter of credit, Payment advice referring Inward Telegraphic Transfer Private/ Government Number, as well as other permits/licenses from relevant authorities;
- **Export inspection:** this process is conducted by custom authorities to make sure that all export goods match with the declaration. Pre-shipment inspections might be conducted by private companies for specific commodities such as rice;
- **Export tax payment:** customs duty and export taxes have to be paid to the custom authorities. Duty and tax charge vary depending on the commodities;
- **Release of goods:** Once cleared, goods are approved by the custom authorities for release out of Myanmar.

7.5.2. Import procedure

Every goods originating from overseas and entering Myanmar should pass import clearance as follows:-

- **Application for import license:** in order to apply for an import license from the Directorate of Trade, an importer in Myanmar must be in possession of a foreign exchange account. If the account already exists, the importer should also

submit the sales contract, the invoice informing detailed specifications of goods to be imported, and the mode of packing and delivery to the Directorate of Trade. The said importer will also be required to pay an import license fee on the Cost, Insurance, and Freight at Yangon. The payable fee depends on the value of the imported goods (refer to Table 7.6.);

- **Obtaining an irrevocable letter of credit:** the importer has to obtain a letter of credit from the bank and submit it to the Customs Department;
- **Insurance:** an importer is required to possess an insurance from the Myanma Insurance and freight booking from the Myanma Five Star Line if the purchase of goods is made under Free On Board basis;
- **Informing goods attribute to custom authority:** information to be provided includes vessel name, the flag of the vessel, origin country, quantity, weight, volume, etc.;
- **Import declaration:** all imported goods must be declared to the Customs Department by completing an Import Declaration form (CUSDEC-1). The declaration must also be submitted together with import license, invoice, bill of lading or consignment note, packing list, and other permits issued by relevant authorities depending on the imported goods;
- **Paying custom duty and taxes:** the importer should pay custom duty and all imposed taxes. The payment should be paid at the point of entry at the time of clearance;
- **Inspection of goods:** customs authorities will examine the goods to make sure they comply with all rules and regulations;
- **Release of goods:** if nothing suspicious about the imported good, customs authorities will release the goods.

Table 7.6. Import license fees

C.I.F value (in MMK)	Import License Fee (in MMK)
10,000	250
10,001 – 25,000	625
25,001 – 50,000	1,250
50,001 – 100,000	2,500
100,001 – 200,000	5,000
200,001 – 400,000	10,000
400,001 – 1,000,000	20,000
> 1,000,001	50,000

Source: Myanmar Geneva (n.d.).

7.6. Other relevant information

7.6.1. Taxes

Various taxes in Myanmar are summarised in Table 7.7.

Table 7.7. 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).

7.6.2. Infrastructure 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 7.8. presents an overview of existing infrastructures in Myanmar.

Table 7.8. 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: • 1.93 million motorcycles; • 295,000 cars; • 67,200 trucks; and • 20,000 buses.
Railways	5,844 km	Myanmar 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 coasts of the country	Inland Water Transport, Myanmar Five Star Line, Myanmar 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	• Myanmar Oil and Gas Enterprise; • Myanmar Petrochemical Enterprise; and • Myanmar 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: Various.

7.6.3. 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.²⁷ The country is, therefore, experiencing major shortages of skilled workers.²⁸ 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 7.9.). 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

Table 7.9. Relevant employment-related laws, rules, and regulations in Myanmar

Relevant employment-related laws	Relevant employment-related regulations, rules, and policies
• 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.	• 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).

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.²⁹

7.6.4. 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.

7.6.5. Social security system

Myanmar enacted a new 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 super annuation. 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 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.³⁰

7.6.6. 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.³¹

7.7. Electronic links to relevant maritime logistics-related institutions and information portals

- Directorate of Investment and Company Administration of Myanmar: <<http://www.dica.gov.mm/>>.
- Department of Marine Administration Myanmar: <<http://dma-mm.org>>
- Myanma Port Authority: <<http://www.mpa.gov.mm>>
- Ministry of Transport and

Communications: <<http://www.mcit.gov.mm>>

- Myanmar National Trade Portal: <<http://myanmartradeportal.gov.mm/>>
- Customs Department of Myanmar: <<http://www.mof.gov.mm/en/content/customs-department>>
- Ministry of Environmental, Conservation, and Forestry: <<http://www.moecaf.gov.mm/>>

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1. Central Intelligence Agency (2016).
2. World Bank (2017).
3. Nederland Maritiem Land (2016:7)
4. Embassy of the Kingdom of the Netherlands (2016:1).
5. *Ibid.*, p.7-9.
6. *Ibid.*, p. 2.
7. *Ibid.*
8. World Bank (n.d.a.).
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10. Kyaw (2016).
11. For further details of these laws and regulations, see also the Government of the Union of Burma (n.d.).
12. *Ibid.*, p.11-12.
13. Nederland Maritiem Land, *op. cit.*, p. 17.
14. *Ibid.*, p.13.
15. *Ibid.*
16. Embassy of the Netherlands in Myanmar (2016: 2-3).
17. Mizzima (2015).
18. For further detail of the Law, see, amongst others, the official website of Myanmar Shipping

at: <<http://www.myanmarshipping.com/merchant.html>>.

19. For further detail of the amended Law, see, amongst others, the official website of the Myanmar Shipping at: <<http://www.wvpc.eu.com/wp-content/uploads/2013/12/Logistic-in-MyanmarRV2.ppt-Compatibility-Mode.pdf>>.
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22. Embassy of the Netherlands in Myanmar, *Op. Cit.*, p. 2.
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24. VDB Loi (2017: 3).
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AEC BUSINESS TIP FOR MYANMAR

After decades of isolation, Myanmar has transformed itself into an open, reform-driven, economy. Its economic-opening reforms, growing consumer market, and trade liberalisation efforts offer considerable potentials for ASEAN and non-ASEAN companies to provide maritime transport and its related services to support shipment of goods. Nevertheless, Myanmar still lacks regulatory transparency, whilst complex bureaucracy and corruptions hampers 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. Not only does the existence of AEC becoming part of the regional production network, the AEC also accommodates companies in Myanmar to have a greater access to other markets in the region.

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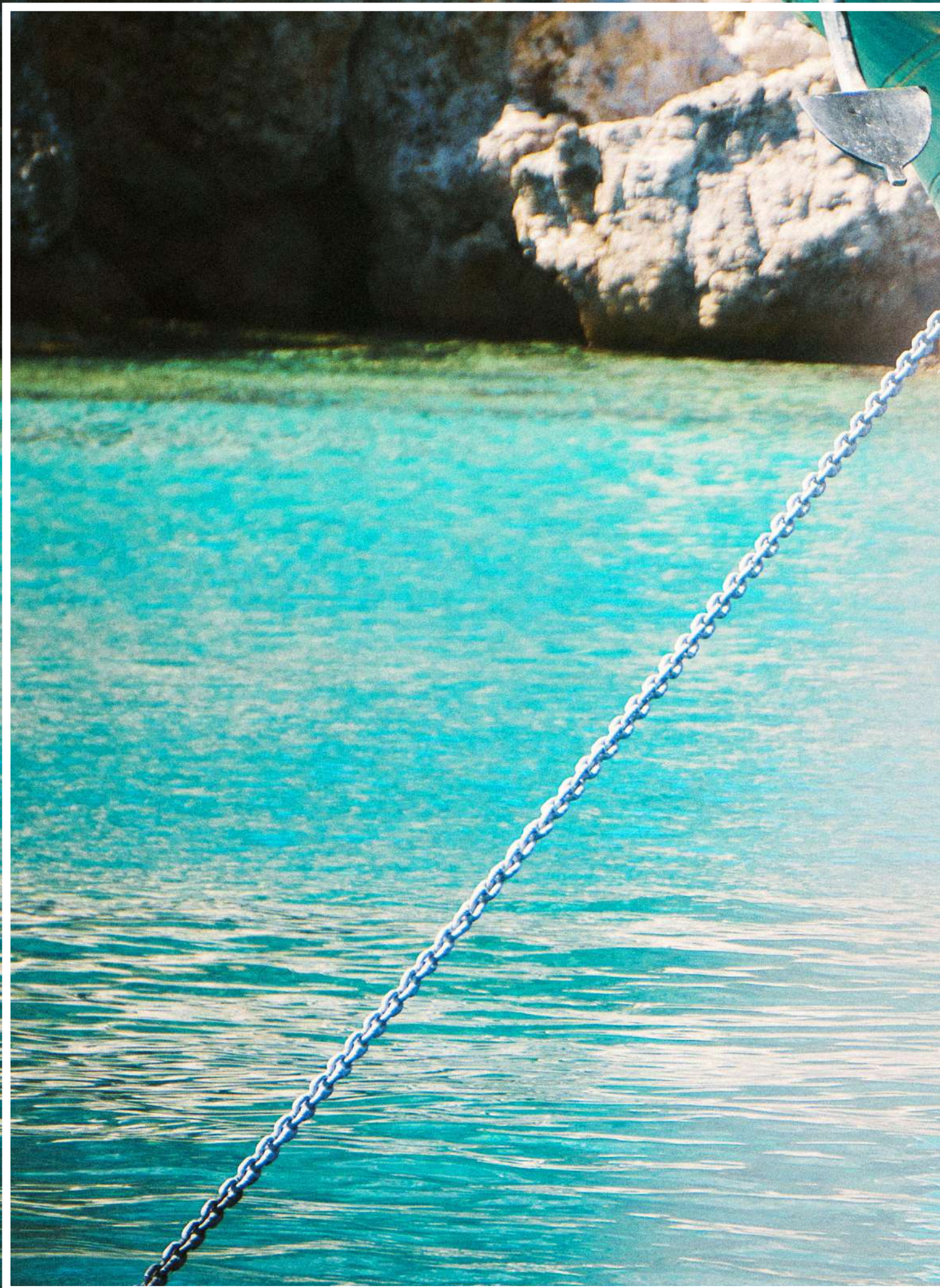
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8. THE PHILIPPINES

THE PHILIPPINES

8.1. Brief country profile

Notwithstanding global economic challenges, the Philippines has achieved notable economic expansion, driven primarily by strong export performance and remittances inflows that bolster private consumption in the country.¹ With around 100 million inhabitants, which makes the country the second most populous country in ASEAN after Indonesia, the economy of the Philippines registered a GDP per capita of USD 2,635 in 2015. Although categorized as a lower-middle income country, the country's economic growth has been relatively stable over the past few years, averaging around 5.41 percent between 2011 and 2015. The Philippine economy is dominated by the services sector (59.5 percent), followed by the industrial and agriculture sectors, which represent 30.8 percent and 9.7 percent of the country's GDP respectively in 2016.² As one of the largest archipelagic nations on earth, the Philippines' maritime resources are extremely diverse and remain mostly untapped. The country also has one of the most significant container traffic amongst developing economies in terms of volume, and is one of the largest suppliers of seafarers in the world.³

8.2. Maritime logistics sector in the Philippines

Despite ongoing tension in the South China Sea, and frequent cases of terrorism in its ocean, the Philippines

has vast maritime potential. With 36,289 km of coastline, the country has the second longest coastline in ASEAN after Indonesia, or the fifth longest in the world.⁴ In 2016, national ports in this archipelagic nation handled a total of 249.57 Million Metrics Ton (MTT) cargo volume, or an increase of 11.58 percent from the previous year.⁵ The country's shipbuilding industry is ranked as the fourth largest in the world after China, South Korea, and Japan. The Philippine shipbuilding industry is also the dominant tax contributor and employment generator within the maritime sector. In 2015 alone, for example, the industry contributed a total of PHP 533 billion (USD 10.6 billion) to tax revenues and employed around 46,000 employees.⁶ Another major contributor to the government's coffers is cargo services. In 2014, the sector contributed PHP 11.6 billion (USD 231.3 million), consisting PHP 9.9 billion (USD 197.4 million) in international cargo services and PHP 1.7 billion (USD 33.9 million) in domestic cargo services.

The Philippine logistics sector's potential is vast. Given the rapidly growing size of the Philippine economy as well as its geographical structure, logistic services will play a critical role in moving goods across the country. According to a 2016 report produced by Ken Research and entitled *Philippines Logistics Market Outlook 2015-2019*, in 2014 alone, the country's

logistics sector contributed about 10 percent to the Philippines' GDP.⁷ The report also emphasises three services which will likely serve as the main engines of growth in the country: express delivery, third party logistics and e-commerce logistic services. Indeed, although the ranking of the country's overall logistic performance index fell from 57th in 2014 to 71st in 2016,⁸ it is projected by the Ken Research report that domestic express delivery service segment will have the most potential within the country's logistics sectors in the coming years.

8.3. Maritime logistics-related regulatory frameworks and policies

Improving port performance and services, as well as reducing port congestion are some of the priorities of the present government of the Philippines. Not only has the government significantly invested in better maritime infrastructure, it has also built an online system, known as the *Terminal Appointment Booking System (TABS)*, which is an electronic platform that would allow exporters, importers and brokers to book containers in all major international ports of Manila. Considering the need to address traffic congestion in Manila, the TABS will facilitate a more organised, efficient and productive in- and out-flow of containerised cargoes from the two main international ports in the capital: the

Manila International Container Terminal and the Asian Terminals, Inc.⁹

In addition, the government is also pursuing the removal of barriers in the maritime logistics sector. For example, the barrier that required foreign vessels to unload and transfer their goods onto domestic vessels before these goods can reach their final destinations,¹⁰ prevented the involvement of foreign players in coastal transportation and created major bottlenecks in sea transportation. To address this issue, the government amended the Republic Act (RA) no. 10668 on the Co-Loading Law in 2015, which allowed foreign vessels to transport and co-load cargoes for the domestic market.

The majority of maritime logistics-related services in the Philippines are authorized and regulated by Maritime Industry Authority (MARINA) and the Philippine Ports Authority (PPA, an agency under the Department of Transportation). Foreign companies may provide international maritime transport, storage, warehousing and cargo handling services and are allowed to have full foreign ownership, except at the Subic Bay Freeport Zone where foreign equity participation is limited to 70 percent for storage, warehousing and cargo handling services. The majority of other related services allow a share of foreign ownership up to forty percent or seventy percent depending on the type of services. For instance, the foreign ownership share for the maintenance and repair of vessels as well as cargo freight services is limited to 70 percent, whilst foreign providers of pushing and towing, port and waterway operation, and other supporting services for water transport are only allowed to have a maximum of 40 percent of foreign equity ownership.

8.3.1. Port development-related policies

On average, million tonnes of cargoes are handled by various ports in the Philippines on an annual basis. The Manila Port, the busiest seaport in the country, experienced an average increase of seven percent in volume per year handled between 2009

Table 8.1. Maritime logistics-related rules and regulations in the Philippines

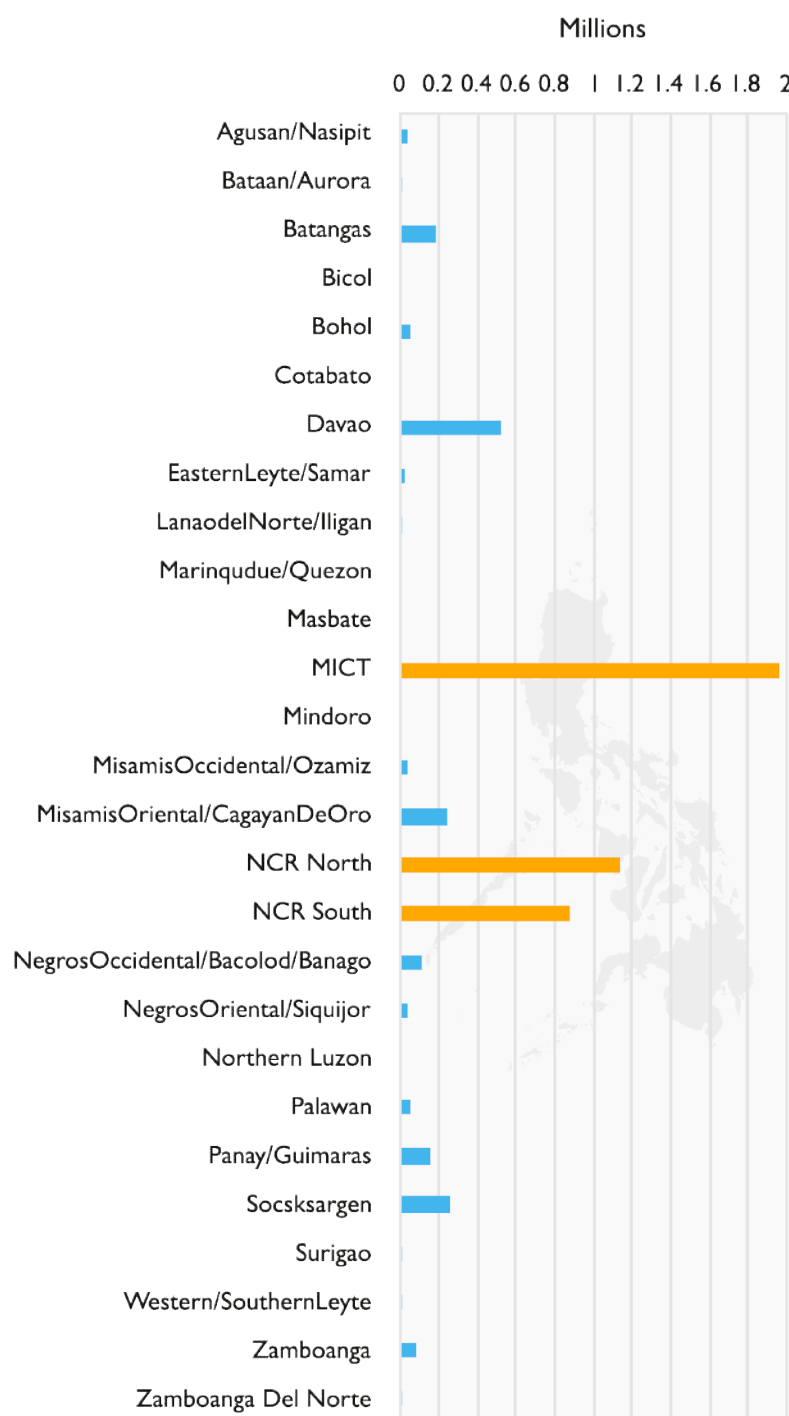
Maritime logistics-related sub-sectors	Relevant laws and regulations
1. Maritime cargo handling services	• 1987 Philippine Constitution; • Executive Order No. 858 (8th Regular Foreign Investment Negative List); • PPA Administrative Order No. 03-2009 [Amendment to Article III (Guidelines in the Conduct of Public Bidding) of PPA Administrative Order No. 01-2006]; • Republic Act No. 7227; • 1991 Foreign Investment Act (FIA); • Republic Act No.9295; • Special Economic Zone Act of 1995; • The Cagayan Special Economic Zone Act of 1995; • The Zamboanga City Special Economic Zone Act of 1995.
2. Customs clearance services	• Republic Act No. 10863.
3. International freight transportation, excluding cabotage	• Presidential Decree No. 760, 866/1711 and its Implementing Rules and Regulations; • Executive Order Nos. 438 and 667; • Memorandum Circular No. 182; • Republic Act No. 7471, as amended by RA No. 9301; • Republic Act No. 9295; • 1991 Foreign Investment Act (FIA); • Special Economic Zone Act of 1995; • The Cagayan Special Economic Zone Act of 1995; • The Zamboanga City Special Economic Zone Act of 1995.
4. Shipbuilding	• Republic Act No. 9295; • Memorandum Circular No. 2015-04; • Special Economic Zone Act of 1995; • The Cagayan Special Economic Zone Act of 1995; • The Zamboanga City Special Economic Zone Act of 1995.

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

and 2013. Noticeable increase of export and import volumes in the Manila Port were also reported around the same period.¹¹ To anticipate the increasing volume and to prevent container traffic bottleneck issues, the government is pursuing the *Build-Operate-and-Transfer* scheme, which is a project financing initiative that allows private investors and national port operators to pursue joint venture or lease port entities, to attract private investors to participate in the nation's port development. The BOT scheme is essentially a contractual arrangement between a private

contractor and a national government agency or a local government unit that allows the former to undertake the financing and construction of a specific project, and have the project transferred to the latter after operating it for a fixed period of time.¹² The government has also allocated seven percent of the country's GDP for public infrastructure development for the financial years of 2017 until 2022.¹³ For 2017 alone, the government has allocated PHP 860 billion for infrastructure development, of which about PHP 355 billion is allocated for the improvement of roads, railways, seaports, and airports.¹⁴ In addition,

Figure 8.1. Philippine containerized volume in 2015 (in TEU)



Source: Richter op. cit., p.21.

there are 17 public-private-partnership projects planned to be tendered by the National Economic and Development Authority (NEDA).

8.3.2. Shipyard and shipbuilding policy

Given its archipelagic status, water transportation has always been regarded as an important segment of the Philippine economy. With a total of 1,878,000 gross tonnage in 2015, the Philippines is by far the largest shipbuilder in ASEAN, or the fourth largest in the world.¹⁵ Although the country has traditionally purchased

second-hand ships from overseas companies, the archipelago's shipbuilding industry is growing rapidly. It is reported that shipyards in the Philippines are currently building more ships of larger tonnage capacities, including bulk carriers, container ships and passenger ferries. The Hanjin Heavy Industries Corporation, a South Korean-based commercial shipbuilder company, for example, has constructed 180,000 deadweight tonnage of world-class ocean-going vessels in the archipelago.¹⁶ The Philippines, furthermore, has also developed the 54,000 ha Port Irene in Cagayan to become the nation's next world-class shipyard. Whilst in need of upgrading, the development and operation of Port Irene is currently being offered to major port operators.¹⁷ To encourage investors to participate in the development of the industry, the government has set some incentives such as allowing foreign investors to own 100% of their company; providing tax holiday for 6 years for shipyards with a minimum capacity of 7,500 DWT; or if the project has a value of at least USD 10 million, exempting imported tools and equipment of duty charges.

The development of ship building and ship repair industry in the Philippines is supported by the availability of its skilled manpower. In 2015, Technical Skills Development Authority (TESDA) has registered 95,000 certified welders.¹⁸ In addition, the industry is also advantaged by relatively low labour cost.¹⁹

8.3.3. Shipping policy

Goods transportation via sea accounts for more than 80 percent of goods deliveries in the Philippines. In 2016 alone, there were 249,567 MMT of cargo handled in the Philippines, a 11.6 percent increase from the previous year.²⁰ The increase is also seen in foreign and domestic cargo volume that grew approximately 13 percent and 10 percent respectively from 2015

Table 8.2. Philippines' Manpower in Shipbuilding Industry, 2010

Job Level	2010	Composition	Jobs	Monthly Salary (PHP)
Managerial Personnel	2,370	6 percent		25,000 – 60,000
Administrative Personnel	4,294	11 percent		10,000 – 18,000
Technical Personnel	5,096	13 percent	Architects and engineers, electricians	16,000 – 35,000
Skilled/Semi-Skilled Workers	27,688	70 percent	Welders, crane operators, steel cutters, outfiller painters, etc.	12,000 – 25,000
Total	39,448	100 percent		

Source: Richter op. cit., p.39.

to 2016. Within the same period, a similar hike was also experienced with container traffic, showing a 12 percent increase in volume for 2016, including 4 million TEUs of foreign containers (14 percent increase) and 2.6 million TEUs of domestic containers (9.3 percent increase).²¹

Regarding passenger traffic, the figure increased by 8.5 percent in 2016, with an 8.7 percent hike in foreign traffic (33.2 million foreign passengers) and an 8.3 percent rise in domestic traffic (34.9 million domestic passengers). Furthermore, a total of 430,451 vessels were called for shipping services in 2016, representing a nearly 9 percent increase compared to the previous year. This increase included a 22.1 percent surge of foreign ships called and an 8.6 percent increase of domestic ships called.²² All of these increases are due to an increased number of passenger trips using ships and an increased delivery demand of major commodities such as rice, cement, fuel and other commodities, through the sea. These statistics further show that the increase of foreign services outnumber the rise of domestic services, indicating that the need for shipping services, particularly from foreign entities, is still growing in the Philippines.

As already noted above, international shipping services may be run by a fully owned foreign company as declared in the country's commitment towards the ninth package of ASEAN services liberalisation under AFAS. In addition, to support the growing demand of foreign shipping services, the government released RA. No.

10378 in 2013 waiving international carriers from paying 12 percent VAT whilst domestic carriers are still obliged to pay for it. Under this act international carriers only need to pay 3 percent of common carrier tax. Therefore, foreign vessels are privileged over domestic vessels.

8.3.4. Investment policy

Foreign investment in the Philippines is regulated under the Foreign Investments Act of 1991. Under this Act, foreign investors receive the same treatment as their domestic counterparts. Foreign investments made in the form of corporation or partnership are required to register with the Securities and Exchange Commission, whilst investments in the form of sole proprietorship are required to register with the Department of Trade and Industry's Bureau of Trade Regulation and Consumer Protection. The Act also allows 100 percent foreign equity in all areas of investment, including shipbuilding industry, except in sectors or areas that are reserved solely for the Filipinos under the country's Constitution and existing laws.

Although open to foreign investment, the Philippine government issued the Tenth Regular Foreign Investment Negative List in 2015 that identified areas and professions where foreign ownership and foreign national participation are limited due to reasons of national interest. Areas where foreign ownership are prohibited include, amongst others, mass media (except recording) and

the utilisation of marine resources in archipelagic waters, the territorial sea and the exclusive economic zone. Meanwhile, some professions that are open only to Filipinos are pharmacists, radiology technicians and criminologists.²³

Investment incentives

Various investment incentives offered by the government of the Philippines are summarised in Table 8.3.

Besides the incentives stated in Table 8.3, the government of the Philippines also provides other incentives based on the type of project registration as described in Table 8.4.

In addition, the Maritime Industry Authority of the Philippines also issued in 2015 Circular No. 2015-04, entitled: 'Encouraging Investment in Newly Constructed Ships or Brand New Vessels in the Domestic Shipping Industry by Providing Incentive', which allows 50 percent reduction of regular fees and charges in all applications and renewals of ship documents, licenses, certificates and permits for those intending to invest in the so-called International Association of Classification Societies-classed brand new or newly constructed ships in the domestic shipping industries for the purpose of transporting passengers, cargoes or fuel/oil products into the domestic water.²⁴

Table 8.3. Investment incentives in the Philippines

Fiscal incentives	Non-fiscal incentives	Incentives related to SEZs
Income tax holiday	Employment of foreign nationals	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.*
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 equipment	
Reduction of the rates of duty on capital equipment, spare-parts, and accessories by virtue of executive order 528		
Tax exemption on breeding stocks and genetic materials	Privilege to operate a bonded manufacturing/trading warehouse	
Tax credits		
Additional deductions from taxable income		

Note: * Currently, there are 345 SEZs, and they all fall within one of the following 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 of them are dedicated to the agro-industrial sector. For more information on the SEZs in the Philippines, see the official website of the Philippines Economic Zones Authority at: <http://www.peza.gov.ph>.

Source: PWC (2015: 38).

Table 8.4. Incentives based on the type of project registration

Type of registration	Incentives
Projects registered with the Board of Investments	- Income tax holiday – six (6) years for projects with pioneer status and four (4) years for non-pioneer status. Any of the following may qualify for ‘pioneer status’: - Ship yard operation with a minimum berthing capacity of 7,500 DWT; or - Project cost of at least the PHP equivalent of USD 10 million. - Additional deduction for labour expense; - Duty exemption on imported capital equipment (under E.O. 528); - Simplification of customs procedure; - Unrestricted use of consigned equipment; - Employment of foreign nationals; - Access to Bonded, Manufacturing/Trading Warehouse system; - Exemption from duties on imported spare parts (under E.O. 528); - Exemption from wharfage dues and any export tax, duty, impost and fee.
Projects registered with the PEZA	- Income tax holiday for 4-8 years; - Special 5 percent tax rate on gross income after the lapse of Income Tax Holiday (ITH); - Tax and duty exemption on imported capital equipment; - Exemption from 12 percent input VAT on allowance local purchase of goods and services (e.g., communication charges); - Unrestricted use of consigned equipment; - Employment of foreign nationals.

Source: Board of Investments Philippines (n.d.).

8.4. Setting up a business in the Philippines

8.4.1. General process of setting up a business in the Philippines

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

Table 8.5. Process of setting up a business in the Philippines

No.	Procedure	Time to complete (day)	Cost to complete (in IDR)
1.	Verify and reserve the company name with the Securities and Exchange Commission	1 day	PHP 40
2.	Deposit the paid-in minimum capital at the bank	1 day	No charge
3.	Notarize articles of incorporation and treasurer's affidavit at the notary	1 day	PHP 500
4.	Register the company with the Securities and Exchange Commission and pre-registration for Taxpayer Identification Number, Security System (SSS), Philippine Health Insurance Company (PhilHealth), and Home Development Mutual Fund (Pag-ibig Fund).	2 days on average	*
5.	Obtain barangay clearance	1 day	PHP 500
6.	Pay the annual community tax and obtain the Community tax Certificate from the City Treasurer's Office	1 day	PHP 500
7.	Obtain the business permit to operate from the BPLO	6 days	*
8.	Buy special books of account at bookstore	1 days	PHP 400
9.	Apply for Certificate of Registration and Taxpayer Identification Number at the Bureau of Internal Revenue	1 day	PHP 100 (certification fee) and PHP 15 (documentary stamp tax, in loose form to be attached to Form 2303)
10.	Pay the registration fee and Documentary Stamp Taxes (DST) 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	PHP 3,500
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 Philippine Health Insurance Company (PhilHealth)	1 day	No charge
16.	Final registration with Home Development Mutual Fund (Pag-ibig)	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/exploreconomies/philippines>.

Source: World Bank (n.d.)

8.4.2. Additional procedures and requirements for maritime-logistics related businesses

8.4.2.1. Shipyard Businesses

Investors are required to observe the following procedures and requirements to invest in shipyard-related businesses:

Table 8.6. Procedure and requirements for shipyard business

Procedures and requirements	Description
a. Submit application letter	Application letter along with required documents should be submitted to Shipyard Regulations Office (SRO) of MARINA. The documents will be screened by SRO.
b. Pay fees	After the screening SRO issues the Authority to Accept Payment (ATAP) and instructs the applicant to proceed to the cashier for the payment. Cashier will issue Official Receipt for the payment made.
c. Inspection of shipyard facilities	Once the payment made, the Director of SRO will forward the application to the corresponding Division Chief whom will assign it to the Evaluator/Inspector. The Evaluator/Inspector will prepare letter and inform the schedule of the inspection. On the scheduled date, they will conduct inspection on shipyard facilities. After the inspection, they will prepare inspection report, executive brief and license certificate, affix initials and signature on corresponding documents and forward them to the Division Chief
d. Review of inspection result	The Division Chief, Secretary, and Director will check/review inspection result documents.
e. License issuance	If the application is approved, the Secretary will forward the application to Office of the Department Administrator for Operations (ODAO). The Deputy Administrator of ODAO will affix signature to the application and send it back to SRO. Based on that, SRO Secretary will issue the license.

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

8.4.2.2. Marine transport (shipping) business registration

There are two main forms of domestic ship registrations in the Philippines: (1) the temporary registration for ship operated by Philippine shipping companies; and (2) permanent registration for ship owned by Philippine shipping companies. All ships used for business purposes are also required to be equipped with two other key certificates, namely the Certificate of Philippine Registry (CPR) and the Certificate of Ownership (CO). The latter document, however, is not applicable for ships acquired through bareboat charter. In order to be able to register ships in the Philippines, companies should meet two requirements: (1) have at least paid capital of PHP 7 Million for a ship-owning companies, and PHP 10 Million for non-ship-owning companies; and (2) the CEOs and COOs should be Philippine nationals with minimum five years of experience in ship management, shipping operations and/or chartering.²⁵

In addition, there is an additional charge of PHP 470 for registration (both newly built and newly purchased ships), and PHP 1,300 to change ownership of 35 GT ships and PHP 650 for ships below 35 GT.

With regard to foreign-flagged ships, the ship has to be equipped with a special permit for foreign ship issued by MARINA as regulated under MARINA Circular No. 02 Series of 2009. Requirements to obtain the special permit are as follows:²⁶

- The permit proposed has to be a temporary replacement of an existing ship. Once the replaced ship becomes operational, special permit for the temporary replacement must be dismissed;
- The ship age must be less than 15 years old. If it is more than 15 years old but less than 20 years old, MARINA may grant special permit for a maximum period of six months with an additional fee of PHP 20,000, which should be paid for each month in excess of the 15 years' age. If the ship requires an extension of more than 6 months but not more than 1 year, the additional fee would become PHP 40,000 which should be paid for each month in excess of the 15 years' age;
- The ship's class has to be listed on International Association of Classification Societies (IACS);
- Must have P&I cover compliant with Memorandum Circular 2009-01;
- Must have 50 percent Filipino crew for permits more than three months, and 100 percent Filipino crew for permits more than six months;
- Must comply with Philippine fiscal and labour laws.

8.5. Export and import clearance procedures

8.5.1. Export clearance procedure

Export clearance procedure in the Philippines is described as follows:²⁷

- **Export declaration**, complete an Export Declaration (ED) form electronically using the E2M internet system.²⁸
- **Submit required documents**, the declaration should be equipped with supporting documents such as the commercial invoice, the bill of lading, packing list, the certificate of origin, and insurance policy (if applicable).
- **Obtain export clearance permit**, some exported products are regulated or prohibited.²⁹ Regulated products require an Export Clearance (EC). Procedure to obtain the clearance is vary depending on the exported product.
- **Pay for export clearance**, the process to obtain the clearance

require some fees that should be paid to the cashier units of certain agency which varies depending on the exported products.

- **Obtain Authority to Load**, which is given by Bureau of Customs (BOC) to the exporter whom has completed export declaration procedure via E2M.
- **Loading the products**, the exported products will be inspected by the agencies at the port by the Customs Container Control Division (for containerized products), and the Piers and Inspection Division (for non-containerized) products. The wharfage and arrastre fees has to be paid for inspection.
- **Release of goods**, if the exported goods meet all the requirements of declaration and examination procedure, the goods will be released immediately.

8.5.2. Import clearance procedure

All goods originating from overseas entering the Philippines should pass

import clearance of which the procedure is as follows:³⁰

- **Import declaration**, complete an import declaration form electronically using the electronic lodgement facility of the Bureau of Customs. Required information include: consignee's name, vessel's name, port of departure, port of arrival, commodity description, number and marks or quantity of the package, weight, invoice, and any other necessary information.
- **Submit required documents**, the declaration should be equipped with supporting documents such as the commercial invoice, the bill of lading, the certificate of origin, and a duly notarized declaration.
- **Examination of goods**, the Bureau of Customs will examine the imported goods based on the import declaration documents. Priority will be given to live animals, perishable goods and other goods requiring immediate examination. If necessary, the Bureau will do the inspection

Table 8.7. Ship registration procedure

Step	Description
a. Assign and propose ship name to Management Information System Office (MISO) of MARINA	MARINA will check for name's availability.
b. Fill in the registration form regarding ship information	The information consists of: • Ship's name; • Former name and registry (if any); • Type of ship; • Call sign; • Official number; • IMO number (if applicable); • Material of hull; • Dimensions and structure; • Tonnage; and • Class.
c. Submit required documents	The required documents include: • Application letter; • Proof of ownership; • Certificate of construction (if acquired through construction); • Approval of acquisition and clearance for registration (if ships acquired by importation); • Tonnage measurement certificate; • Notarized board resolution.
d. Pay registration fees	Same CPR and CO fees are applied, based on tonnage of ship. Further details are available in Table 8.8.

Source: MARINA (2013).

Table 8.8. CPR and CO Issuance Fee

No	Tonnage	Issuance Fee	
		CPR	CO
1	≤ 3GT	PHP 300	PHP 300
2	3.01 GT – 14.99 GT	PHP 600 + PHP 3/GT	PHP 600 + PHP 3/GT
3	15 GT – 34.99 GT	PHP 900 + PHP 3/GT	PHP 900 + PHP 3/GT
4	35 GT – 99.99 GT	PHP 1,200 + PHP 3/GT	PHP 1200 + PHP 3/GT
5	100 GT – 224.99 GT	PHP 1,500 + PHP 3/GT	PHP 1500 + PHP 3/GT
6	225 GT – 499.99 GT	PHP 1,800 + PHP 3/GT	PHP 1800 + PHP 3/GT
7	≥ 500 GT	PHP 2,100 + PHP 3/GT	PHP 2100 + PHP 3/GT

Source: *Ibid.*

Table 8.9. Taxes 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
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	• 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).

together with other agencies depending on the goods. The Bureau will determine the type of examination procedure into one of the following control channels:

- o **Green lane**, release immediately without documentary check nor physical examination of the goods;

- o **Yellow lane**, subject to documentary check;

- o **Red lane**, subject to documentary check, physical check or non-intrusive inspection, or magna scale weighing when necessary; and

- o **Blue lane**, Under consideration for post clearance audit.

The Bureau of Custom will also appraise the amount of tax, duty, and charge that should be paid and issue an Assessment Notice to the importer which also serves as payment instruction.

- **Duty, tax and charge payment**, which should be paid to the Authorized Agent Bank (AAB) based on Assessment Notice; and
- **Release of goods**, if the goods meet all the requirements of declaration and examination procedure, the goods will be released immediately.

8.6. Other relevant information

8.6.1. Taxes

Table 8.9. summarises various taxes imposed in the Philippines.

8.6.2. Infrastructure in the Philippines

Table 8.10. summarises existing infrastructure in the Philippines.

8.6.3. 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.³²

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 8.11. summarises minimum wages across the Philippines.³³

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

Table 8.10. Existing infrastructure 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 11,448.14km national tertiary.
Railways	995 km	The Philippines has three types of railway networks: Mass Rapid Transit System (MRT), Light Rail Transit System (LRT), 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 8.10. Existing infrastructure in the Philippines

Telecommunications	The following are some of the telecommunication infrastructures available in the Philippines: (1) Fixed line services: - 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) (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)	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.³¹
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Source: Various.

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.³⁴

8.6.4. Land policy

Land ownership in the Philippines is highly regulated. In general, only Filipino citizens and corporations or partnership 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 a 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 tourism sector, the lease is limited to projects with an investment of no less than USD 5 million where 70 percent of which shall be infused in the said project within three years from signing of the lease contract.³⁵

8.6.5. 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.³⁶

8.6.6. Commercial dispute settlement

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.³⁷

Table 8.11. Minimum wage in Philippines 2017

Region	Non-agriculture (PHP)
National Capital Region (NCR)	491.00
Cordillera Administration Region (CAR)	270.00 – 300.00
Ilocos Region (Region I)	243.00 – 280.00
Cagayan Valley (Region II)	300.00
Central Luzon (Region III)	329.00 – 380.00
Calabarzon (Region IV-A)	293.00 - 378.00
Mimaropa (Region IV-B)	260.00 - 280.00
Bicol Region (Region V)	280.00 –290.00
Western Visayas (Region VI)	323.50
Central Visayas (Region VII)	366.00
Eastern Visayas (Region VIII)	285.00
Zamboanga Peninsula (Region IX)	296.00
Northern Mindanao (Region X)	303.00 - 318.00
Davao Region (Region XI)	340.00
Soccsksargen (Region XII)	295.00
Caraga (Region XIII)	280.00
Autonomous Region in Muslim Mindanao (ARMM)	265.00

Source: Department of Labour and Employment (2017).

8.7. Electronic links to relevant maritime logistics-related institutions and information portals

- Maritime Industry Authority (MARINA): <http://www.marina.gov.ph/>
- Philippines Port Authority (PPA): <http://www.ppa.com.ph/>
- The Philippine Board of Investments (BOI), Department of Trade and Industry (DTI): <http://www.boi.gov.ph>
- Bureau of Customs: <http://www.boi.gov.ph/>
- National Economic and Development Authority (NEDA): <http://www.neda.gov.ph/>
- Bureau of Internal Revenue: <http://www.bir.gov.ph/>
- Philippine Economic Zone Authority (PEZA): <http://www.peza.gov.ph>
- Social Security System: <https://www.sss.gov.ph/>

- Terminal Appointment Booking System: <http://1-stop.com.ph/>

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1. Miller et al. (2017: 168).
2. CIA (2016).
3. Palma (2009: 1).
4. CIA (2015a).
5. Malaya Business Insight (2017).
6. Richter (2016: xi).
7. Access to the report requires a fee payment, but a summary of the report is publicly available at: <http://www.prnewswire.com/news-releases/philippines-logistics-market-outlook-to-2019---growth-driven-by-express-delivery-3pl-and-e-commerce-logistics-services-300231907.html>.
8. World Bank (2016a).
9. Further details of the TABS are available at: <http://1-stop.com.ph/>.

AEC BUSINESS TIP FOR THE PHILIPPINES

The Philippines is a growing economy with strong macroeconomic fundamentals. Its maritime logistics industry has also been flourishing due to its growing of export and import activities. Such a condition generates the surging demand of foreign maritime logistics services provider to the nation. 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 a 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, particularly in the renewable energy sector. Such reform efforts are deepened as the country continues to participate in the deepening of ASEAN's economic integration, particularly through the AEC.

10. As per Presidential Decree 1464, R.A. 1937, the Tariff and Customs Code of 1978, and RA 9295 or the Domestic Shipping Development Act of 2004.

11. Philippine Ports Authority (n.d.).
 12. For further details concerning this scheme, see, amongst others, Sibal (2007).
 13. Richter op. cit., p.32.
 14. Ibid., p.46.
 15. Statista (2015).
 16. Invest Philippines (n.d.a.).
 17. Invest Philippines (n.d.b.).
 18. South East Asia Iron and Institute (2015).
 19. Richter op. cit., p.38.
 20. PortCalls Asia (2017).
 21. Malaya Business Insight op.cit.
 22. Philippine Ports Authority (2017).
 23. Detailed information concerning the negative lists of the Philippines, can be checked at: <http://www.sec.gov.ph/wp-content/uploads/2015/08/EONo.-184-The-Tenth-Regular-Foreign-Investment-Negative-List.pdf>.
 24. For further details on this Circular, see MARINA (2015).
 25. Source: MARINA (n.d.b.).
 26. MARINA (2009).
 27. Export Marketing Bureau of the Department of Trade and Industry of the Philippines (2015).
 28. Detailed information concerning E2M system can be checked at: <http://www1.intercommerce.com.ph/frequently-asked-questions/bureau-of-customs-faqs/>.
 29. Detailed of products needed Export Clearance can be checked at: <http://www.dti.gov.ph/dti/index.php/19-dynamic/135-export-essentials>.
 30. Bureau of Customs (n.d.:21).
 31. World Bank (n.d.b).
 32. World Bank (2016b: 9-11).
 33. 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.
 34. 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>.
 35. DPT Law (n.d.).
 36. For further details concerning the Social Security System of the Philippines, see its official website at: <https://www.sss.gov.ph/>.
 37. Adapted from the UK Practical Law (n.d.).
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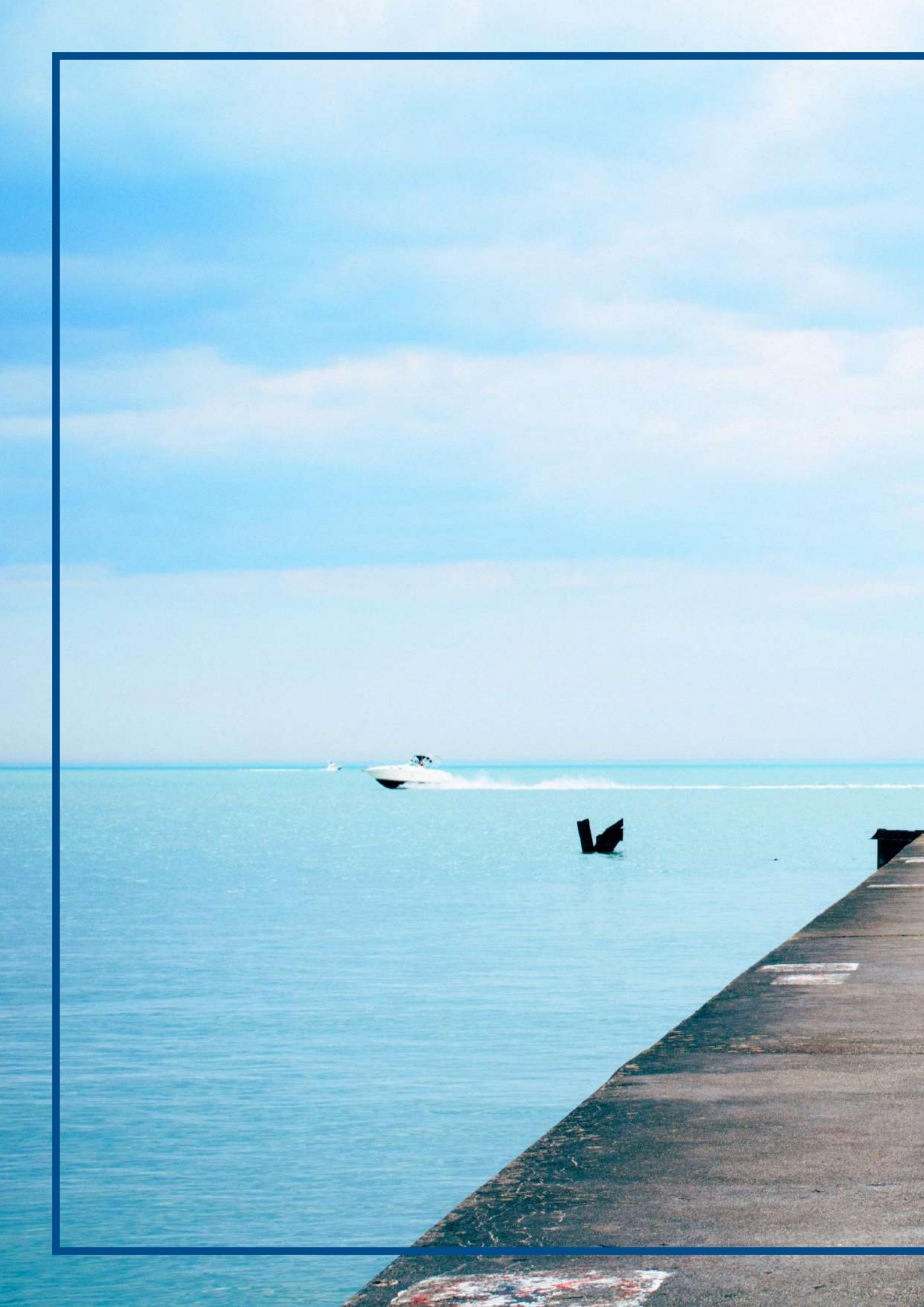
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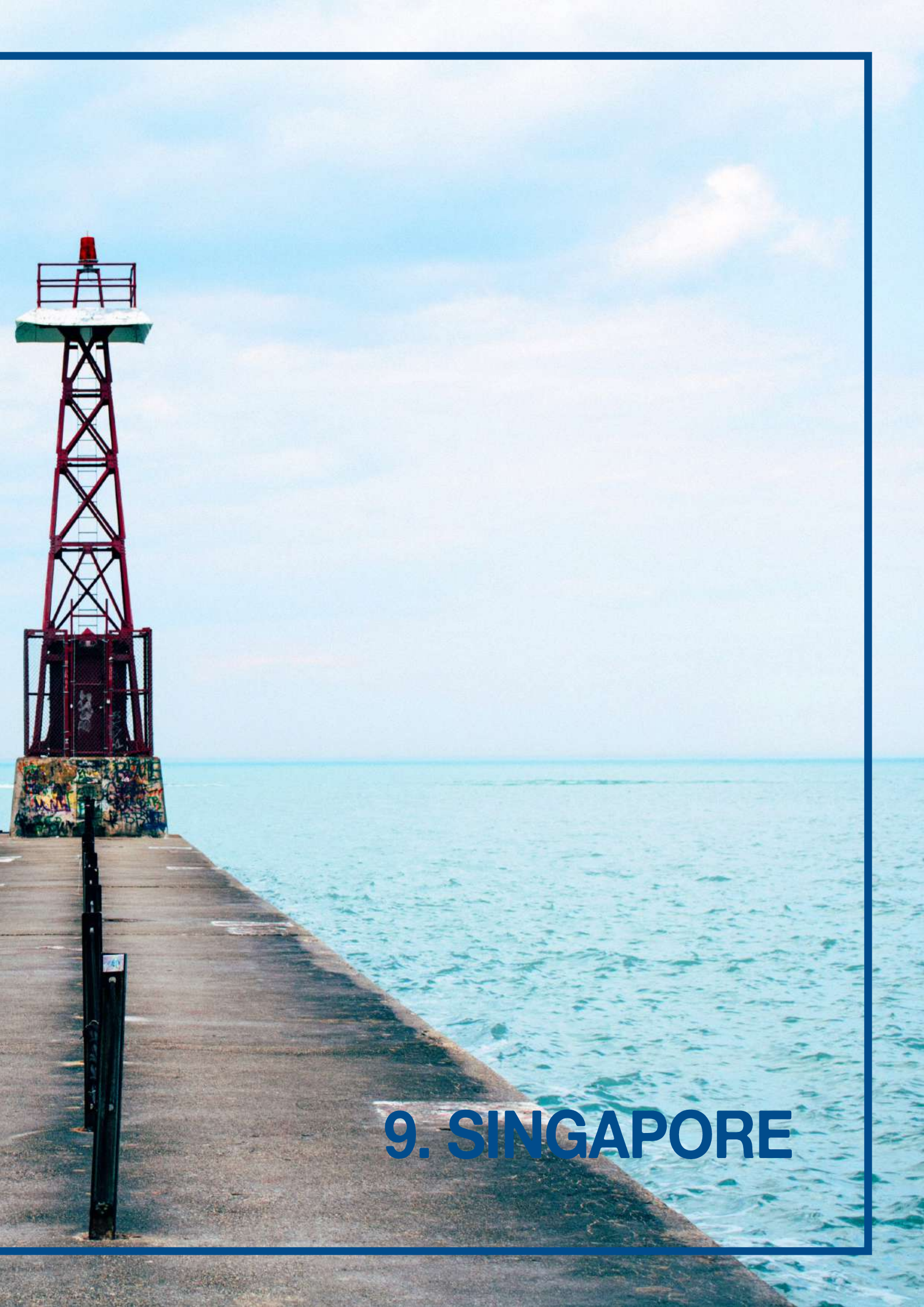
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9. SINGAPORE

SINGAPORE

9.1. Brief country profile

Despite its small size, Singapore is the wealthiest nation in Southeast Asia. Indeed, with only 718 km² of land area and 5.5 million inhabitants, the country's GDP per capita stood at around USD 52,744 in 2015,¹ making it ASEAN's highest income economy. Currently, the services sector contributes about 75.2 percent to the city-state's GDP, while manufacturing and agriculture each contribute about 24.9 percent and 0.03 percent respectively.² Singapore is a free market economy that is highly open to international trade with a GDP ratio reaching 326 percent in 2015 and valuing SGD 884.1 billion. China, Hong Kong SAR and Malaysia are its main export markets, whilst China, the United States and Malaysia are the main sources of its imports. Considered as one of the most 'business-friendly' countries in the world, the city-state regularly tops the World Bank's 'Doing Business' index.

9.2. Maritime logistics sector in Singapore

Singapore has a coastal length of about 193 km and, due to its strategic location, is one of the world's most productive trading centres. Having successfully optimized its maritime potential, Singapore also serves as a global maritime hub given its ability to connect more than 600 ports in more than 120 countries.

Aside from having the largest bunkering port in the world, Singapore also serves as one of busiest maritime transportation hubs globally, taking up about 14 percent of global container shipment, and four percent of global containers. On average, there are about 130,000 vessels entering the Port of Singapore annually with about 32 million containers loaded and unloaded in 2013 alone. In fact, more than 1000 tonnes of cargo are handled every minute.³ Singapore is also the world's third biggest petrochemical refiner and it has one of the most advanced and efficient ship building and repairing facilities.

Contributing about 7 percent to the nation's GDP, and employing approximately 170,000 workers, the maritime sector plays an important role in Singapore's economy.⁴ Recognising the importance of the maritime sector, the current Prime Minister, Lee Hsien Long, is trying to maintain the achievement and vital role of this sector.⁵

As far as its logistics sector is concerned, Singapore was ranked first, with an overall score of 4.14, in the 2016 Logistic Performance Index 2016. The efficient and well-functioning system of the economy helps stimulate the growth of the city-state's core and supporting maritime businesses (e.g. marine insurance, financing, brokerage,

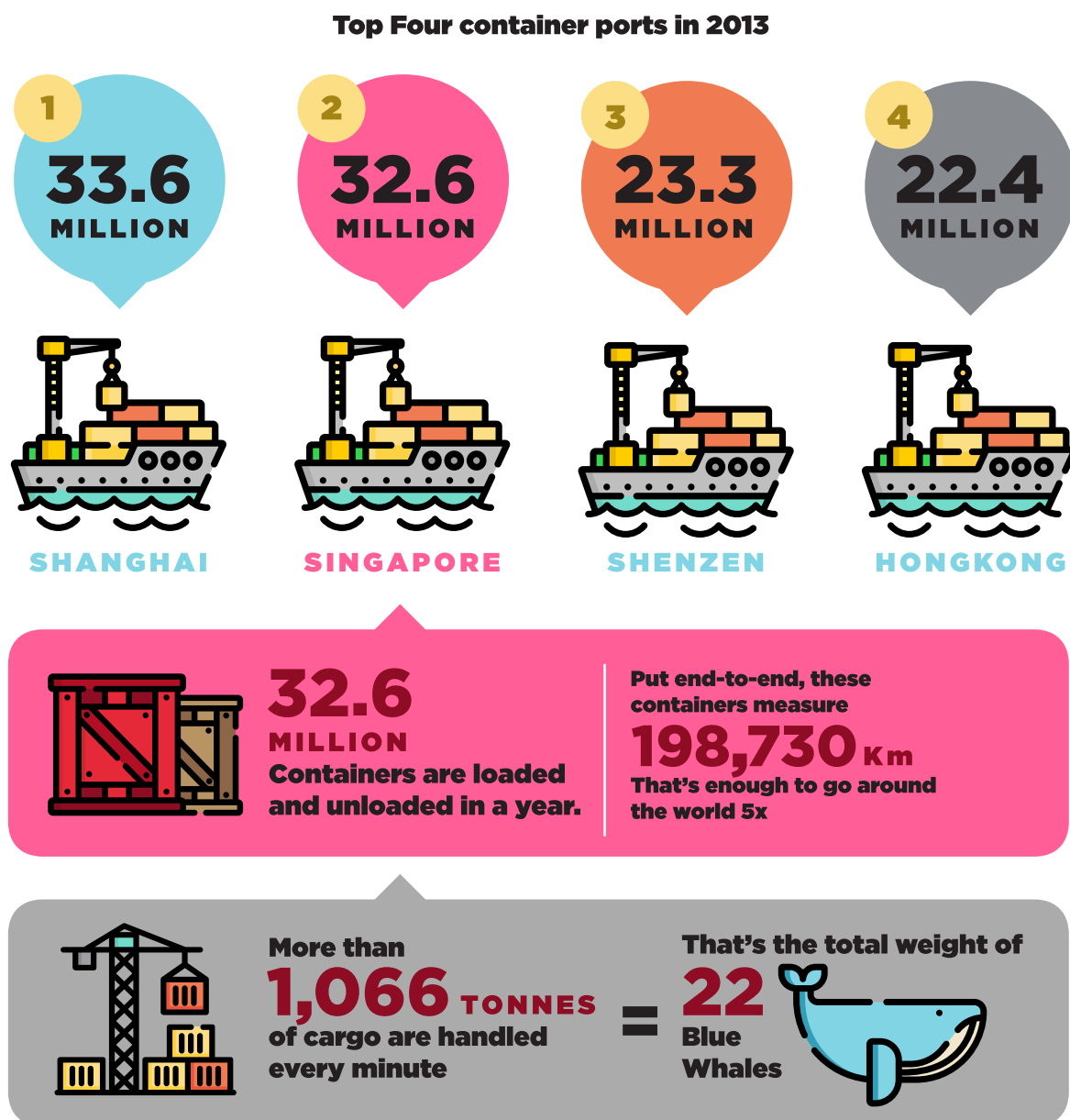
and other businesses).

9.3. Maritime logistics-related regulatory frameworks and policies

Despite the development of its maritime industry, sluggish global growth has caused contraction in the number of containers going through Singapore. Whilst it is difficult for Singapore to control the external environment, the city-state's government has been taking a pro-active role in improving port management and developing port infrastructure. In doing so, the government has developed a new maritime transport hub located in the western part of Singapore, Tuas. It is intended to replace the current major maritime cluster in Pasir Panjang and Tanjong Pagar.

Maritime logistics services fall mainly under the authority and supervision of the Maritime and Port Authority (MPA) of Singapore, and are mostly regulated under the Maritime and Port Authority of Singapore Act, Cap. 170A. Like all other sectors, the maritime logistics industry is generally favourable towards foreign investors. The majority of maritime logistics service-providers do not require foreign companies to form a joint venture with local companies and can be fully owned by foreign entities except for three services that restrict foreign share ownership to up to 70 percent - i.e. (i) rental of vessels with crew; (ii) vessel salvage and refloating service; and (iii) maintenance and repair of

Figure 9.1. Singapore as one of the largest and the most efficient marine industries in the world



Source: Ministry of Transport of Singapore (2014a).

Table 9.1. Maritime logistics-related rules and regulations in Singapore

vessels.

Maritime logistics-related sub-sectors	Relevant laws and regulations
- Maritime cargo handling services - Freight transport agency services - Other auxiliary services	- Maritime and Port Authority of Singapore Act, Cap. 170A; - Business Registration Act, Cap. 32; - Companies Act, Cap. 50; - Limited Liability Partnerships Act, Cap. 163A; - Limited Partnerships Act; - Customs Act Cap. 70; - Regulation of Import and Exports Act Cap. 272A.
Storage and warehousing services	- Maritime and Port Authority of Singapore Act, Cap. 170A; - Business Registration Act, Cap. 32; - Companies Act, Cap. 50; - Limited Liability Partnerships Act, Cap. 163A; - Limited Partnerships Act.

Table 9.1. Maritime logistics-related rules and regulations in Singapore

5. Courier services	• Business Registration Act, Cap. 32;
6. International freight transportation excluding cabotage	• Companies Act, Cap. 50; • Limited Liability Partnerships Act, Cap. 163A; • Limited Partnerships Act.
7. Packaging services	• Business Registration Act, Cap. 32; • Companies Act, Cap. 50; • Limited Liability Partnerships Act, Cap. 163A; • Limited Partnerships Act; • Maritime and Port Authority of Singapore (Dangerous Goods, Petroleum and Explosives) Regulations 2005.
8. Customs clearance services	• Business Registration Act, Cap. 32; • Companies Act, Cap. 50; • Limited Liability Partnerships Act, Cap. 163A; • Limited Partnerships Act; • Customs Act Cap. 70; • Regulation of Imports and Exports Act.

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

It is clear from Singapore's commitments to the ninth package of services liberalization under AFAS that the government of Singapore encourages foreign investment to be made in the sector by providing extensive support, facilities and incentives across the board. These incentives are further described in Table 9.3.

9.3.1. Port development-related policies

The Singaporean government is currently planning to reduce port operations in Pasir Panjang and Tanjong Pagar. These two facilities are expected to be used for residential and development purposes. Activities that are currently carried out in these port facilities are to be relocated to the new Tuas Terminal under the project called Tuas Mega Port Development which is expected to become the new sea transportation hub capable of handling 65 million TEUs of cargo annually, or nearly double the present capacities of existing ports. Through the use of automated yard cranes and port equipment as well as more efficient and innovative data management facilities, the new Tuas Terminal is expected to overcome congestion issues faced by the current Port of Singapore. Covering 294 ha of land, the development of this mega project will include four phases of implementation over

a span of 30 years, with the first phase commencing after a SGD 1.83 billion investment agreement between the Singapore Maritime Port Authority (MPA) and the Dredging International Asia Pacific-Daelim Joint Venture signed in 2015⁶ and scheduled to be completed by the early 2020s.⁷ Despite this, the government still requires additional capital to complete the other three remaining phases, and encourages foreign investors to partner up with local companies to participate in the project.

9.3.2. Shipyard and shipbuilding policy

Ship repair and conversion is a major component of Singapore's shipyard industry. Valued at about SGD 5.5 million, the ship repair and conversion industry accounted for about 32 percent of the shipyard industry's turnover in 2014, or about ten times more than shipbuilding business.⁸ With around 7,000 ships repaired in Singapore in 2014, the overall turnover of shipyard industry rose by 16.1 percent from SGD 4,744 million in 2013 to SGD 5,520 million in 2014. The government expects Singapore's shipyard industry to reap potential benefits from the expansion of Pasir Panjang Terminal and the launching of the future Tuas Terminal mentioned earlier, in view of meeting the global shift from large ships to mega

ships.⁹ Along with the recovery of the global economy, it is more likely that mega vessels would be used more than its larger counterparts given its ability to accommodate more cargoes with relatively cheaper average cost.

9.3.3. Shipping policy

Singapore is the second busiest sea transportation in the world after Shanghai. It handles approximately 1,066 tonnes of cargo every minute. A ship arrives or leaves Singapore every 2-3 minutes.¹⁰ From 2010 to 2016, the volume of cargoes and containers handled in the Port of Singapore rose on average by three percent annually despite the slowdown in the global economy.

There are currently more than 5,000 marine enterprises in Singapore and most of them are part of about 130 international shipping groups.¹¹ The government has set policies and incentives to support those companies and attract more new shipping business players. These mainly focus on offering and enhancing services in the following aspects: ship management, ship financing, marine insurance, ship broking, maritime and offshore engineering, and maritime legal services. One of the major form of support is the Maritime Sector Incentive-Approved International Shipping Enterprises (MSI-AIS) Scheme. This scheme allows

Figure 9.2. Singapore as the second busiest seaports in the world



Source: Ministry of Transport of Singapore (2014a).

Table 9.2. Total volume of cargoes and containers handled in Port of Singapore, 2010-2016

Year	Total Cargo (in 1,000 tonnes)	Total Container Throughput (in 1,000 TEUs)
2010	503,342.1	28,431.1
2011	531,175.6	29,937.7
2012	538,012.1	31,649.4
2013	560,887.9	32,578.7
2014	581,268.0	33,869.3
2015	575,845.8	30,922.3
2016	593,296.7	30,903.6
Average annual increase	3%	3%

Source: Maritime and Port Authority of Singapore (2017).

international shipping companies to enjoy a five to ten year tax exemption period.¹²

9.3.4. Investment policy

The Singapore Economic Development Board (SEDB), which is the lead government agency for planning and executing strategies to enhance the city-state's position as a global business centre, puts at the core of its vision the objective of 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.¹³ As an open economy, the Singaporean government actively promotes investment from both domestic and foreign investors. Currently, the city-state only limits foreign investment in a few sectors, including telecommunication, the financial sector, domestic news media, and broadcasting. 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.

Furthermore, various additional investment incentives specific to the maritime sector have been adopted by Singapore. These are summarized as follows:

Table 9.3. Maritime sector incentive scheme

Scheme Name	Facility	Eligibility
Maritime Sector Incentive-Approved International Shipping Award	Tax exemption for either: - Ten years renewable period; or - Five years non-renewable period with an option to propose a ten years renewable period at the end of the five years period.	A company that has a good track-record, a well-designed business plan, and has significant impact to the economy of Singapore including in the context of labour absorption, as well as commitment to expand its business in Singapore.
Maritime Sector Incentive-Maritime Leasing Award	- Up to five years tax concessions for ship or container leasing companies, funds, and business partnerships; - Concessionary tax rate of 10 percent income for approved manager; and - Asset owning flexibility in leasing and chartering options.	Business entities that have a good track-record, a well-designed business plan, and generate significant impacts to the economy of Singapore, including in the context of labour absorption, as well as commitment to contribute to the ship or container financing cluster in Singapore.
Maritime Sector Incentive-Shipping related Support Services Award	Concessionary tax rate of ten percent for five years, and renewable, that applies to qualified shipping related support services companies, such as the following: • Ship broking; • Forward freight agreement (FFA) trading; • Ship management; • Ship agency; • Freight forwarding and logistics services; and • Corporate services rendered to qualifying related parties and carrying on business of shipping related activities.	Business entities that have a good track-record, a well-designed business plan, and generating significant impacts to the economy of Singapore, including in the context of labour absorption, as well as commitment to contribute to the shipping related services in Singapore.
Withholding Tax exemption on interests and payments related to loan to obtain ship (purchase or construction)	There is no requirement for the following type of companies to apply for such an exemption until 31 May 2021: • Maritime Sector Incentive -Shipping Enterprise (Singapore Registry of Ships); • Approved International Shipping Companies; • Maritime Leasing (Ship) entities.	Submit a self-declaration form stating that all conditions are met.* Form has to be submitted to MPA by the 15 th of the month after the first payment due date to the non-resident.
Withholding Tax exemption on interests and payments related to loan to purchase containers and intermodal equipment	• There is no need for entities with Maritime Leasing (container), including those with Approved Container investment Enterprise status, to apply for such an exemption until 31 May 2021.	Submit a self-declaration form stating that all conditions are met.** Form has to be submitted to MPA by the 15 th of the month after the first payment due date to the non-resident.

Notes: * These conditions can be checked at the following website: <<http://www.mpa.gov.sg/web/wcm/connect/www/0fdcc9fb-40f1-4dbf-a0d7-074cf8ffecbf/self-declaration-form%28mar2015%29.xls?MOD=AJPERES&attachment=true&id=1469508357005>>;

** The conditions can be checked at the following website: <http://www.mpa.gov.sg/web/wcm/connect/www/5ae76e8c-f1e5-4d03-a623-0b23022dd9b0/sd_container_%28mar2015%29.xls?MOD=AJPERES>

Source: Maritime and Port Authority of Singapore (2016d). Notes: Specific conditions in link at footnote.

9.5. Setting up a business in Singapore

9.5.1. General process of setting up a business in Singapore

Foreign investors intending to set up a business in Singapore can choose one of five available business registration types, i.e. sole-proprietorship, partnership, company, limited liability partnership and limited partnership. Table 9.4. highlights the characteristics of each type of these businesses, whilst Table 9.5. summarises the process of setting up a business in Singapore, including the length of time and cost required.

9.5.2. Additional procedures and requirements for maritime logistics-related businesses

9.5.2.1. Port development

Investors are required to obtain approval from the Committee for Marine Projects (COMET) to develop or expand ports in Singapore. In doing so, the investors should:¹⁴

- submit project proposals to COMET with following details:
 - o Purpose of the application;
 - o Scheduled period of projects, as well as supporting documents from relevant government authorities, such as the National Environment Agency, and Urban Redevelopment Authority; and
 - o Three sets of detailed technical plans as follows:
 - A large-scale chart that highlights project development, quay line, and mooring limit (if relevant);¹⁵
 - A detailed plan on the project, quay line, and mooring limit drew on SVY 21 datum;
 - An engineering plan

Table 9.4. Type of business registration

Business Type	Definition	Ownership
Sole-Proprietorship	Business owned only by one person	One person
Partnership	Business owned by 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	• 20 members or less (Exempt private company) • 50 members or less (Private company) • May have more than 50 members (Public company)

Source: Accounting and Corporate Regulatory Authority of Singapore (2015).

Table 9.5. Procedure of setting up a business 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: ^{*}Accounting and Corporate Regulatory Authority's electronic filing and information retrieval system.

Source: World Bank (n.d.).

- plotted on SVY 21 Datum created by professional engineer;
 - A layout of pipelines and cables (for submarine pipelines and cable, potential investors should follow guidelines on Requirements for Submission Pipelines developed by the MPA);
 - A plan for dredging and dumping works, as well as marine and soil investigation that should follow
- Guidelines on Chemical test, Dredging and Dumping developed by the MPA;
- Depending on quality of completed submission requirements, COMET will evaluate and reply to the request within 3 weeks; and
 - If approved, relevant licenses will be issued by COMET.

9.5.2.2. Marine transport (shipping) business registration

For sea transportation businesses, the first thing to do by a potential investor is to determine the type of business it intends to develop in Singapore as highlighted in Table 9.4. above. Subsequently, depending on the need of the business, the said potential investor is required to apply for relevant licenses and permits, all of which are presented in Table 9.6. Most of the licenses and permits are issued by the MPA.

Ship Registration

There are two types of ships that can be registered in Singapore, including ships that belong to Singaporean citizens and ships that belong to companies incorporated in Singapore. The latter can either be foreign-owned company or locally-owned company. Foreign companies wishing to register their ships in Singapore are required to be incorporated in Singapore. Table 9.7. highlights the types of shipping companies based on ownership. Below is an overview of ship registration procedures in Singapore through the MPA, whilst Table 9.8. presents various fees to obtain ship licenses in Singapore:¹⁶

- Submit the name of the ship;
- Submit the official number and Call Sign/Signal Letter indicating the vessel's Gross of Tonnage;
- Request consideration under the Block Transfer Scheme¹⁷ (if applicable);
- Submit required documents including application form, business profile, evidence of ship ownership, appointment of agent and manager, tonnage certificate, document stating value of the ship; and
- Pay fees for registration and Annual Tonnage Tax.

Table 9.6. Basic licenses and permits for marine transport businesses

Licences/Permits	Purpose
Ship Registration Certificate	Allows company to transport goods and passengers
Ship Station Licence	Allows company to operate radio communication peripherals used on the ship
Ship Sanitation Control Certificate	Certifies that operated ship has a good sanitation to transport goods
Launch a New Vessel Permit	Allows company to launch a new vessel in a port with a length of more than 15 meters
Port Clearance Certificate	Allows company to utilise ports within Singapore to operate vessels
Port Limit Manning Licence	Regulates on-board crew operating ships and vessels
Permits for dangerous goods	Allows company to carry/discharge/load/transit dangerous goods

Source: Guide Me Singapore (n.d.).

Table 9.7. Shipping company type based on ownership in Singapore

Company type	Conditions
Locally-owned company	• More than 50 percent of shares owned by Singaporean citizens or another locally- owned company; and • At least SGD 50,000 of paid-up capital.
Foreign-owned company	• More than 50 percent of shares held by non-citizens of Singapore; • At least SGD 50,000 of paid-up capital; • Minimum size of vessel is 1,600 GT and self-propelled (exemption if the vessel is operated form or based in Singapore); and • Company is incorporated in Singapore.

Source: Maritime and Port Authority of Singapore (2014:1).

Table 9.8. Fee for ship licensing services in Singapore

Services	Fee (in SGD)
Initial registration	2.5 per Net Tonnage (At least 1,250, at max 50,000)
Annual Tonnage Tax	0.2 per Net Tonnage (At least 1,250, at max 25,000)
Block Transfer Scheme	0.5 per Net Tonnage (At least 1,250, at max 20,000)
Change of Ownership	1.25 per Net Tonnage (At least 1,250, at max 6,000)
Alteration of NT	2.5 x (NTa-NTo) or 50,000 - 2.50 x NTo (whichever is lower, at least 1,250) NTa= Net Tonnage after alteration, and NTo= Net Tonnage as at previous registration
Inspection of the Register	10 per inspection
Transcript / Close Certificate	14 per transcript
Certificate Deletion	14 per vessel
Name's Change Approval	26 per vessel
Ship's Amendment	14 per vessel
Replacement for Certificate of Registry	30 per vessel
Mortgage's Registration/Transfer/Transmission	48 + 1 per 100 GT
Recording Bill of Sale	50 per vessel
Civil Liability Convention (CLC92) Certificate	45 per vessel (new or renewal) 24 per vessel (replacement)
Bunker Convention Certificate	60 per vessel (new or renewal) 30 per vessel (replacement)
Pleasure Craft	200 (new) 50 (renewal)
Bareboat Charter-Out	1,250
Continuous Synopsis Record (CSR)	45
Long Range Identification and Tracking (LRIT) Certificate*	100 (new) 30 (replacement)

Note: *LRIT is required for ships and cargo ships sizing more than 300 GT, and Mobile Offshore Drilling Units (MODUs) operating on international voyage.

Source: Maritime and Port Authority of Singapore,(2014: 20) and Maritime and Port Authority of Singapore (n.d.).

9.5.2.3. Cargo Clearance

Table 9.9. summarizes cargo clearance processes including clearance for: importing cargoes, exporting cargoes, transshipment of cargoes, and dangerous goods clearance. In general, all of those processes require customs permits and other supporting documents such as invoice, bills of lading, and packing lists.

Table 9.9. Cargo clearance processes

Type of cargo	Clearance procedure and requirement
Importing cargo	• Indicating relevant permits and supporting documents; • Paying duties and GST of the imported goods for local consumption. Payment can be made to Inter-Bank Giro (IBG) account with Singapore customs or appointed agents assigned for paying taxes.
Exporting cargo	• Requesting cargo clearance permit at the checkpoint for following types of goods: dutiable goods from licensed warehouse, goods from bonded warehouse, goods under the Temporary Export Scheme, and re-exported goods obtained through import under the Temporary Import Scheme; • Goods will be examined and sealed by customs authorities; • If the goods meet all the requirements, they will be released; • Exception applies for export of non-dutiable and non-controlled goods by air and sea, these goods can be cleared without passing checkpoint.
Transshipment of cargo	• Obtaining a customs permit for intra-gateway movement; • The containers should be examined both at the entry and the exit checkpoints for clearance; • First checkpoint (entry gate) will mark the containers with a customs seal. Within the 24 hours of sealing process, containers should be examined at the second checkpoint (exit gate); • Containers released.
Dangerous goods ¹⁸	• Agents who handle the container must obtain relevant permits for the movement of the containers to the storage; • When the cargo arrives, they will be examined and sealed at free trade zone (FTZ) gates by checkpoint officers. The request of the permits may run parallel with that examination process; • The containers will be discharged, stored at Class II yards in customs territory and under supervision of the authority; • If the goods meet all the requirements, they will be released.

Source: Immigration and Checkpoints Authority of Singapore (2012).

9.6. Other relevant information

9.6.1. Taxes

Table 9.10. below summarizes various tax rates in Singapore

Table 9.10. Tax rates in Singapore

Residency status tax		
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	

Table 9.10. Tax rates in Singapore

Non-resident tax status		
Duration of stay	Tax residency status	Tax implications
61 – 182 days	Non-resident	- 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: - 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
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	- 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.

9.6.2. Infrastructure in Singapore

Existing infrastructures in Singapore are summarised in Table 9.11.

Table 9.11. Existing infrastructure 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 while 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 (4,000 m runway) and Seletar Airport (1,836 m 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 handles 27.85 million twenty foot equivalent units. It also transports about 20 percent of the world's shipping containers.
Energy and power	47,513 GWh (consumption in 2015)	Primary energy sources include: 45,374.9 GWh from petroleum products and 237.6 GWh from coal, natural gas, and other energy sources. In 2015, the electrification rate of Singapore is 100 percent.
Telecommunications	Singapore has the following network spectrum allocations: (1) Public Mobile Services: • GSM (900 MHz and 1800 MHz); • 3G services (1900 MHz and 2100 MHz); (2) Private Land Mobile Services: • VHF (137 to 174 MHz); • UHF (400 to 450 MHz); (3) Terrestrial Fixed Services: • Fixed service radio system (1 to 60 GHz); (4) Broadcasting Services: • 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.	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.

Source: Various.

9.6.3. 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.¹⁹ 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 Act²⁰ 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 9.12).

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

Table 9.12. 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.
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 (2017).

demand and the supply for labour, skills, capabilities, and competency to perform the task.

9.6.4. 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), the Land Acquisition Act (Cap 152, 1985 Rev Ed), and the Land Titles (Strata) Act (Cap 158, S. 130, 2010 Rev Ed).

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>).

9.6.5. Social security system

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.

9.6.6. Commercial dispute settlement

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

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. Although Singapore has one of the highest logistics performance in the world, that does not stop the government to maintain and improve its maritime logistics infrastructure in view of opening the nation's doors even wider to foreign investment. 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 and maritime logistics potential of the entire region.

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.

9.7. Electronic links to relevant maritime logistics-related institutions and information portals

- Contact Singapore: <https://www.contactsingapore.sg/>
- Immigration and Checkpoints Authority of Singapore: <https://www.ica.gov.sg/>
- Inland Revenue Authority of Singapore: <https://www.iras.gov.sg/>
- Maritime Port Authority of Singapore: <http://www.mpa.gov.sg/>
- Ministry of Manpower: <http://www.mom.gov.sg/>
- Ministry of Trade and Singapore: <https://www.mti.gov.sg/>
- Ministry of Transport of

Singapore: <https://www.mot.gov.sg/>

- Accounting and Corporate Regulatory Authority of Singapore: <https://www.acra.gov.sg/>
- Singapore Customs: <https://www.customs.gov.sg/>
- Singapore International Commercial Court: <http://www.sicc.gov.sg/Home.aspx>
- Singapore Land Authority: <https://www.sla.gov.sg/>

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2. Statista (n.d.).
3. Ministry of Transport of Singapore (2014a).
4. Maritime and Port Authority of Singapore (2016a).
5. See, for example, official speech made by Prime Minister Lee Hsien Loong (2013).
6. World Maritime News (2015).
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 12. Maritime and Port Authority of Singapore (2016c).
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 14. Maritime and Port Authority of Singapore (2016e).
 15. Nautical chart can be obtained from the following agencies: Cornes Singapore Ltd, E.W. Liner Charts & Publications Pte Ltd, Motion Smith, and Kelvin Huges (Singapore) Pte Ltd.
 16. Maritime and Port Authority of Singapore, (2014: 3-4).
 17. Block Transfer Scheme is a scheme allowing shipping companies to get 80% discount over the initial registration fee with some criteria that must be fulfilled. For more details, see: <<http://www.mpa.gov.sg/web/portal/home/singapore-registry-of-ships/register-with-srs/incentives-schemes>>.
 18. The following are categorized as dangerous goods: ammonium nitrate, radioactive substances, and nuclear material. Full list of dangerous goods is available on: <<http://www.imo.org/en/Publications/IMDGCCode/Pages/Default.aspx>>.
 19. ASEAN Secretariat (2013: 80).
 20. The Act was last amended in 2012.
 21. Ministry of Manpower of Singapore (2017b.).
 22. Ministry of Law of Singapore (2017).
 23. InterNations (n.d.)
 24. For further details concerning the CPF scheme, visit the official website of the Fund at: <<https://www.cpf.gov.sg/Members>>.

25. Adapted from the Attorneys in Singapore (n.d.).
26. For further details concerning the Singapore International Commercial Court, visit its official website at: <<http://www.sicc.gov.sg/Home.aspx>>.

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10. THAILAND

THAILAND

10.1. Brief country profile

With 68 million inhabitants, Thailand is ASEAN's fourth largest country and second biggest economy. Thailand is open to global trade with a trade to GDP ratio of 105.5 percent in 2015. Its main trading partners are China, US, Japan and other ASEAN Member States. Thailand primarily exports computers, various electronic equipment, automobiles parts, machinery and other equipment.¹ Under the current premiership of Prayuth Chan-Ocha, the government has been trying to focus on strengthening its tourism sector and trying to boost international trade by reducing logistics costs and improving intra-ASEAN connectivity.

10.2. Maritime logistics sector in Thailand

Within the last decade, Thailand has successfully reduced logistics costs from 18 percent of GDP to around 14 percent today. Considering its well-established infrastructure and favorable geographic location bordering Myanmar, Laos, Cambodia, Malaysia and the South China Sea, Thailand is one of ASEAN's most important international trading hubs.

Being Asia's most developed auto-parts market, a hub for car manufacturers such as Toyota and Honda, second largest exporter of computer hard drives and components, and one of the

world's largest seafood supplier, the Kingdom of Thailand is dependent on foreign trade and requires strong maritime infrastructure and logistics.² Thus, Thailand has had to invest heavily in maintaining a robust logistics and maritime industry, where the shipbuilding and ship-repair industry alone contributes about USD 290 million to the economy. Due to their speed in handling cargo, Thailand has been ranked third in ASEAN in the 2016 Logistics Performance Index.

10.3. Maritime logistics-related regulatory frameworks and policies

Considering that the AEC will progressively make the borders between the AMS more open, the Thai government is currently trying to quickly build connections within the region. To do so, the government has launched an Infrastructure Development Plan 2015 – 2022 with a target of THB 1.8 Trillion (≈ USD 52 billion) in investment for financing at least twenty large projects in the transportation sector, including expanding existing ports.³ In addition to investments in hard infrastructure, the government has also implemented an e-logistics scheme and a One-Stop Export Service Center which will improve the efficiency of the logistics business.

Maritime logistics transport in Thailand is mainly regulated under

the amended Port Authority of Thailand Act (No.5) Buddhist Era (B.E.) 2551 (2008). The Act states that the Port Authority of Thailand, a state-owned corporation, authorizes and governs major public sea ports and related services including cargo handling, storage and warehousing, and courier services. Although international shipping is open to both local and foreign service providers, foreign commercial presence in maritime logistics services cannot have the majority of share ownership as per Thailand's commitments under the ninth package of the AFAS. Foreign equity participation must indeed not exceed 49 percent and the number of foreign shareholders must be less than 50 percent of the total share.⁴ Such constraints does not only apply to the maritime logistics sector but also to other professional services such as accounting, legal, architecture, education, tourism and other professional services as regulated under the Foreign Business Act B.E. 2542 (1999).

10.3.1. Port development-related policies

Thailand currently has two major commercial ports, namely: (1) Laem Chabang, the nation's busiest port which can handle about 6.9 million TEU per year; and (2) Bangkok Port, this port has a capacity of approximately 1.5 million TEU per year. With the solid growth of the country's international trade as a result of its

Table 10.1. Maritime logistics-related rules and regulations in Thailand

Maritime logistics-related sub-sectors	Relevant laws and regulations
1. Maritime cargo handling services	Port Authority of Thailand Act B.E.2494 (1951); as amended until Port Authority of Thailand Act (No.5) B.E.2551 (2008).
2. Storage and warehousing services	Foreign Business Act B.E. 2542 (1999).
3. Freight transport agency services	
4. Packaging services	
5. Other auxiliary services	- Customs Act B.E. 2469 (1926); - Foreign Business Act B.E. 2542 (1999).
6. Customs clearance services	Customs Act B.E. 2469 (1926).
7. International freight transportation, excluding cabotage	Navigation in Thai Water Acts B.E. 2456 (1913).
8. Other relevant regulations	Multimodal transport act.

Source: ASEAN Secretariat (n.d.)

large export-oriented automotive factories in Thailand, the government intends to strengthen its port facilities by planning the third phase expansion of the Laem Chabang port which is part of the Infrastructure Development Plan 2015 – 2022. The expansion is estimated to triple Lam Chabang port's current capacity up to 18 million TEU per year by 2021.⁵ The project involves the development of a new wharf of 900 meters wide, 15 meters deep, and 2 kilometers long in order to be able to serve large vessels. In order to reach the objective, the government is welcoming private participation to invest in the project particularly through a Build-Operate-Transfer (BOT) scheme. Under such a scheme, in return for the investment provided by private entities, the government allows them to operate the port facilities in which they invested, for a certain period of time in order to generate gain for the investors before the operational right is given back to the government.

10.3.2. Shipyard and shipbuilding policy

Thailand's shipbuilding and repair industry is still growing rapidly. Currently, the country's shipbuilding industry is only able to build 4,000 – 5,000 gross tonnage vessels⁶, which means that the industry has room to improve. With the growing demand of marine transport services (goods and passengers), the industry offers a large potential for investors. The growing demands comes partly from the offshore oil and gas exploration business which is projected to generate demands for construction, maintenance, and capacity expansion of offshore support vessels (OSV) or coastal tankers. Furthermore, with the establishment of the International Maritime Organization's Marine Pollution (MARPOL) Convention which obliges OSV's to have double hulls, opportunities for the shipbuilding industry are considerable, especially considering that in 2014, approximately 110 vessels were

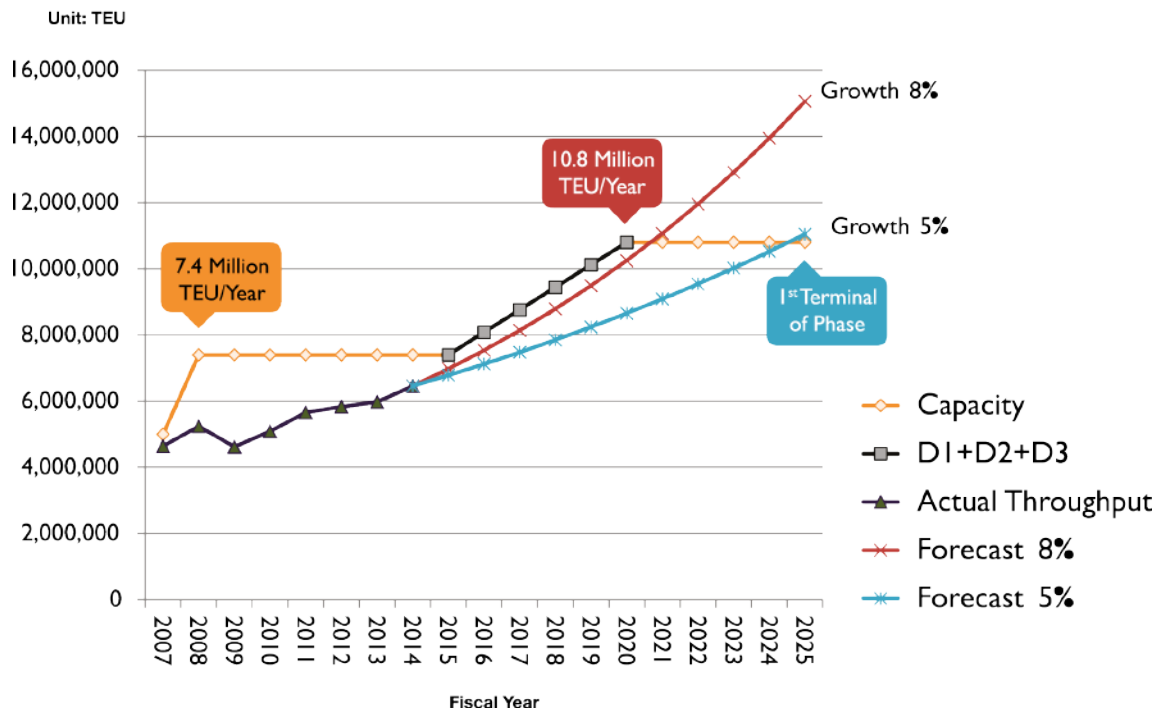
reported to be more than 25 years old⁷ and were single-hull OSVs.⁸ In addition, the growing tourism sector is becoming a major revenue for the country and creates more demand of cruise transport for recreational use. There were nearly 25 thousand tourists travelling on board cruise ships in 2015. The increase of cruise passengers averaged around 68 percent annually from 2012 to 2015. This increasing demand will also require more construction and maintenance of cruise ships. The Thai government is opening its doors for foreign participation by trying to match foreign investors with local builders and supporting industries.

10.3.3. Shipping policy

In 2016, Thailand's goods transportation through ships was worth USD 213.6 billion.⁹ Thailand is a net exporter country. Its 2016 exports accounted for 60 percent of the country's GDP, with vehicles and machinery (including computers) as main export commodities. Export of vehicles has surged about 150 percent since 2009, whilst the export figure for machinery has risen around 50 percent. Approximately 62.6 percent of its exports went to other Asian countries, whilst 13.4 percent was delivered to North America. The rest of it was shipped to Europe (13 percent) and Africa (2.9 percent).¹⁰ The strong competitive advantage of Thai's vehicle and machinery commodities contains huge potential for shipping providers.

International shipping services in Thailand is open to both domestic and foreign companies. Yet, ownership of foreign equity is restricted to a maximum of 49 percent as stipulated under the Foreign Business Act. As for domestic shipping, foreign ownership is limited to a maximum of 30 percent. Consequently, a foreign service provider with an equity share of more than 30 percent may hire Thai-flagged vessels in order to forward the goods domestically. In addition, any vessel of foreign ship providers operating international shipping in Thailand should be registered with Thailand's Marine Department.

Figure 10.1. Demand and Capacity of Laem Chabang Port 2007-2015



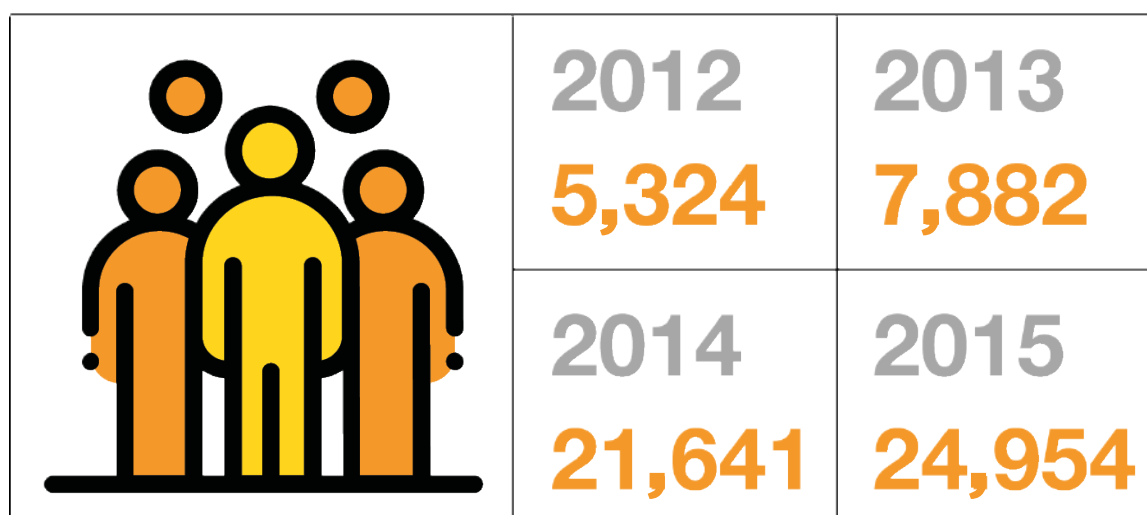
Source: Port Authority of Thailand (2016).

Figure 10.2. Laem Chabang Port Development Project Phase 3



Source: Port Authority of Thailand (2016).

Figure 10.3. Thailand cruise passenger volume trend



Source: Cruise Line International Association (2016:39).

10.3.4. Inland waterway policy

About 92 percent of the 4,000 km of inland waterway is navigable in Thailand.¹¹ Thailand's waterways are part of Chao Phraya River as the major river of the country and the Mekong River Basin. Chao Phraya River covers the area of 157,925 km² consisted by eight river basins namely Ping, Wang, Yom, Nan, Sakae Krang, Pasak, Chao Phraya, and Tha Chin whilst the Mekong River Basin in Thailand is making up 18 percent of total area of Mekong River Basin. In addition, there are two major inland waterway paths connecting Thailand with China and Lao PDR: (1) Path that connects Chiang Saen and Chiang Khong ports with ports in Yunnan Province of China; and (2) National Route 3A connecting three destinations: Chiang Kong, the border of Lao PDR and China (the Boten checkpoint), and intermediate destinations in Lao PDR. In 2014 alone, about 700,000 tons of cargoes were shipped through National Route 3A, comprising of 380,000 tons from and to China, and 320,000 tons from and to Lao PDR.¹² It is forecasted that this cargo traffic will keep growing in-line with the GDP growth of Thailand, China

and Lao PDR. In addition, transporting goods through waterways is more cost-efficient than via road network. The operating cost of inland waterways is USD 23.22 per ton, whereas for road network is USD 39.47 per ton (Figure 10.4.). With those conditions, Thailand's inland waterways remain a considerable logistics business opportunity. In fact, the number of inland waterway vessels in Thailand is considerably scarce compared to the potential of waterway transportation. Only 11 vessels have to be considered.¹³

10.3.5. Investment policy

Foreign investment in Thailand is regulated under several key regulations, including: (1) the Investment Promotion Act of Thailand B.E. 2520 (1977) that regulates domestic and foreign investment to boost social development in Thailand; and (2) the Foreign Business Act B.E. 2542 (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-Year Investment Promotion Strategy (2015-2021)', which aims at increasing investments 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 of the country's Southern region; (5) the promotion of special economic zones; and (6) the promotion of Thai investment abroad.¹⁴

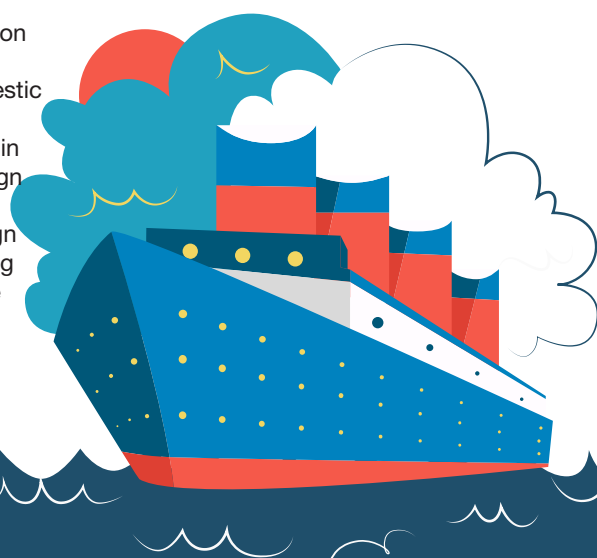
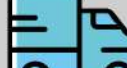


Figure 10.4. Operating cost comparison between inland waterways and road network in Thailand

	USD per tonne	USD per 1000 tonne-km
 IWT (300DWT)	23.22	39.36
 ROAD	39.47	87.12

	USD per tonne	USD per 1000 tonne-km
 IWT (500DWT)	15.39	26.08
 ROAD	39.47	87.12

Source: Mekong River Commission (2015:15).

10.4. Setting up a business in Thailand

10.4.1. General process of setting up a business in Thailand

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

10.4.2. Procedure for obtaining foreign business license in Thailand

As regulated in Foreign Business Act B.E. 2542, industries included in List 2 (list of businesses affecting: (i) national safety or security businesses, (ii) arts and cultures, traditional and folk handicrafts, and (iii) natural resources or environment), and List 3 (List of prohibited international competitive business which Thai nationals are still unequipped to compete with) should obtain a foreign business license. In addition, inland waterways transport business is classified as List 2. Furthermore, the procedure and requirement to obtain the license is described in Table 10.5.

Investment incentives

Table 10.2. summarises Thailand's activity-based investment incentives.

Besides activity-based incentives as the primary incentive in Thailand, there are also other incentives schemes available (refer to Figure 10.5).

Investment incentives specific for the maritime sector

Further to the general investment incentives, Thailand has additional incentives specific for the maritime industry (refer to Table 10.3).

Table 10.2. Thailand's activity-based investment incentives

Type of activity	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: Knowledge based activity focuses on R&D and design to enhance nation's competitiveness e.g. micro electronic design, data center, cloud service, etc.	8 years (No Cap) + Merit	✓	✓	✓
A2: Activities creating value added using advanced technology which currently none or very few investments in Thailand e.g. telecommunication devices, shipbuilding, automation machinery, medical food, etc.	8 Years + Merit	✓	✓	✓

Table 10.2. Thailand's activity-based investment incentives

A3: High-tech activities considered important to the nation's development with very few existing investment e.g. enterprises software, electrical appliances with internet of things, semiconductor, etc.	5 Years + Merit	√	√	√
A4: Lower activities compared to A1-A3 but provide added value to domestic resources and strengthen supply chain e.g. LED, audio visual, airlines, tourism related business, etc.	3 Years + Merit	√	√	√
B1: Supporting industries that do not utilize high-tech but are still important to value chain e.g. crop drying, potash mining, glass manufacture, etc.	0 Year + Merit (for some activities)		√	√
B2: Supporting industries that do not utilize high-tech but are still important to value chain e.g. e-commerce, printing products, manufacture of gypsum board	-	-	-	√

Source: Pattanapanchai (2016: 8)

10.4.3. Additional procedures and requirements for maritime-logistics related businesses

10.4.3.1. Marine transport (shipping) business registration

Requirements and remarks for marine transport business in Thailand are summarised in Table 10.6.

Ship Registration

As per the Thai Vessels Act, B.E. 2481 (1938), all ships in Thailand have to be registered through the following procedure:

- Fill application form. Required information include: vessel's name, size, licenses, owner(s), etc.;
- Submit required documents to the Ship Standard Bureau, Marine Department, and pay registration and license fees (for vessel more than 20 GT);
- The Ship Standard Bureau will inspect the vessel and issue certificate of survey and deliver it to Ship Standard Registration

Bureau;

- Once vessel is registered, a certificate of registration and a license are issued.

10.4.3.2. Inland Waterway Transport Business Procedures and Requirements

Table 10.7. summarises procedures and requirements for inland waterway businesses.

10.5. Export and import clearance procedures

10.5.1. Export clearance procedure

Every good leaving Thailand should pass export clearance process with the following procedure:¹⁵

- **Export declaration submission**, an export declaration in electronic business XML (ebXML) message should be submitted to the e-Customs system;¹⁶
- **Verification of declaration**, this stage is executed

automatically based on data of export declaration made earlier. Should the data contain no error and be valid, the system will generate the Goods declaration number along with information of amount that has to be paid (if export taxes and duties are applicable). The system will also classify the Goods declaration into two categories i.e. Green Line and Red Line;

- **Payment of export tax and duties**, which should be paid as instructed in the Goods declaration issued by e-Customs system. The payment can be paid in three ways: at the Customs Department, via e-Payment system, and at banks; and
- **Inspection and cargo release**, a freight forwarder should load cargo into container and deliver a cargo control report to the e-Customs system. If the data is valid, e-Customs system will issue a cargo control report number. The customs officer will inspect the cargo based on the report number and line classification whether it categorizes as green

Table 10.3. Incentives for maritime sector activities

Activity	Conditions	Incentive category
Shipbuilding and repairing • Building or repairing ships ≥ 500 ton gross • Building or repairing ships < 500 ton gross (only steel or fiberglass ships with engines and equipment installed)	Attain ISO 14000 within 2 years from operation starting date	A2
Logistics Service Centers • Distribution centers (DC) • International Distribution Centers (IDC)	• For DC, capital ≥ THB 10 million, whereas for IDC capital ≥ THB 100 million (exclude land and working capital); • Has modern (computerized) storage facility; • IDC must have at least 5 countries to distribute goods; • DC is not eligible for merit-based incentives.	B1 A3
International Headquarters (IHQ)	• Capital ≥ THB 10 million; • Has minimal one foreign branch in another country; • Have business plan and some specific scope of business; • Not eligible for merit-based incentives.	B1 (only machinery for R&D and training activities)
Real Estate Development for Industrial Use • Logistics Park	• Total area > 200 rai and has a warehouse at least 50,000 m²; • Located within 50 km of a port, airport, and custom checkpoint; • Designated for free zone; • Have a station to (un)load with capacity of at least 50 containers; • Has a high-speed communication infrastructure; • Thai national must hold at least 51 percent of shares; • Must be approved by relevant authorities.	A3

Source: Thai Lawyers Ltd (2015).

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	see procedure details
5.	Register for Value Added Tax*	1 day, simultaneous	no charge

(*) = Takes place simultaneously with previous procedure

Source: World Bank (2016a).

Table 10.5. Procedure for obtaining foreign business license in Thailand

Description	Remarks
Procedure	(1) Fill in application form called Tor 2 and submit it along with supporting documents to Bureau of Foreign Business Administration, Department of Business Development (DBD), Ministry of Commerce; (2) a. For List 2: Application will be proposed by the DBD to the Minister of Commerce who will forward it to the Cabinet. The DBD will issue the license and inform the applicant within 15 days after approval of the cabinet; b. For List 3: Details of the Application will be sent by the Sub Committee and Committee of Foreign Business for an approval. The DBD will issue the license and inform the applicant within 15 days after approval of the Director General's approval; (3) Period of consideration is maximum 60 days; (4) Should the application disapproved, written notification will be sent to the applicant within 15 days from the disapproval decision. The applicant may appeal the decision to the Minister of Commerce within 30 days. The maximum period for appeal consideration is 30 days.
Fees	• Application fee: THB 2,000; • License fee: a. List 2: THB 10 for each registered capital of THB 1,000 with the minimum of THB 40,000 and the maximum of THB 500,000; b. List 3: THB 10 for each registered capital of THB 1,000 with the minimum of THB 20,000 and the maximum of THB 250,000.
Minimum capital conditions	• Must have capital at least 25 percent of the average per year of three year estimated expenditure. For example, estimated expenditure on the average per year of three year estimated expenditure is THB 100 million. Thus, the minimum capital is THB 25 million. Therefore, if the company, which is registered in Thailand, has a registered capital less than THB 25 million, the company has to raise its capital. Whereas if the company is not registered in Thailand, THB 25 million have to be remitted into Thailand; • No required minimum capital for certificate grantees under the Investment Promotion Certificate; • These are the requirements for the foreign licensees to be comply with: a. The ratio of the capital and loans to be used in the permitted business is 1:3. i.e. whilst capital is THB 100, business loan cannot be exceeding THB 300; b. At least one of foreign directors must reside in Thailand; c. The minimum capital must be kept up until stop operating a business in Thailand; • Certificate grantee under the Treaty must comply with the conditions specified in the Treaty; • Certificate grantee under Investment Promotion Certificate must comply with the conditions specified in Investment Promotion Certificate.

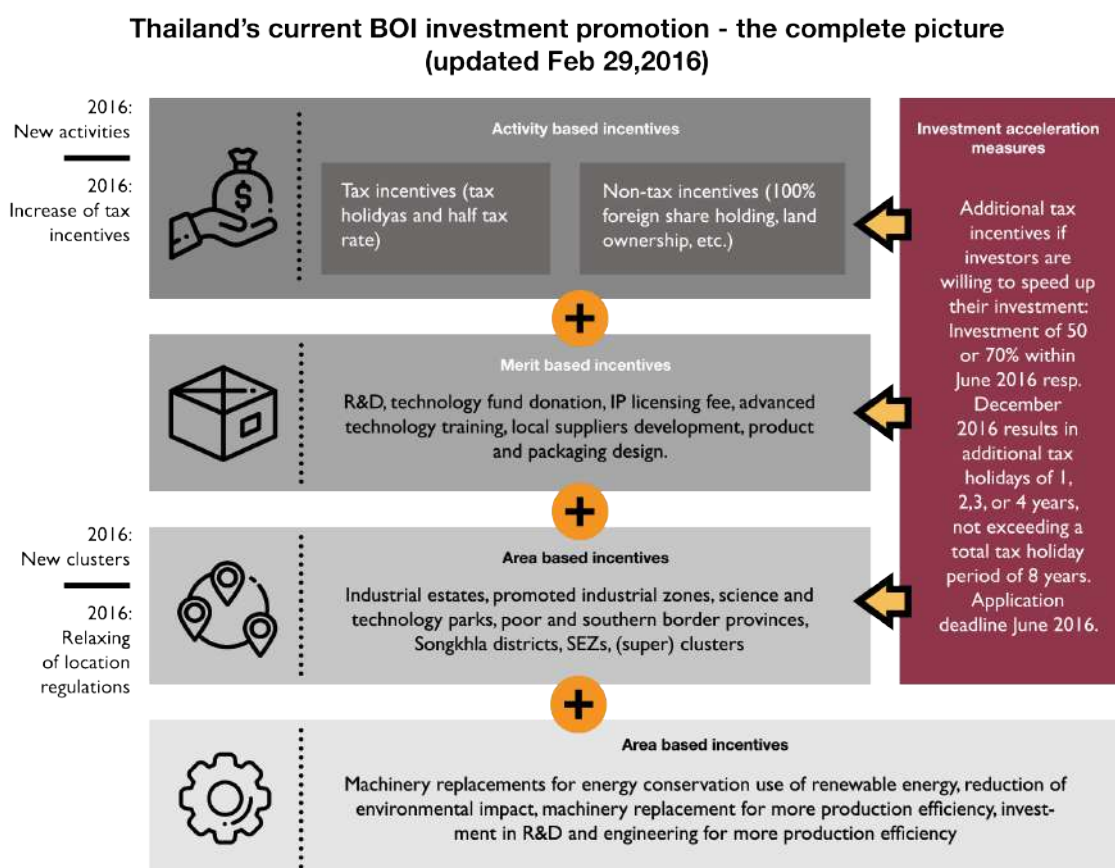
Source: Department of Business

Table 10.6. Shipping business requirements and remarks

Type of services	Requirement and remarks
International shipping	• Open for both Thai and foreign entities with at least 51 percent of shares held by Thai nationals; • Has to use Thailand's national flag; • Obligated to register as a maritime transport operator. Registration is done through Thailand Marine Department; • Under supervision of the Thailand Marine Department for safety and environmental aspects.
Domestic shipping	• Restricted for foreign maritime transport operator except for emergency and unique case approved by Minister of Transport such as the absence of specific vessels needed for certain type of marine transport business that cannot be provided by local companies; • Foreign entities may invest in domestic shipping with at maximum of 30 percent shares ownership; • The restriction is related to national security and local business protection.

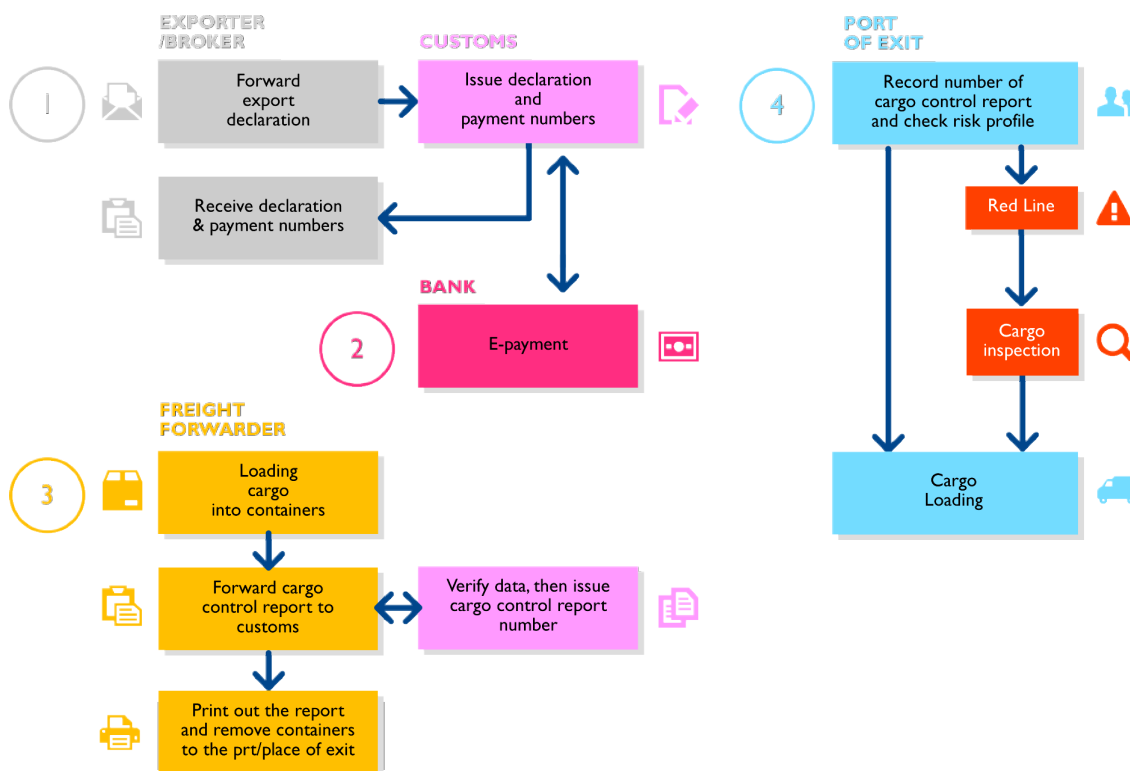
Source: Asia Pacific Economic Cooperation (2017).

Figure 10.5. Various schemes of investment incentives in Thailand



Source: Pugnotarius Ltd (2016).

Figure 10.6. Export clearance procedure



Source: Thai Customs Department (2016a).

Table 10.7. Inland waterway transport business procedure and requirements

Procedure/Requirement	Description
Documents requirement of operating vessel	Certificate of registration, load line certificate, tonnage certificate, tanker safety certificate, ship survey certificate, oil pollution prevention certificate, water transport license or vessel license.
Documents requirement of vessel crew	Identity document, several crew have to hold navigation certificate, and at least one member has a dangerous goods certificate.
Requirement of cargo	Goods should follow the codes of International Maritime Dangerous Goods (IMDG).
Requirement of vessel equipment	VHF communication equipment (for vessel with capacity more than 50 GT), fog horn, search light, navigation lights, anchor, mooring lines/steel cables, emergency response equipment, and pollution prevention equipment.
Vessel classification	There is no vessel classification in Thailand.
Standards, requirements, and guidelines for vessel design, construction, and ship survey	Regulated by: • The Act on Navigation in Thai Waters B.E.2456 (1913); • The Thai Vessel Act B.E. 2481 (1938); • The Marine Department 'Safety Measures for Transportation of Petroleum Products on Mekong River'; • The Regulation on Ship Survey (No. 19) B.E. 2534.
Vessel inspection	Yearly, by the Ship Standard Bureau and Ship Surveyor of the Marine Office Branch.
Vessel registration	Registration should be undertaken with the Marine Department under the Ministry of Transport along with required documents.

Source: Mekong River Commission (2015: 18).

line or red line. If it is green line, declaration will be cleared in few minutes, whereas if it is red it have to pass physical inspection process and the minimum documents required is export declaration, invoice, export license, and other relevant documents such as product ingredients, catalogue, etc.

executed automatically based on data of import declaration made earlier. Should the data and contains no errors and complete, the system will generate a Declaration and Payment Numbers containing information of taxes and duties amount that has to be paid. The system will also classify the Goods declaration into two categories i.e. Green Line and Red Line;

few minutes without customs intervention, whereas if it is red it have to pass physical inspection process and the minimum documents required is import declaration, bill of lading, invoice, packing list, import license, certificates of origin, and other relevant documents such as product ingredients, catalogue, etc.

10.5.2. Import clearance procedure

Every goods originating from overseas entering Thailand should pass import clearance with the following procedure:¹⁷

- **Import declaration submission**, prior to or upon the arrival of cargo, a shipping agent should submit an import declaration to the e-Customs system;
- **Check and verification of declaration**, this stage is

- **Payment of import tax and duties and/or guarantee**, which should be paid as informed in the Declaration and Payment Numbers issued by e-Customs system. The payment can be paid in three ways: at the Customs Department, via e-Payment system, and at banks; and
- **Inspection and cargo release**, the customs officer will inspect the cargo based on the Declaration Numbers issued by e-Customs system and line classification whether it categorizes as green line or red line. If it is green line, declaration will be cleared in

10.6. Other relevant information

10.6.1. Taxes

Tax rates in Thailand are summarised in Table 10.8.

10.6.2. Infrastructures in Thailand

Existing infrastructures in Thailand are summarised in Table 10.9.

Figure 10.7. Import clearance procedure

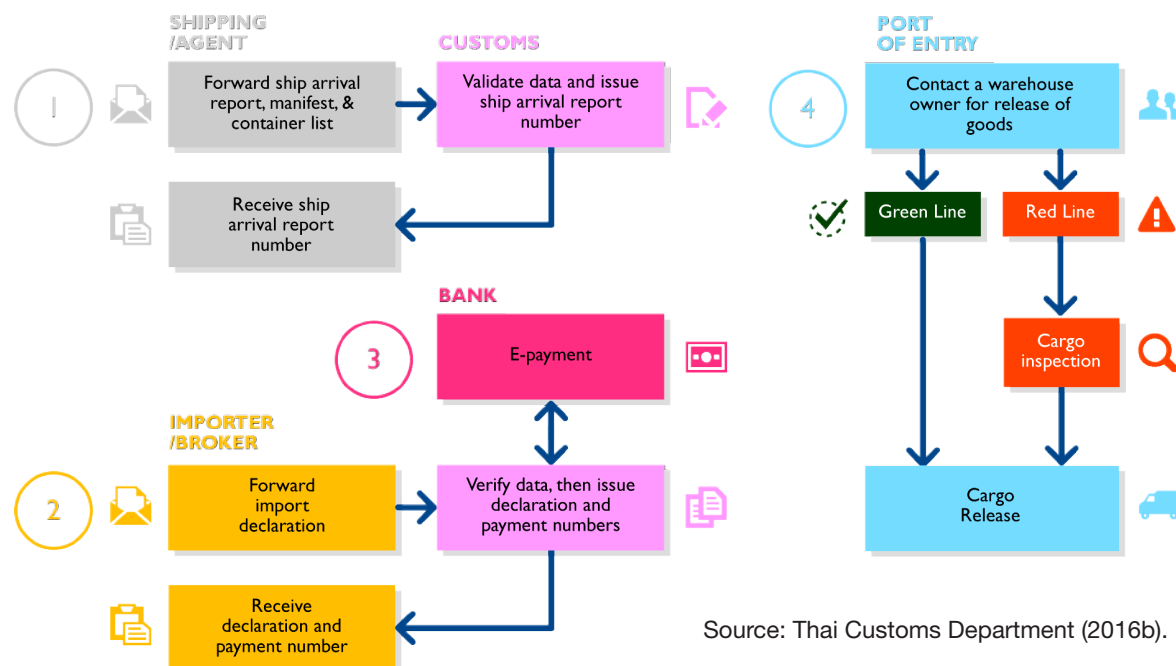


Table 10.8. Taxes in Thailand

Individual income tax	
Income (in THB)	Progressive rates (in percent)
Up to 150,000	0
150,001-300,000	5
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 in Stock Exchange of Thailand	20
Companies <i>newly</i> listed in 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 (2015) and PwC (2015).

Table 10.9. Existing infrastructures in Thailand

Infrastructure	Length / number / geographical scope / generation (of power) / network spectrums	Notes
Roads	396,903 km	Road in Thailand is divided into three types: Arterial roads (51,537 km), collector roads (47,916 km), and local roads (297,450 km).
Railways	4,429 km	Railway network in Thailand consists of five different routes: northern line, north-eastern line, eastern line, southern line, and Mekong River, 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.
Energy and power	192,189.42 GWh consists of 3,760.73 GWh from hydro, 771.51 from fuel oil, 16,932.30 from lignite, 51,494.54 from natural gas, 125.70 from diesel, 1.35 from geothermal, 3.98 from renewable energy, and 119,099.37 from other sources.	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.
Telecommunications	Thailand has the following spectrum allocation list: (1) Broadcasting services: • 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) (2) Mobile services: • Total amount of spectrum is 420 MHz. • Thailand has 6 mobile operators: Jasmine, AIS, CAT, DTAC, TOT, and True. (3) Fixed services: The 2.3 GHz, 2.5 GHz, and 3.5 GHz spectrum bands are for fixed wireless access	• Internet penetration: 39.3 internet users per 100 people (2015); • Mobile telephone subscribers: 126 subscribers per 100 people (2015).

Source: Various.

10.6.3. 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.¹⁸ 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.¹⁹

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.²⁰

10.6.4. 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.²¹ Foreigners can lease land for up to 30 years with an option to extend the lease for another 30 years.

10.6.5. 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).²²

10.6.6. 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.²³

10.7. Electronic links to relevant maritime logistics-related institutions and information portals

- Thailand Marine Department, Ministry of Transport: <http://www.md.go.th/en/>
- Port Authority of Thailand: <http://www.port.co.th/sitenew/en/>
- Thailand National Shippers' Council: <http://www.tnsc.com>
- Thailand National Trade Repository: <http://www.thailandntr.com/>

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Thailand has an open and export-dependent economy that has seen robust growth since the economic crisis in the late 1990s. The government has provided numerous policies to lower logistics cost and improve intra-ASEAN connectivity. The country's participation in the AEC intensifies more collaboration both for ASEAN and non-ASEAN companies in the maritime logistics sector especially through BOT schemes. Although Thailand maritime logistics performance scores quite well, still, there are some aspects that can be improved. The regulatory and competitive environment of the AEC can be expected to make Thailand's logistics more cost-efficient.

- Thailand National Single Window: <http://www.thainsw.net/INSW/index.jsp>
- Thailand Board of Investment: <http://www.boi.go.th/>
- Thai Customs: <http://en.customs.go.th/index.php?view=normal>

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11. VIETNAM

VIETNAM

11.1. Brief country profile

Despite prolonged global economic downturns over the past few years, Vietnam enjoys robust economic growth, averaging about 6.4 percent per year since the 2000s.¹ Vietnam is the third largest populated country in ASEAN with about 91 million people. It is classified as a lower-middle-income country with a real GDP per capita of about USD 1,700 in 2015.²

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.

In order of contribution, Vietnam's economy is supported by services, industry and construction, and agriculture.³ One of Vietnam's main opportunities for investors is their relatively low-wage labour, which has pulled many worldwide brands to invest in the country.⁴ This particular condition helps keep Vietnam's unemployment rate at

a relatively low 2.2 percent in 2016. With its major trading partners the United States, China, and Japan, Vietnam has been trying to transform its economy as an exporting powerhouse. The government controls the Vietnamese Dong to keep favourable terms of trade.⁵

11.2. Maritime logistics sector in Vietnam

Vietnam has a 3,444 km long coastline, with a maritime industry mainly supported by three agglomerated regions focusing on the offshore ship building in Vung Tau, bulker building in Hai Phong, and tankers and bulker building in Da Nang, Quang Ngai and Nha Trang.⁶ These are strategic locations to develop sea transportation along the East-West sea route. Due to its strategic geographical location, low-wage labour, and strong government support, Vietnam's maritime industry has vast potential. The government intends to invest between USD 18 billion and 20 billion until 2020 to improve infrastructure in this sector.⁷ Shipping serves for around 80-90 percent of Vietnam's total export and import cargo volumes.⁸

Along with their growing exports, Vietnam's logistics sector is also expected to grow between 16 percent and 20 percent annually for the next five to ten years.⁹ According to the World Bank Logistics Performance Index in 2016, Vietnam stood at fifth place amongst ASEAN

nations after Singapore, Malaysia, Thailand, and Indonesia.

11.3. Maritime logistics-related regulatory frameworks, policies, and plans

In September 2007, the 10th Party Central Committee issued a resolution on Vietnam's Maritime Strategy 2020, which aims to make the nation a marine-based economy. With a tagline of making Vietnam 'a strong country on the sea and enriched by the sea', the resolution intends to boost the marine sector up to 53-55 percent of the country's GDP. It also seeks:

- Increasing the share of sea transport to be around 22 percent of the country's GDP;
- Increasing the share of its export-import carriage to be around 25-30 percent of the country's GDP;
- Rejuvenating the country's fleet;
- Building international gateways and deep seaports; and
- Making shipbuilding a key export industry for the country.

Key points highlighted in the 2020 Maritime Strategy that are of relevance to the maritime logistics sector include the country's plan to develop and improve maritime related-logistics infrastructure, intention to widen access for foreign

direct investment, as well as its efforts to improve policies to encourage the maritime industry to develop.

Maritime transportation plays a crucial role in the development of Vietnam's economy, and is one of the sectors that have been making significant contributions in boosting Vietnam's international trade in goods. In order to improve its maritime industry, some restrictions and regulation pertaining to foreign ownerships, as well as other foreign investment-related requirements in the sector, have been relaxed, and this is in line with the country's commitment towards the ninth package of ASEAN services liberalisation under ASEAN Framework Agreement on Services (AFAS). For instance, the number of joint ventures by foreign shipping companies in Vietnam used to be limited to only 5 companies, but, since January 2012, this limitation has been lifted. There is presently no limitation on the number of joint ventures that can be formed in the sector.¹⁰

11.3.1. Port development-related policies

Vietnam has more than 80 ports, with most of the large ports developed by the government. Currently, the Vietnamese government is planning to improve its maritime logistics sector, and intends to compete with Singapore and Hong Kong in providing sea cargo services.¹¹ The government targets to achieve 2,100 million tonnes of cargo handling from a 2015 figure of just 400 million tonnes of cargo handling.¹² Given the inability of the existing state budget to support this ambitious plan, the Vietnamese government has prepared a master plan for the development of the country's seaport system by 2030. This long-term plan will require USD

Table 11.1. Maritime logistics-related rules and regulations in Vietnam

Maritime logistics-related sub-sectors	Relevant laws and regulations
Maritime cargo handling services	• Maritime Code, 2005; • Trade Law, 2005; • Decree No.140/2007/ND-CP.
Storage & warehousing services	• Law on Trade, 2005; • Decree No.140/2007/ND-CP
Freight transport agency services	• Maritime Code, 2005; • Law on Trade, 2005; • Decree No.140/2007/ND-CP.
Other auxiliary services	• Maritime Code, 2005; • Law on Trade, 2005; • Decree No.140/2007/ND-CP.
Courier services	• Law on Postal, 2010; • Decree No.47/2011/ND-CP.
Packaging services	• Not available
Customs clearance services	• Law on Custom, 2001 and Amended, 2005; • Decree No. 140/2007/ND-CP.
International Freight Transportation excluding Cabotage	• Maritime Code, 2005; • Law on Trade, 2005; • Decree No.140/2007/ND-CP.
International rail freight transport services	• Law on Railway, 2005; • Decree No. 140/2007/ND-CP.
International road freight transport services	• Law on Road traffic, 2008; • Decree No. 140/2007/ND-CP.

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

56 billion, with only twelve to fifteen percent of it to be provided by the state budget.¹³ The rest of the budget (85 – 88 percent) is expected to come from foreign and domestic investors.

Furthermore, the government also allows international ownership of the country's ports providing that such an initiative is pursued through a joint venture with local companies. For example, Singaporean and Japanese companies have been allowed ownership of up to 63 percent in the development of the Vietnam International Container Terminal in Ho Chi Minh City. More recently, the Ministry of Transport also encouraged

the increase of private investment, particularly through public-private partnership (PPP) schemes, and has opened a bidding process for 41 marine infrastructure projects, including 19 seaports. It is reported that these projects will require USD 1.98 billion of funding.¹⁴

11.3.2. Shipyard and shipbuilding policy

Due to the government's well-implemented masterplan on 'Shipbuilding Industry Development Program 2001-2010' the shipbuilding industry has become

Table 11.2. Masterplan for seaport system development 2020-2030

No	Description	Remarks
1	Construction of ports and terminals	- Development of Van Phong International Transshipment Terminal with an expected container vessel handling capacity of 9,000 – 15,000 TEU. - Development of international gateway ports in Hai Phong, Ba Rai – Vung Tau, and other economic strategic regions. These gateway ports are expected to have a handling capacity of: (1) vessels of 80,000 - 100,000 DWT, (2) container vessels of 4,000 – 8,000 TEU. - Development of hub dedicated ports with a capacity of: (1) liquid cargo vessels of 300,000 - 400,000 DWT, (2) coal and ore vessels of 100,000 – 300,000 DWT, and (3) ships of 100,000 GRT tourist passenger berths in major tourist centre areas.
2	Set up and develop connecting points for logistics system	-
3	Upgrade and improve existing ports both in quality and technology aspects	-

Source: ISS Shipping (n.d.).

a key sector of the economy.¹⁵

Today, the Vietnamese shipbuilding industry is the second largest in ASEAN, and ranks amongst the top ten largest in the world. In 2015, this industry built 375,000 gross tonnage worth of ships.¹⁶ In line with Vietnam's Maritime Strategy 2030, the government has set to further advance the country's shipbuilding industry, and this include the maintenance and improvement of the industry's current achievement, the development of a new shipbuilding and ship repairing sector that meets both local and international demand, undertake 300,000 tons of synchronised repair for both domestic and international ships, and improve the country's capacity to build specialised ship with high technology specification.¹⁷ Further details on Vietnam's shipbuilding industry development plan are presented in Table 11.3.

11.3.3. Shipping policy

Officially launched in 2014, the Shipping Industry Master Plan was developed to meet Vietnam's demand for shipping services by specifying the programs to reduce the burden of road transportation and to encourage the development of sea transportation. The document also aims to transport 140-150 million tonnes of goods, of which 40-46 million tonnes are international shipment. Another target laid out by this policy document is for Vietnam to have a shipping fleet with a carrying capacity of 6.8 to 7.52 million DWT. It is estimated that the investment budget needed to implement the masterplan will be between USD 1 billion and 1.5 billion. Encouraging private sector participation, the government expects the majority of the budget needed to attain the goals set in the master plan to originate from private investments. To that end, the government is making a serious effort

to liberalise the industry, provide high quality services, and re-evaluate various fees attached to the industry to make it more competitive.¹⁸

11.3.4. Inland waterway

Vietnam has more than 2,360 rivers and canals with a total length of around 42,000 km. Around 26 percent of the total length of the rivers, particularly the delta areas of the Red River (2,500 km) and Mekong River (4,500 km), is used commercially.¹⁹ Companies are using inland waterways to transport commodities such as coal, rice, sand, stone, gravel, as well as passengers. Inland waterways are as important as road transportation because the former is cheaper to deliver goods through waterways within domestic markets.²⁰ Inland water transport is the second most preferred domestic passenger and cargo transport. In the Mekong river delta area, inland water transport accounts for 25-30 percent of the total domestic transported goods and passengers, whilst in other regions, it accounts for around 60-70 percent of total transported goods and passengers. All these suggest that the development of maritime transport and logistics sector should consider the importance of inland water transportation to the country's economy. There are two state corporations affiliated with the Ministry of Transport in inland water transport, and one state-owned enterprise affiliated with the Vietnam Inland Waterway Authority. As for the private sector, there are about hundreds of cooperatives and private companies operating in rivers across Vietnam, particularly in the Mekong river delta and the Red river delta. Some of these companies have been pursuing very profitable operations.²¹

Table 11.3. Shipbuilding industry development plan, from now until 2030

No	Focus	Description
1	Shipbuilding facilities	- Northern region: - shipbuilding facilities of Ha Long to build specialized and complex ships that have high technology specification with tonnage of 70,000 tons; - shipbuilding facilities of Pha Rung to focus on medium sized tankers from 10,000 – 40,000 tons; - shipbuilding facilities of Bach Dang to focus on complex tankers and floating equipment that need high-tech specification such as LPG tankers with a tonnage of 30,000 tons; - Several smaller shipbuilding facilities in other areas. - Central region: - Shipbuilding facilities of Dung Quat to focus on building large oil vessels of 100,000 tons, in partnership with major partners mastering high technology capability to form joint ventures able to build ship under export order; - Shipbuilding facilities of Hyundai - Vinashin to build aggregate vessels of 30,000 – 50,000 tons for export; - Shipbuilding facilities of Cham Ranh to prioritize on building dry bulk vessels, oil vessels, and general cargo with a tonnage of 50,000 tons; - Shipbuilding facilities of Osima - Cham Ranh to focus on transport tankers with a tonnage of 30,000 – 50,000 tons for export; - The other facilities handle building of cruise, fishing, and dedicated ships. - South region: - Focus on maximizing the capacity and capability of existing facilities.
2	Shiprepairing facilities	- Constructing and developing new shiprepairing facilities in: - Northern region: associated with Hai Phong and Quang Ninh; - Central region: associated with Cam Ranh, Dung Quat, and Hyundai – Vinashin; - South region: associated with Cap Mei – Thi Vai, Soai Rap, Nha Be, and Saigon seaports.
3	Old ship demolishing facilities	These facilities will be developed in Hai Phong City and some central provinces.
4	Development of shipbuilding supporting industries	- Constructing shipbuilding industrial parks in the northern region; - Maximizing the utilization of pipe, coating, casting, and forging production lines including facilities to repair diesel engines of military ships in the central region; - Fully utilizing production lines of pipe, coating, casting, and forging in Don Xuyen industrial park and other industrial parks.
5	Centre of ship studying, training, and designing	Building a comprehensive and integrated education system related to the shipbuilding industry from vocational school to university level.

Source: ASEM Connect (2016).

11.3.5. Investment policy

Foreign investment in Vietnam is governed under the 2005 Law on Investment (LoI), 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

and imposed stringent requirements and restrictions on foreign invested enterprises incorporated in Vietnam. 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.²² Whilst initially foreign ownership was 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.²³

Incentives and investment guarantees.

The 2015 LoI is applicable to both foreign and domestic investors. According to the Law, the government guarantees fair treatment to both foreign and domestic investors. In addition, there is a guarantee that businesses with foreign-invested

capital will not be nationalized. Other guarantees include the permission for foreign investors to remit abroad the profits, loan principal and interest, and other legal proceeds and assets.

Foreign investors, including in the maritime logistics sector, can receive standard investment incentives such as reduced corporate tax rates, tax-free periods/tax reductions, land-rent reductions and import-duty exemptions.

Foreign investors can invest in Vietnam in seaport development and other related logistics sector in the form of Build-Operate-Transfer (BOT), Build-Transfer-Operate (BTO) or Build-Transfer (BT) contracts.²⁴ Under these types of investment contracts, the government share is limited to 49 percent of the total investment of the project.

Under a BOT contract, the investor is responsible for any charge of construction and management of a project for a specific duration. Once it is overdue, the project is to be transferred to the state without any compensation. In addition, if the FDI in maritime logistics are in the form of BOTs, there are additional incentives to them as presented in Table 11.4. Under a BTO contract, the state will allow foreign investors to operate the project over a specific period of time to recover capital and reasonable profits. Upon completion, the project is transferred to the state which pays the investor through either granting the right to run another project or receiving a payment from the state.

Foreigners can also invest in the maritime sector through Public Private Partnerships (PPP). A PPP is one of the models promoted by the Vietnamese government to attract around USD 170 billion (with 50 percent of the funding expected

Table 11.4. Investment incentives for BOT projects

Type of Incentives	Description
Reduced Corporate Income Tax (CIT)	Rates of 10 percent or 20 percent relative to the statutory rate of 25 percent.
Tax holiday	Given for 4 years from the first profit-making year and a 50 percent reduction in the applicable rate for the following 9 years.
Import & Export duties	Exemption from certain import and export duties.
Fees exemption	Exemption from paying land use fees.

Source: Decree 108/2009/ND-CP of the Government on investment under BOT/BTO/BT projects and Decree 24/2011/ND-CP on the amendment of Decree 108/2009/ND-CP.

to come from the private sector) in infrastructure investment by 2020.²⁵

There are currently 15 economic zones located in the eastern part of Vietnam along the country's sea coast with a total area of 662,000 ha of land and water-surface. These zones have attracted more than 700 projects with USD

50 billion worth of investment capital.²⁶ Investment for projects in Economic Zones entails additional corporate tax incentives as described below in Table 11.5.

11.4. Setting up a business in Vietnam

11.4.1. General process of setting up a business in

Table 11.5. Incentives for projects in economic zones

Type of Projects	Tax Rate	Tax Holiday
Projects inside EZ	Ten percent to be applied each of the first 15 years, and 25 percent afterwards	Tax holiday for four years since earning profits
High-tech projects inside EZ	Ten percent for a maximum of 30 years	Tax holiday for four years since earning profits and 50 percent reduction for 9 years thereafter
Socialised projects inside EZ*	Ten percent for the whole duration of the project	-

Note: * Socialised project is projects operating in the field of education, training, healthcare, culture, sports, and environment.

Source: Ernst & Young Vietnam Limited *op. cit.*, p.46.

Vietnam

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

Table 11.6. 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 Labour	Municipal Department of Labour	1	No charge
9	Register employees in Social Insurance Fund for social and health insurance	Social Insurance Fund	1	No charge

Source: World Bank (2017b).

11.4.2. Additional procedures and requirements for maritime-logistics related businesses

11.4.2.1. Port development and shipyard constructions

Because port development and shipyard constructions are categorized as strategic projects, the usual Investment Registration Certificate to construct property is not sufficient. Considering such constructions are generally nation-scale projects, the local Departments of Planning and Investment (DPI) will likely consult with the Ministry of Planning and Investment (MPI), and other ministries or government agencies related to the projects. Foreign-invested enterprises in charge of port development and shipyard construction projects

may need to meet one or more requirements depending on the size and importance of the project as presented in Table 11.7.

11.4.2.2. Marine transport (shipping) business registration

Since 2014, the government has started to liberalise its shipping industry. A foreign entity is allowed to have full ownership in a company. Despite the ease to have full ownership, the government also gives specific privileges for foreign entities forming joint venture with local companies. In such case, foreign entities are allowed to have a maximum ownership share of 49 percent. They can provide goods transportation services as well as towage services for loading and unloading cargos.

Business license

Regardless of the share of foreign ownership and as per Decree No. 30/2014/ND-CP concerning rules and conditions for sea shipping and auxiliary sea shipping providers, a shipping company operating in Vietnam must obtain a business license, valid for five years and renewable, from the Vietnam Maritime Business Administration and has to have a legal consultant. Requirements to obtain such a license are described below in Table 11.8.

Ship Registration

Below is a summary of requirements related to ship registration as regulated under the Vietnam Maritime Code Law No: 40/2005/QH11:²⁷

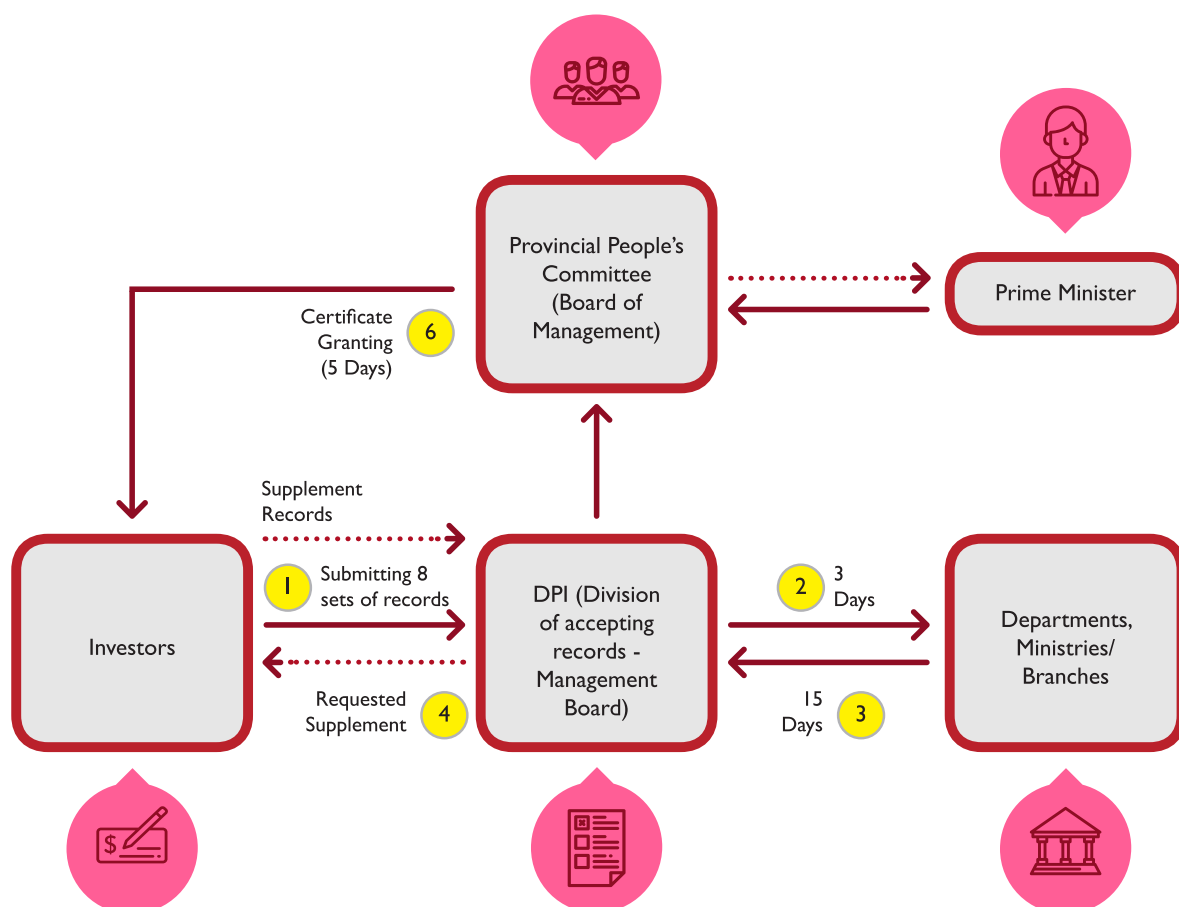
- The company should provide the following supporting documents such as: evidence of ownership, tonnage certificate, classification certificate, proposed name of the ship;

Table 11.7. Approval requirements for strategic projects

No	Approval/Permit	Description
1	Approval from national authorities	This approval is needed for: - Projects with a value of more than VND 35 trillion (≈ USD 1.7 billion) of which the nation's budget is at least VND 11 trillion (≈ USD 0.5 billion); - Nuclear power projects; - Projects using 50 – 1,000 hectares of land; - Projects employing 25,000 people in mountainous area or 50,000 people in other areas; - Projects related to national defence or cultural heritage conservation.
2	Approval by the Prime Minister	This approval is needed for: - Projects in relation with airports, seaports, oil and gas exploration and production, mining and mineral exploration, industrial zone and export processing zone, casino, and cigarettes production; - Projects with a value of more than VND 1,500 billion (≈ USD 71 million) involved in power, mineral production and metallurgy, railways, roads and inland waterways, and alcoholic drinks.
3	Conditional sectors	- Projects for specific sectors such as entertainment business, banking and finance, mining, real estate, and publishing must obtain approval from relevant authorities or ministries; - Projects valued more than VND 300 billion (≈ USD 14 million) must be appraised by relevant licensing authority based on some criteria such as feasibility study, EIA report, and other equivalent requirements.

Source: Mayer Brown JSM (2015: 10-11).

Figure 11.1. Investment registration procedures



Source: Ernst & Young Vietnam Limited, *op. cit.*, p.54.

Table 11.8. Requirements for shipping companies to obtain a business license

No	Type of Services	Requirements
1	Shipping services	• Having sufficient (both quantitative and qualitative) human resources to support company services such as vessel operations, control safety officers meeting international standard of marine safety, and legal officers. Those personnel should have at least 5 years of experience in their respective fields; • Having a minimum capital or asset value of VND 20 billion for international services and VND 5 billion for domestic services.
2	Auxiliary shipping services	• Persons who hold managerial position should have at least 2 years of experience in sea shipping agency services or in towage service; • Persons who handle legal services should hold a degree in law with a minimum of 2 years of experience in the legal field; • Staff of shipping agencies have to be Vietnamese nationals; • Foreign ownership cannot exceed 49 percent.

Source: Vietnam International Law Firm (2014).

- The company must have a main office or at least branch office in Vietnam;
- Paying fees in accordance with laws and regulations;
- Foreign ship that has been registered in another country cannot be registered in Vietnam unless the registration has been removed or deleted in that other county.
- After the registration complete, the company will receive Ship's Registration Certificate as the evidence of Vietnamese nationality of the ship and the ownership status.

11.5. Export and import clearance procedures

11.5.1. Export clearance procedure

Every good leaving Vietnam should pass export clearance process with

the following procedure:²⁸

- **Export declaration**, by completing an import declaration form at the Customs Authority along with submitting supporting documents such as detailed packing list, export permit (for certain types of good requiring export permit), purchase and sale contract or equivalent documents, and other required documents depending on type of exported goods;
- **Inspection of goods**, the Customs Authority will examine the exported goods based on the import declaration documents. The Customs Authority will also appraise the amount of tax and duty that should be paid;
- **Duty and tax payment**, the majority of goods being exported are exempt from tax. However, exporters might have to pay a duty to the Customs

Authority up to 45 percent of the good's price depending on the type of goods exported;

- **Release of goods**, the Customs Authority finds nothing suspicious about exported goods. If there is a violation of law, the Customs Authority may undertake post clearance audit within five years after the registration date of export declaration.

11.5.2. Import clearance procedure

All goods originating from overseas entering Vietnam should pass import clearance of which the procedure is as follows:²⁹

- **Import declaration**, by completing an import declaration form at the Customs Authority along with submitting supporting documents such as commercial invoice, purchase and sale contract or equivalent documents, import permit (for certain types of good requiring import permit), bill of lading, packing list, and certificate of origin;
- **Inspection of goods**, the Customs Authority will examine the imported goods based on the import declaration documents. The Custom Authority will also appraise the amount of tax and duty that should be paid;
- **Duty and tax payment**, which should be paid to the Custom Authority based on appraisal process; and
- **Release of goods**, if the Customs Authority finds nothing suspicious about imported goods. If there is a violation of law, the Customs Authority may undertake post clearance audit within five years after the registration date of import declaration.

11.6. Other relevant information

11.6.1. Taxes

Various tax rates in Vietnam are highlighted in Table 11.9.

Table 11.9. 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	
Value Added Tax	0 percent for exported goods/services	
	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 (2016b).

11.6.2. Infrastructure in Vietnam

Existing infrastructures in Vietnam are summarised in Table 11.10.

Table 11.10. 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 177,212km 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 11.10. Existing infrastructures in Vietnam

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	(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 services: 3G (based on WCDMA in big cities).	129 cellular subscriptions per 100 people, with 53 percent internet penetration rate.

Sources: Various.

11.6.3. 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 the tertiary education, whilst more than a quarter of its labour force have attained an upper secondary education.³⁰ Although 40 percent

of the country’s labour force still works in the agriculture sector, the high productivity growth in the manufacturing industry and services has seen a growing absorption of employees from rural and urban areas.

The 1992 Constitution and 2005 Civil Code serve as the main guidelines for employment of Vietnamese nationals 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 a 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 400,000.³¹

Table 11.11. 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.).

11.6.4. Land Policy

Ownership and land use in Vietnam are under the Land Law 2003. Foreign investors in Vietnam could obtain the Land Use Right (LUR) through either (i) capital contribution (from the local partner to a JVC), or (ii) land lease directly from certain permitted lessors/the state. The period of land leasing must not exceed 50 years or, in some special conditions it can be extended to 70 years at the longest if granted permission by the Government. This permission requires two conditions should be met:

- The lease has complied with the land regulation during the utilisation of the land; and
- The utilisation of the land is consistent with the approved plan.

11.6.5. 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.

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).

11.6.6. 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.

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. The government has a distinct, detailed, and well-planned intention to improve maritime logistics sector as set up in its "Vietnam's Maritime Strategy 2020". Vietnam's consistent engagements in the AEC, and other bilateral and multilateral trade and investment fora, is expected to encourage the country to pursue wider economic reforms, including, hopefully, in the country's maritime logistics sector.

11.7. Electronic links to

relevant maritime logistics-related institutions and information portals

- Vietnam Marine Administration: <http://www.vinamarine.gov.vn/>
- Ministry of Transport: <http://mt.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>
- Ministry of Natural Resources and Environment: <http://www.monre.gov.vn/wps/portal/english>

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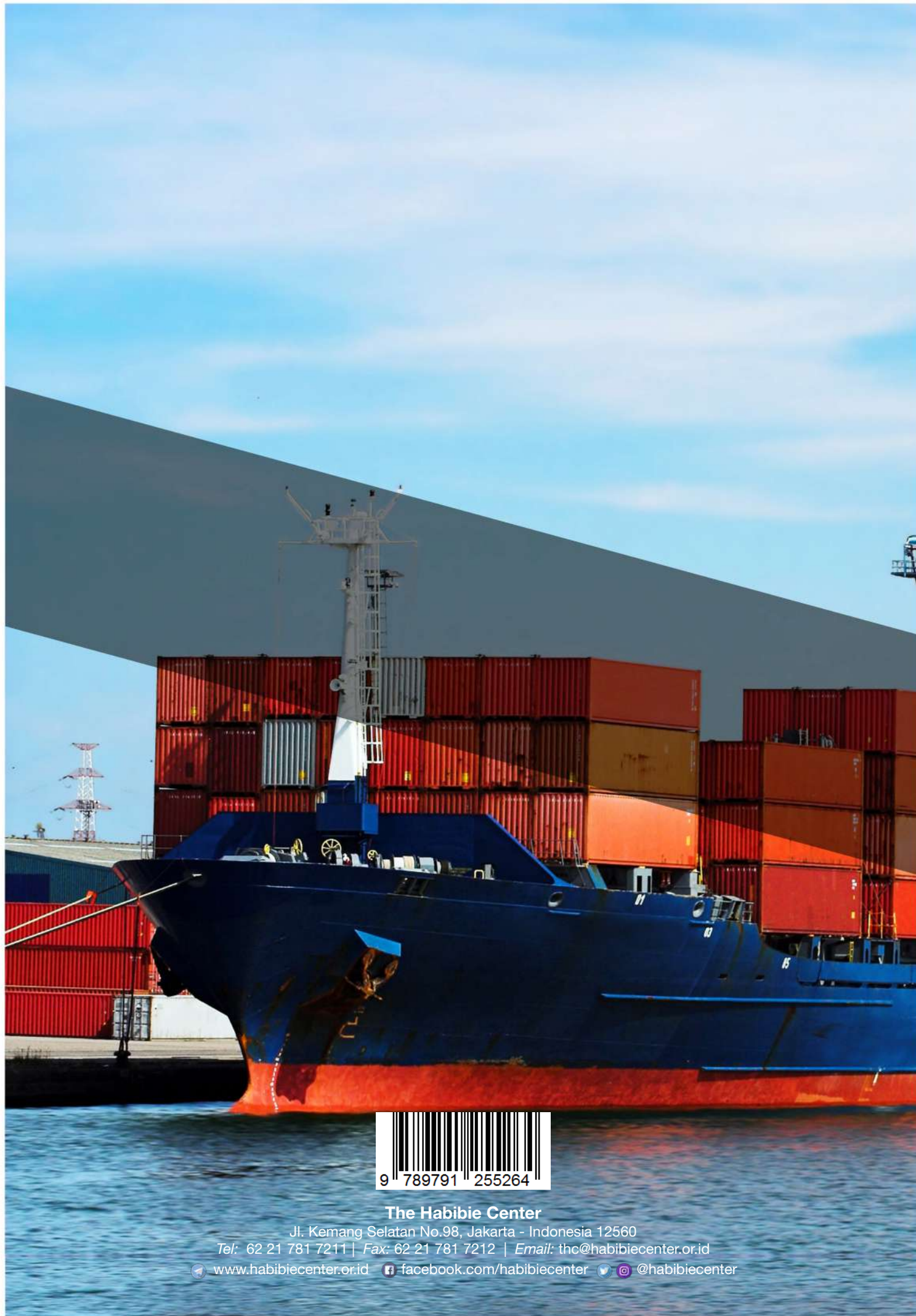












The Habibie Center

Jl. Kemang Selatan No.98, Jakarta - Indonesia 12560

Tel: 62 21 781 7211 | Fax: 62 21 781 7212 | Email: thc@habibiecenter.or.id

www.habibiecenter.or.id [facebook.com/habibiecenter](https://www.facebook.com/habibiecenter) [@habibiecenter](https://www.instagram.com/habibiecenter)