LEGAL REGULATORY FRAMEWORK
FOR LOGISTICS SERVICES IN MALAYSIA

Introduction

Logistics services refer to a supply chain management process that plans, implements and controls the efficient and effective flow and storage of goods, services and related information between the points of origin and consumption in order to meet customers' requirements.

The main services in logistics sector involve the followings:

(a) Warehousing, storage and inventory management services;

(b) Transportation services;

(c) Freight forwarding/customs clearance and shipping services; and

(d) Integrated Logistics Services.

At the outset, any investor or operator who wishes to operate the above services must incorporate a company under the Companies Act 2016.

A) Warehousing Services

Activities that can be carried out in the warehouses are as follows:

(a) Warehousing;

(b) Bulk breaking;

(c) Re-packaging;

(d) Re-labelling of imported goods;

(e) Consolidation;

(f) Entreport; and

(g) Devending.

A warehouse will be inspected and confirmed that it is fit for occupancy and use and complies with relevant regulations. Firstly, the warehouse operator will have to apply for a warehouse licence appropriate for its intended use from the relevant bodies. A licensed warehouse is a designated area, approved by the Royal Malaysian Customs

("**RMC**") under Section 65 of the Customs Act 1967 ("**CA 1967**"), for storing dutiable goods. There are three types of warehouse licences as follows, depending on the warehousing requirements of the operator:

(a) Ordinary Warehouse Licence;

(b) Public Bonded Warehouse Licence; or

(c) Private Bonded Warehouse Licence,

The following approvals must be obtained prior to the application to the Local Authority (for Ordinary Warehouse) or RMC (for Public and Private Bonded Warehouse)[1]:

(a) Approval from Department of Environment when operators store hazardous goods;

(b) Approval from Fire and Rescue Department and other agencies such as Sewerage Certifying Agency and Water Authority to ensure that the premise is equipped with adequate fire extinguishers and safety alarm systems; and

(c) Certificate of Completion and Compliance from the Local Authority to acknowledge that the building is safe for occupation.

Public Bonded Warehouses operates as a central storage for the distribution of bonded goods (i.e. goods on which Customs duties and taxes have not been paid) in the country and for international trade, catering for the general public. The following conditions must be complied with:-

Category of Goods	Minimum Warehouse Space (square feet)	Minimum Paid-up Capital (RM)	Minimum Value of Goods Warehoused
Critical Goods	50,000	1,000,000	NA
Non-Critical Goods	20,000	250,000	NA

Private Bonded Warehouses is a central storage and distribution centre for bonded goods of the companies and its related companies. The following conditions must be complied with: -

Category of Goods	Minimum Warehouse Space (square feet)	Minimum Paid-up Capital (RM)	Minimum Value of Goods Warehoused
Critical Goods	NA	150,000	5,000,000
Non-Critical Goods	NA	100,000	2,000,000

It should be noted that for Public or Private Bonded Warehouse, a bank guarantee shall be furnished to cover 10% from the total monthly average of the estimated custom duties or tax payable per year on the goods[2].

Equity Policy

Ordinary Warehouse	There is no equity condition imposed by the RMC. Investors only need to obtain licence from the local authority.
Public Bonded Warehouse	A company must have at least 30% Bumiputera equity.
Private Bonded Warehouse	There is no equity condition imposed by the RMC.

B) Transportation Services

Based on Section 14 of the Commercial Vehicles Licensing Board Act 1987 ("**CVLBA 1987**"), to provide transportation services, two types of licence are available:

(a) Carrier Licence A - to provide transportation services to third parties using commercial vehicles; and

(b) Carrier Licence C - to provide services for their own use.

Both licences above must be obtained from the Road Transport Department ("**JPJ**") (for operators in Peninsular Malaysia) and Commercial Vehicles Licensing Board (for operators in Sabah and Sarawak).

Equity Policy

Licence A	The company must have at least 51% Malaysian equity (including 30% Bumiputera equity) and up to 49% foreign equity ownership is allowed. The approval will be subject to the decision of the Licensing Committee. For courier services providers, up to 100% foreign equity ownership is allowed.
Licence C	Up to 100% foreign equity ownership is allowed.

C) Freight Forwarding/Customs Clearance and Shipping Services

For a company to qualify for a Freight Forwarding Agents/Customs Agent Licence, it must first obtain an International Integrated Logistics Services (IILS) status from MIDA3 before it can acquire the relevant licences from the RMC in accordance with Section 90 of the CA 1967.

The paid-up capital requirements for different categories of Freight Forwarding Agents/Customs Agents and Shipping Agents are as follows:

	Paid-up Capital	Approval Period for New Application
Companies Registered Under Companies Act 2016	Not less than RM100,000.00	1 year (renewable)
Companies Registered Under Registration of Businesses Act 1956	RM50,000.00	1 year (renewable)

Equity Policy[4]

Forwarding Agent	at least 51% Bumiputera participation on share capital, management and employees.
Shipping Agent	at least 30% Bumiputera participation on share capital, management and employees.

D) Integrated Logistics Services ("ILS")

The main activities in the ILS are as follows:

(a) freight forwarding;

(b) warehousing;

(c) transportation; and

(d) other related value-added services such as distribution, procurement and supply chain management in an integrated basis.

Companies intending to undertake ILS activities are required to obtain the respective operating licences from the various licensing agencies as mentioned above. Also, companies undertaking ILS may apply to the Ministry of International Trade and Industry ("**MITI**") for Pioneer Status ("**PS**") or Investment Tax Allowance ("**ITA**").

Tax Incentives

The incentives under the Promotion of Investments Act 1986 ("PIA 1986") are as follows:

Pioneer Status	Tax exemption of 70% of the statutory income for a period of five years under the PIA 1986.
Investment Tax Allowance	ITA of 60% on the qualifying capital expenditure incurred within a period of five years. The allowance can be offset against 70% of the statutory income for each year of assessment. Unutilised allowances can be carried forward to subsequent years until fully utilised.

The eligibility criteria for ILS tax incentives are as follows:

(i) company that is incorporated under the Companies Act 2016;

(ii) at least 60% of its equity is held by Malaysians;

(iii) undertake three principal activities including warehousing, transportation and freight forwarding and undertake at least one of the following activities:

(a) distribution;

(b) other related and value-added services (e.g. palletising, product assembly/installation, bulk breaking, consolidation, packaging/re-packaging, procurement, quality control, labelling/re-labelling, testing, etc); or

(c) supply chain management; and

(iv) manage at least 20 units of commercial vehicles and 5,000 m2 of warehouse space.

Development of Electronic-commerce ("E-commerce")

The E-commerce system is gaining popularity in Malaysia and other Southeast Asia countries. BMI Research in 2018 reported that these ASEAN countries would set to contribute an estimated of USD64.8 billion (RM257.9 billion) in 2021 from online shopping market activity, a giant leap from USD37.7 billion recorded in 2017. Malaysia's share of total online retail sales was at 2.7%, positioning Malaysia second in the region.[5]

Section 2(1) of the Consumer Protection Act 1999 was amended in 2007 to include "any trade transactions conducted through electronic means". Plus, the Consumer Protection (Electronic Trade Transactions) Regulations 2012 was enacted to further strengthen the protection of e-consumers. This illustrates that the development of e-commerce has been influential.

The logistics industries are also positively affected by the growth of e-commerce where the logistics industries incorporate new methods to stay on par with the demands of e-commerce. This would include the formation of seamless fulfilment hubs by logistics companies.

For example, Zalora formed an operations hub in Malaysia by consolidating its fulfilment operations from six other countries.[6] Also, the Digital Free Trade Zone ("**DFTZ**") was launched under MITI in 2017 to facilitate seamless cross-border trade and enable local businesses to export their goods with a priority for e-commerce.

The e-Fulfilment Hub under DFTZ will be developed over two phases where the first phase will be at the Kuala Lumpur Airport Cargo Terminal operated by POS Malaysia to serve Lazada amongst other e-commerce players.[7] The facility is currently in operation and it will be expanded to support other e-commerce and logistics operators. The second phase will involve a 60-acre plot to be jointly developed by Malaysia Airports and CAINIAO Network, the logistics arm of Alibaba.

Given the rapid growth of e-commerce, the customer-to-customer segment is also flourishing as more individuals begin selling goods on social media.[8] Using social media as a platform, people are easier to conduct online business given its almost-free set up cost as compared to the larger e-commerce platforms. As such, logistics business must be ready to expand their services to delivery pick-up from homes. The digitization and automation within the supply chain should also be leveraged by the logistics players.

Conclusion

The regulatory framework on logistic industries such as the CA 1967 and the CVLBA 1987 is comprehensive. By virtue of these Acts, logistics providers shall generally obtain the approval from the relevant bodies like RMC and JPJ. The rapid growth of e-commerce also sees the innovations in logistics industries by way of fulfilment hubs and online businesses. However, there are ongoing challenges faced by logistics providers. For example, the logistics players experience difficulties with customs clearance due to lack of standard procedures practised by the customs officer at different ports and the huge delays resulted from the ever-changing customs orders and procedures without prior notification. Hence, the logistics providers shall always check the procedures and stay updated with any changes.

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1 https://www.mida.gov.my/home/administrator/system_files/modules/photo/uploads/20191220163458_BOOKLET%204%20LOGISTICS%20SERVICES.pdf pages 2 and 3

2 http://www.customs.gov.my/en/ip/Pages/ip_gl.aspx

3 https://www.mida.gov.my/home/administrator/system_files/modules/photo/uploads/20191220163458_BOOKLET%204%20LOGISTICS%20SERVICES.pdf page 7

4 http://www.customs.gov.my/en/pg/Pages/pg_cag.aspx

5 https://www.mida.gov.my/home/e-commerce:-a-game-changer-for-logistics-industry-in-malaysia/posts/

6 ibid

7 https://www.miti.gov.my/miti/resources/Media%20Release/Fact_Sheet_DFTZ_at_Malaysia_Digital_Economy_2018_SME_Fact_Sheet.pdf

8 https://www.thestar.com.my/business/business-news/2020/04/04/logistics-weathering-through-the-mco

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