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SURUHANJAYA PERSAINGAN MALAYSIA

MALAYSIA COMPETITION COMMISSION

Ipsos Draft Final Report: Market Review under the Competition Act 2010 for Selected Transportation Sectors in Malaysia

(Port Logistics Ecosystem & Motor Vehicle Warranty)

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Prepared by Ipsos Strategy3

for Malaysia Competition Commission (MyCC)

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CHAPTER 1: INTRODUCTION

1 Project background and introduction

Section 11(1) of the Competition Act 2010 lays the foundation for the Malaysia Competition Commission (hereinafter "**MyCC**") to conduct a review into any market in order to determine whether any feature or combination of the features of the market prevents, restricts or distorts competition in the market.

Competition law and policy are primarily concerned with providing an environment for competitive economic and commercial activities that foster greater efficiencies in the economy. Competition law intends to prevent anti-competitive conducts and practices such as monopoly, formation of cartels and abuse of dominant position by businesses that tend to drive up prices of goods / services, deprive consumers of choice and negatively affecting consumer welfare.

The transportation and storage services, freight transport by road and automotive sector are enablers for Malaysia's continuous growth in providing good connectivity and accessibility. By offering high quality and highly efficient transport systems, this allow for better movement flow of goods / cargo, which would result in an effective and highly functional supply value chain for key economic activities thrive in.

Subsequently, a reliable supply value chain will form the bedrock for Malaysia to realise the vision of becoming a developed nation, as businesses will be able scale competitively and raise their standards to compete globally.

On top of that, due to the unprecedented effects of market distortion and continuous competition concerns arising within the industry, the Malaysia Commission had decided to conduct the market review in port logistics and transportation and warranty claims on motor vehicles (automotive sector) to provide detailed policy solutions for addressing persistent structural shortcomings in the logistics sector.

As such, the government's main agenda to provide safe, reliable, affordable and sustainable transport services will translate towards an ecosystem that supports competitive business and effective economic environment.

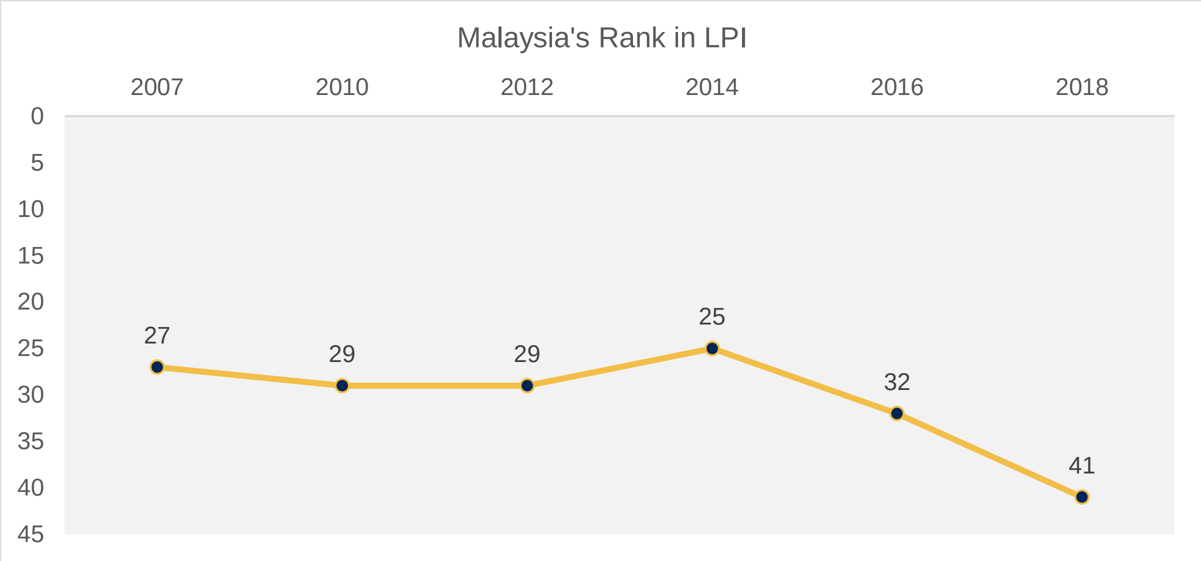
1.1 Impetus for a market review

Southeast Asia is among the fastest growing regions in the world. This is due to the benefit of several economic models such as direct foreign investment, international trade and integration into value chains, both regionally and globally. Within Southeast Asia, Malaysia is one of the top regional performers.

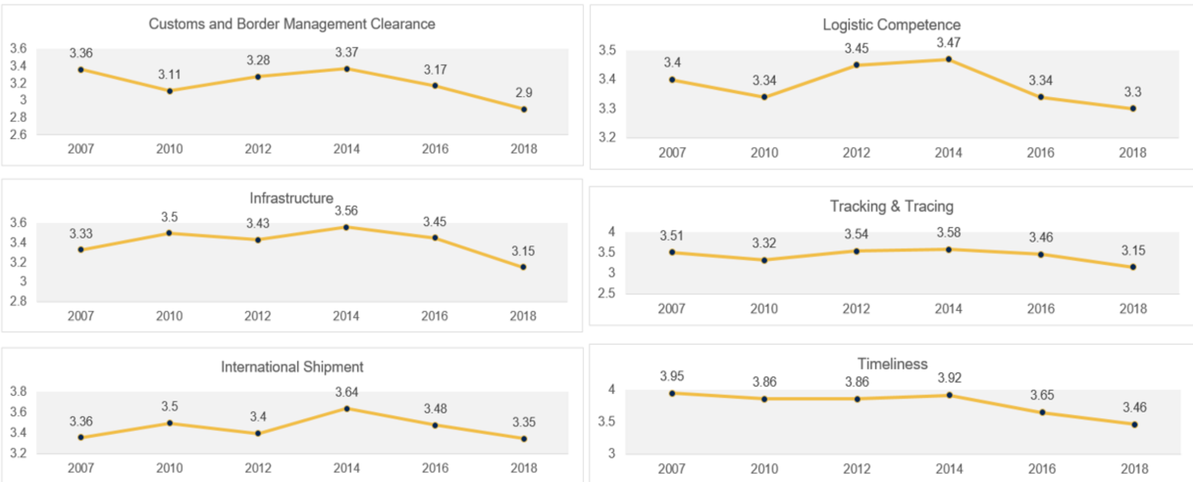
Malaysia's economy is heavily dependent on the performance of its export. In 2019, exports accounted for 66% of its GDP. For Malaysia to thrive, the logistics and transportation sector plays a significant role in supporting the country's development.

Apart from its large contribution to GDP, a well-developed logistics network impacts upon most economic activities. It improves Malaysia's competitiveness by facilitating international trade, integration with global value chains, and enhance connectivity to better serve consumers.

On a global landscape, Malaysia ranked 41 out of 160 countries in the World Bank's Logistics Performance Index ("**LPI**") in 2018, which marked a continuous decline as compared to previous rankings since its inception in 2007.



Source: World Bank



Source: World Bank

The LPI measured countries through six (6) key indicators of trade. Malaysia's performance in each of the indicators have been slipping in recent years. For comparison purposes, within the Southeast Asia region, it was observed that both Thailand and Viet Nam have improved tremendously and is ascending the ranks quicker than Malaysia.

Compared to other countries in ASEAN, Malaysia's worst performance was indicated to be timeliness, which means that shipments tend not to reach destination within the scheduled or expected delivery time. This suggest that port congestions / delays could be an issue of concern within Malaysian ports. In World Bank's Doing Business Index, Malaysia scored 88.5 out of 100 on trading across borders score, which ranked Malaysia at 49 out of 188[1]. This shows that there is indeed a lot of room for improvement.

Source: World Bank

In order to develop an efficient logistics system, certain reforms will be required, such as reducing regulatory barriers to facilitate market entry, foster competition, innovation, productivity and efficiency. The government's aspirations to strengthen the continued growth and development of the transportation and logistics sector have been encapsulated in numerous national policies including among others, the 11th Malaysia Plan, Logistics and Trade Facilitation Masterplan (2015 – 2020), and National Transport Policy 2019 – 2030. Infrastructure development, strengthening of institutional and regulatory framework, and enhancement of trade facilitation mechanism are among some of the notable strategic items that the government has sought to address.

Against this backdrop, MyCC's market review in port logistics and transportation and warranty claims on motor vehicles (automotive sector) becomes imperative to uncover any issues that may be holding back the growth of the industry.

[1] World Bank (2020) Doing Business Index, Trading across Borders

Additionally – based on initial findings – which included multiple in-depth interviews with key stakeholders and two focus group discussions ("**FGDs**") held in September 2020 – multiple key prevailing issues and concerns were identified. These issues and concerns gathered primarily revolved around inefficiencies in port infrastructure, a lack of coordination among authorities, exorbitant and unjustified port charges / fees, as well as restricted warranty claims in motor vehicles.

Due to the nature of these issues and concerns, they come in the form of regulatory and competitive concerns, as well as issues that could prevent a nation's business ecosystem from thriving. Tentatively, these preliminary issues and concerns are spread out across the entire port logistics supply chain and involve various stakeholders at each level of the supply chain.

These stakeholders include shippers (consignees and consignors), shipping lines, port authorities, port operators, depot operators, warehousing, freight forwarders and hauliers – and their unified goal is to transport / deliver goods from consignor to consignee (or from exporter to importer's warehouse).

At the same time, restricted warranty claims in motor vehicles could further aggravate the ease of doing business, especially among the freight forwarding and logistics players that handle land transportations. According to Malaysia Automotive Association ("**MAA**"), motor vehicles (land transportation) can be defined as passenger vehicles ("**PV**") and commercial vehicles ("**CV**").[2]Further, Motor Vehicles includes all vehicle categories (L, M, N and O) in accordance with MS 1822, which is a classification and definition of power-driven vehicles and trailers under Standards Malaysia.

Considering commercial vehicles, i.e. prime movers and trucks, are used as modes of transport in the ports logistics supply chain, and passenger vehicles directly impact Malaysians' daily commute, it is imperative to ensure a holistic assessment of the warranty claims in motor vehicles (PV and CV), to analyse, understand and validate the aforementioned prevailing issues and concerns.

Based on the above concerns, there is a need to validate these issues, and at the same time, assess the prevailing industry's practices and identify if there are potential regulations that restrict competition and cause unnecessary regulatory burden.

Thus, MyCC is committed to pursuing policies that encourage sustainability and efficiency of the sector in a conducive and competitive environment. In view of this, a study on selected areas of the (1) transportation and storage services at port covering the process of importation and exportation of the goods; and (2) automotive sector focusing on warranty related to passenger and commercial vehicles.

These two sectors are essential in preparing the policy thrusts and strategies that will affirm an enhancement to the sector's competitiveness, which ultimately could cut down the cost of doing business and consequently would be able to partially address the important instrument in cost-of-living issues.

[2] Maa.org.my. (2019). Retrieved 7 October 2020, from http://www.maa.org.my/pdf/Market_Review_2019.pdf.

1.1.1 Transportation and storage services

According to the Department of Statistic Malaysia's ("**DOSM**") Annual Economic Statistics 2018,[3] the transportation and storage services include five core business activities, which are:

1. Warehousing and support activities;
2. Land transport;
3. Water transport;
4. Air transport; and
5. Post and courier.

However, for the purpose of this market review, which is based on the preliminary issues and concerns gathered, the key focus areas within DOSM's Annual Economic Survey 2018 will include the (1) Warehousing and support activities; and (2) Land transport. Both its services and business activities are further segmented below:[4]

Table 1-1: Services and business activities in transportation and storage services

Services	Definition
Land transport	
Freight transport by road (MSIC: 49230)	Refer to services of establishments which provide local and long-distance trucking, transfer and draying services, whether scheduled or not. This includes operation of terminal for handling of freight, delivery services, baggage transfer services, furniture moving services, animal transport services and rental of trucks with drivers. These establishments have been issued with public carriage permits by the Land Public Transport Agency.
Warehousing and support activities	
Storage & warehousing (MSIC: 52100)	Refer to services related to storage facilities for all kinds of goods in grain elevator, general merchandise warehouse, refrigerated warehouse etc. Included are warehousing of furniture, automobiles, lumber, gas and oil, textiles, food and agricultural product etc. as well as storage of goods in foreign trade zones.
Port operations (MSIC: 52221)	Refer to services related to waterway lock operation, traffic control activities, navigation pilotage, berthing activities and lighterage.

[3] Department of Statistics Malaysia Official Portal. (2020). Retrieved 7 October 2020, from https://www.dosm.gov.my/v1/index.php?r=column/cthemeByCat&cat=325&bul_id=YmcwWlV5YmZpK2lYOEtoODc3MDNJQT09&menu_id=b0pIV1E3RW40VWRTUkZocEhyZ1pLUT09
[4] Department of Statistics Malaysia. (2019). *Statistik Ekonomi Tahunan 2018* [Ebook] (p. 25).

Cargo handling / stevedoring (MSIC: 52241)	Refer to services of establishments which provide loading and unloading of goods or passenger luggage irrespective of the mode of sea-going transport used for transportation and stevedoring services.
Other cargo handling activities n.e.c. (MSIC: 52249)	Other matters related to cargo handling
Shipping & forwarding agencies (MSIC: 52291)	Refer to freight forwarding and brokerage services (including custom house brokerage); ship brokerage services including ship leasing brokers, packing, crating, inspecting, sampling and weighting services to shippers or shipping organisations; and care of animals pending transport.
Other support activities for transportation (MSIC: 52299)	Refer to the other services from support land transport services. It is included towing and road side assistance, and crane services.

This market review will exclude the following services and business activities within the transportation and storage services.[5]

Table 1-2: Services and business activities excluded

MSIC: 2008	Services / Description
Land transport and transport via pipelines (49)	
49110	Passenger transport by inter-urban railways
49120	Freight rail transport
49211	City bus services
49212	Urban and suburban railway passenger transport service
49221	Express bus services
49222	Employees bus services
49223	School bus services
49224	Taxi operation and limousine services
49225	Rental of cars with driver

[5] Department of Statistics Malaysia. (2019). *Statistik Ekonomi Tahunan 2018* [Ebook].

49229	Other passenger land transport n.e.c.
49300	Transport via pipeline
Water transport (50)	
50111	Operation of excursion, cruise or sightseeing boats
50112	Operation of ferries, water taxis
50113	Rental of pleasure boats with crew for sea and coastal water transport
50121	Transport of freight over seas and coastal waters, whether scheduled or not
50122	Transport by towing or pushing of barges, oil rigs
50211	Transport of passenger via rivers, canals, lakes and other inland waterways
50212	Rental of pleasure boats with crew for inland water transport
50220	Inland freight water transport
Air transport (51)	
51101	Transport of passengers by air over regular routes and on regular schedules
51102	Non-scheduled transport of passenger by air
51103	Renting of air-transport equipment with operator for the purpose of passenger transportation
51201	Transport freight by air over regular routes and on regular schedules
51202	Non-scheduled transport of freight by air
51203	Renting of air-transport equipment with operator for the purpose of freight transportation
Warehousing and support activities for transportation (52)	
52211	Operation of terminal facilities
52212	Towing and road side assistance
52213	Operation of parking facilities for motor vehicle (parking lots)
52214	Highway, bridge and tunnel operation services
52219	Other services activities incidental to land transportation n.e.c.
52222	Vessel salvage and re-floating services
52229	Other services activities incidental to water transportation n.e.c.

52231	Operation of terminal facilities
52232	Airport and air-traffic-control activities
52233	Ground service activities on airfields
52234	Fire-fighting and fire-prevention services at airports
52239	Other service activities incidental to air transportation n.e.c.
52292	Brokerage for ship and aircraft space
Postal and courier activities (53)	
53100	National postal services
53200	Courier activities other than national post activities

1.1.2 Warranty claims on motor vehicles (automotive sector)

Correspondingly, the mode of transport for the purpose of logistics along the port's supply chain can also be defined through motor vehicles. According to Malaysia Automotive Association ("**MAA**"),[6] motor vehicles comprise of passenger vehicles ("**PV**") and commercial vehicles ("**CV**"), and further breakdown of these definitions can be found below:

Table 1-3: MAA's definition of motor vehicles

Passenger vehicles	Commercial vehicles
Passenger cars*	**Prime movers***
Multi-purpose vehicles*	**Trucks***
Four-wheel drive / Sports utility vehicles*	Bus
Window vans	Pick-up
	Panel van

*Included in the scope of market review

For the purpose of this market review, the warranty restriction claims will be assessed for both PV and CV to ensure a comprehensive assessment of prevailing issues and concerns.

[6] Maa.org.my. (2020). Retrieved 7 October 2020, from http://www.maa.org.my/pdf/Market_Review_1st_half_2020.pdf.

The overall automotive industry and related sectors employ around 710,000 people and contributes almost RM30 billion to Malaysia's GDP in 2017.[7] As of today, there are 27 manufacturing and assembly plants in Malaysia producing passenger and commercial vehicles, composite body sports cars, as well as motorcycles and scooters. This sector was supported and affirmed with more than 600 automotive component manufacturers, producing a wide range of components, such as body panels, trim parts, powertrain parts, rubber parts and electrical and electronic parts.

Malaysia Automotive growth is expected to remain moderate for the rest of 2019, with the commercial vehicle segment expected to see better traction driven by growth in foreign direct investments, improvements in bank lending rates and positive growth in the key contributing sectors.[8]

2 Project objectives

The general objective of the study is to understand the market structure and supply chain, as well as identify any anticompetitive conducts in the transportation sub-sectors in Malaysia. It will also provide an opportunity to assess the prevailing industry practices and regulations that restrict competition and cause unnecessary regulatory burden.

The specific objectives of the study are:

a. To determine the market structure, supply chain and profile of industry players that are involved in the up-stream and down-stream level in the selected area in the port logistics and transportation services and warranty restriction claims of motor vehicles;

b. To identify the prices or charges of the selected area in the port logistics and transportation services and warranty restriction claims of motor vehicles across the supply chain which will be treated with highly confidential;

c. To assess the market structure of the related markets in the port logistics and transportation services and warranty restriction claims of motor vehicles;

d. To identify any possible anti-competitive behaviour in the selected area of port logistics and transportation services and warranty restriction claims of motor vehicles;

e. To determine the extent of market distortion by authority's regulations and policies and whether government intervention is necessary in curbing anti-

[7] .: MIDA | Malaysian Investment Development Authority. (2018). Retrieved 7 October 2020, from https://www.mida.gov.my/home/32/pages/

[8] MAHALINGAM, E. (2019). *Moderate auto sector growth seen*. The Star Online. Retrieved 7 October 2020, from https://www.thestar.com.my/business/business-news/2019/06/10/moderate-auto-sector-growth-seen.

competitive conduct in the selected area in the port logistics and transportation services and warranty restriction claims of motor vehicles; and

f. To recommend improvements across government agencies and regulators in the identified sector in order to minimise the actual or potential restrictive effect of regulations on competition.

3 Expected outcomes

The expected outcomes of the market review are as follows:

a. Finding on the assessment of overall market structure, functioning of supply chain, conduct and performance of the transportation sector and competition at different stages of the supply chain in the port logistics ecosystem and warranty restriction claims of motor vehicles;

b. To enhance the Commission’s knowledge on the competition level in the port logistics ecosystem and automotive sector (warranty) in order to strengthen the enforcement activities should the industry players practice any anti-competitive conduct;

c. To identify the possibility of existing legislations and policies that may impede competition; and

d. To recommend measures to promote competition in the port logistics ecosystem and warranty restriction claims of motor vehicles and the areas where the Commission can provide its advocacy to the key stakeholders particularly to the respective government agencies or ministries on the matter.

4 Project approach

We propose a 6-step approach to ensure a holistic assessment of clearly-defined markets to promote competition:

	Context Understanding	Industry Structure Analysis	Market Assessment	Competition Assessment	Benchmarking	Strategic Recommendations
Approach and key activities:	• Understand MyCC's specific needs and issues • Clarify on existing information available • Understand preliminary hypotheses that need to be verified during the study	• Identify and confirm transportation sub-sector for review • Define market structure and supply chain • Identify industry players across the supply chain for each transportation sub-sector • Review legislations and regulations related to transportation services, distribution and import / export	• Profile of key players across each sub-sector's supply chain • Market sizing, share and concentration analysis (CR & HHI) • Competition assessment across the supply chain • Potential vertical / horizontal integration and its impact • Gather and understand prices / charging fees across the supply chain • Assess levels of bargaining power	• Assess industry practices and review regulations that may impede competition • Identify anti-competitive conducts among industry players • Determine extent of market distortion and market dominance (if any)	• Identify latest competition-related development across similar transportation sub-sectors for other countries • Examine potential issues and related rulings / enforcements • Study other countries' recent measures and initiatives that promote healthy competition • Review of issues & initiatives in other countries and lessons to Malaysia • Prices / Charging fees comparison analysis with other countries	• Measures to address anti-competitive conducts by industry players and regulations that impede competition • Improvements across government agencies and regulators • Measures to promote competition and increase efficiency among players • Policy advice from MyCC to relevant government agencies
Methodology:	• Client consultation • Secondary research	• In-depth interviews • Secondary research • Ipsos analysis	• In-depth interviews • Secondary research • Ipsos analysis	• In-depth interviews • Ipsos analysis	• Secondary research • Ipsos analysis	• Expert panel group • Public consultations • Ipsos analysis

5 Project methodology

Our methodology in data gathering and analysis combines insights triangulated from a myriad of sources, from available secondary sources to current, forward looking insights obtained from the ground.

a. Client consultation;
b. Secondary desk research;
c. In-depth interviews;
d. Online survey;
e. Working group discussions and workshops; and
f. Expert panel group and public consultation

6 Abbreviations

6.1 Port logistics and transportation

Abbreviations	Definition
AFFA	ASEAN Federation of Forwarders Associations
AMH	Association of Malaysian Hauliers
AMIM	Association of Marine Industries of Malaysia
APA	ASEAN Ports Association
APAD	Agensi Pengangkutan Awam Darat
BICT	Bintulu International Container Terminal
B/L	Bill of lading
BAF	Bunker Adjustment Factor (a surcharge on shipping charges which may be added on top of basic freight charges to offset price fluctuations in the cost of fuel)
BEO	Block exemption order
BPHB	Bintulu Port Holdings Berhad
CBL	Customs Brokerage Licence
CDO	Container depot operator
CFS	Container freight station
CHC	Container handling charge
CIF	Cost, insurance, freight
CILTM	Chartered Institute of Logistics and Transport Malaysia
CLA	Container Ledger Account
COC	Carrier owned container (the shipping company owns the container that is transporting the goods / cargo)
CRSA	Central Region Shipping Association
CY	Container yard

D&D	Detention & demurrage
DGC	Depot gate charges
DO	Delivery order
DWT	Deadweight tonnage (measurement of how much a ship can carry)
DOSM	Department of Statistics Malaysia
EDI	Electronic Data Interchange
eDO	Electronic delivery order
EPU	Economic Planning Unit
FAF	Fuel adjustment factor
FCL	Full container load
FEU	Forty-foot equivalent units (cargo capacity to describe capacity of container ships and container terminals)
FIATA	International Federation of Freight Forwarders Associations
FMFF	Federation of Malaysian Freight Forwarders
FMM	Federation of Malaysian Manufacturers
FOB	Freight on board
GDP	Gross domestic product
GMP	Good Manufacturing Practices
IAPH	International Association of Ports and Harbours
IMO	International Maritime Organisation
JKDM	Jabatan Kastam Diraja Malaysia
JOFFA	Johor Freight Forwarders Association
KKFAA	Kota Kinabalu Forwarding Agents Association
KPA	Kuching Port Authority
KPDNHEP	Kementerian Perdagangan Dalam Negeri dan Hal Ehwal Pengguna

LC	Letter of credit
LCL	Less than container load
LPJ	Lembaga Pelabuhan Johor (Johor Port Authority)
LFFA	Labuan Freight Forwarders Association
LLPM	Labuan Liberty Port Management
LOLO	Lift-on lift-off
LPKTN	Lembaga Pelabuhan Kuantan (Kuantan Port Authority)
LSS	Low Sulphur Surcharge
MAFFA	Malaysia Freight Forwarders Association
MASA	Malaysian Shipowners' Association
MATRADE	Malaysia External Trade Development Corporation
MCDA	Malaysian Container Depot Association
MGW	Maximum gross weight
MIDA	Malaysian Investment Development Authority
MIFF	Malaysian Institute of Freight Forwarders
MIMA	Maritime Institute of Malaysia
MITI	Ministry of International Trade and Industry
MNSC	Malaysian National Shippers Council
MOSVA	Malaysia Offshore Support Vessels Owners Association
MOT	Ministry of Transport
MPC	Malaysia Productivity Corporation
NBCT	North Butterworth Container Terminal
NCD	Non-cheque deposit
N.E.C.	Not elsewhere classified
NMSAA	North Malaysia Shipping Agents Association

NVOCC	Non-vessel owning common carrier
OGA	Other government agencies
PFFA	Penang Freight Forwarders Association
PKA	Port Klang Authority
PPLB	Persatuan Pengusaha Logistik Bumiputera
PPSB	Penang Port Sdn Bhd
PTP	Port of Tanjung Pelepas
RMCD	Royal Malaysian Customs Department
RMG	Rail mounted gantry
RORO	Roll-on roll-off
RPA	Rajang Port Authority
RTG	Rubber tyre gantry
SABFFLA	Sabah Freight Forwarders & Logistics Association
SAM	Shipping Association Malaysia
SFAA	Sarawak Forwarding Agencies Association
SFFLA	Selangor Freight Forwarders & Logistics Association
SOC	Ship owned container (the container ship owns the actual shipping container)
SOLAS	Safety of Life at Sea
SPA	Sabah Ports Authority
SPPP	Suruhanjaya Pelabuhan Pulau Pinang
SPSB	Sabah Ports Sdn Bhd
SSSA	Sarawak and Sabah Shipowners Association
TEU	Twenty-foot equivalent units (cargo capacity to describe capacity of container ships and container terminals)
THC	Terminal handling charge

UNCTAD	United Nations Conference on Trade and Development
VGM	Verified gross mass (weight of the cargo including dunnage and bracing plus the tare weight of the container carrying a cargo)
WWT	Wind and water tight containers (which may have been fixed using temporary repair methods)

6.2 Motor vehicles warranty claims

Abbreviations	Definition
AAM	Automobile Association Malaysia
AP	Approved permit
APAD	Agensi Pengangkutan Awam Darat
ASEP	Automotive Supplier Excellence Program
BER	Beyond economic repair
CBU	Complete built-up (assembled in a foreign country and are subsequently imported into the local market as a complete, operable vehicle)
CKD	Completely knocked down (assembled at local manufacturing facility)
COE	Centre of Excellence
CV	Commercial vehicles
DOSM	Department of Statistics Malaysia
EEV	Energy efficient vehicle
ELV	End-of-life vehicle
EV	Electric vehicle
EPU	Economic Planning Unit
FAWOAM	Federation of Automobile Workshop Owners Association of Malaysia

FMM MATMIG	Malaysian Automotive Tyre Manufacturers Industry Group
FTSARA	Federal Territory & Selangor Automobile Repairers' Association
GDP	Gross domestic product
GMP	Good Manufacturing Practices
IR 4.0	Industrial Revolution 4.0
JSM	Jabatan Standard Malaysia
JPJ	Jabatan Pengangkutan Jalan (Road Transport Department Malaysia)
KPDNHEP	Kementerian Perdagangan Dalam Negeri dan Hal Ehwal Pengguna
MAA	Malaysian Automotive Association
MAARA	Malaysia Automotive Recyclers Association
MaaS	Mobility as a Service
MARii	Malaysia Automotive Robotics and IoT Institute
MATRADE	Malaysia External Trade Development Corporation
MIDA	Malaysian Investment Development Authority
MIROS	Malaysia Institute of Road Safety Research
MITI	Ministry of International Trade and Industry
ML	Manufacturing license
MOT	Ministry of Transport
MPC	Malaysia Productivity Corporation
MPV	Multi-purpose vehicle
MSP	Multi-sourcing parts
MTA	Malaysian Takaful Association
MVA	Motor vehicle accident
NAP	National Automotive Policy

NCD / NCB	No claims discount / No claims bonus
N.E.C.	Not elsewhere classified
NxGV	Next Generation Vehicle
OD Claims	Own damage claims
OE	Original equipment
OEM	Original equipment manufacturer
OES	Original equipment supplier
OGA	Other government agencies
PARS	PIAM Approved Repairers Scheme
PAWOA	Perak Automobile Workshop Owners' Association
PEKEMA	Persatuan Pengimport & Peniaga Kenderaan Melayu Malaysia
PIAM	Persatuan Insuran Am Malaysia (General Insurance Association of Malaysia)
PMVWOA	Penang Motor Vehicles Workshop Owners' Association
PPIBM	Persatuan Pengusaha Industri-industri Bengkel Malaysia
PUSPAKOM	Pusat Pemeriksaan Kenderaan Berkomputer
PV	Passenger vehicles
Recon	Reconditioned
SCL	Supplier Competitiveness Level
SIRIM Berhad	Standard and Industrial Research Institute of Malaysia *(formerly known)*
SUV	Sports utility vehicle
TIV	Total industry volume
TPPD Claims	Third Party Property Damage Claims
TPV	Total production volume
TRMAM	Tyre Retreading Manufacturers Association of Malaysia

VGR	Vehicle group ratings
VTA	Vehicle type approval

Part A: PORT LOGISTICS ECOSYSTEM IN MALAYSIA

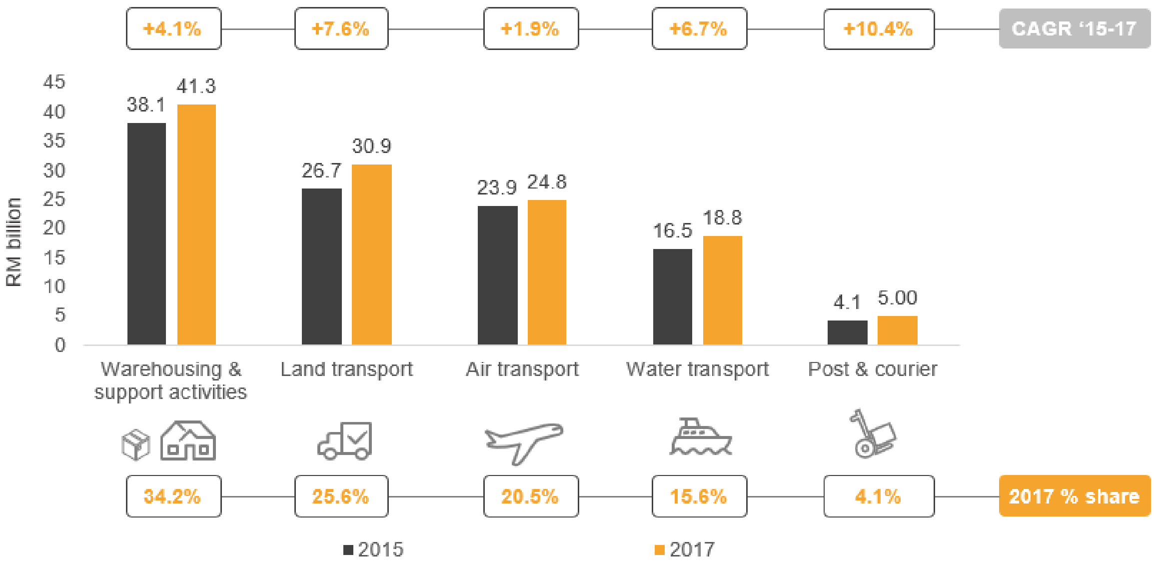
CHAPTER 2: INDUSTRY OVERVIEW OF PORT LOGISTICS ECOSYSTEM IN MALAYSIA

7 Industry overview of port logistics and transportation

7.1 Value of gross output

In the period of 2015 to 2017, the gross output value of transportation and storage services registered a 5.1% growth, from RM109.2 billion to RM120.7 billion. Warehousing and support activities were the largest contributor of gross value output with RM41.3 billion (34.2%) during the year 2017. This was followed by land transport and air transport with contributions of RM30.9 billion (25.6%) and RM24.8 billion (20.5%) respectively. Combining these three services together, they represent a majority of 80.3% share of the gross value output in the transportation and storage services.

Figure 7-1: Value of gross output for transportation and storage services by activities (RM billion)

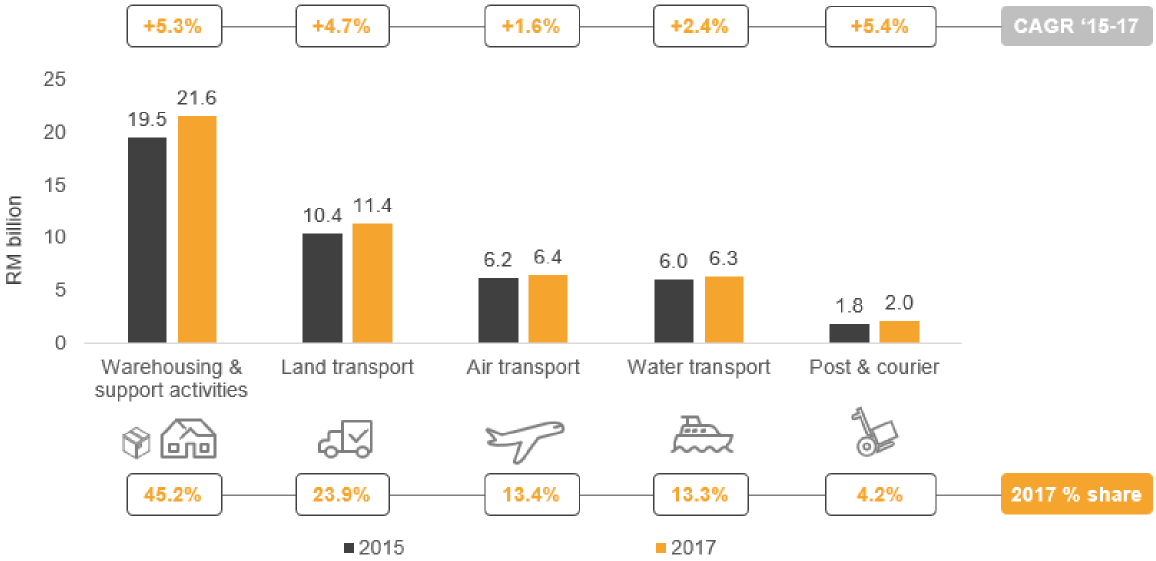


Source: Annual Economic Survey 2018 (DOSM)

7.2 Total value-added

Correspondingly, the total value-added recorded transportation and storage services for 2017 was RM47.7 billion, and the warehousing and support activities again recorded the highest value added in 2017 (RM21.6 billion). Similar to gross output value, the order of contributions remained the same (land transport; air transport; water transport and post & courier). In comparison with the warehousing & support activities services posted the highest value-added increment of RM2.1 billion with an annual growth rate of 5.3% for the period 2015 to 2017.

Figure 7-2: Value of gross output for transportation and storage services by activities (RM billion)

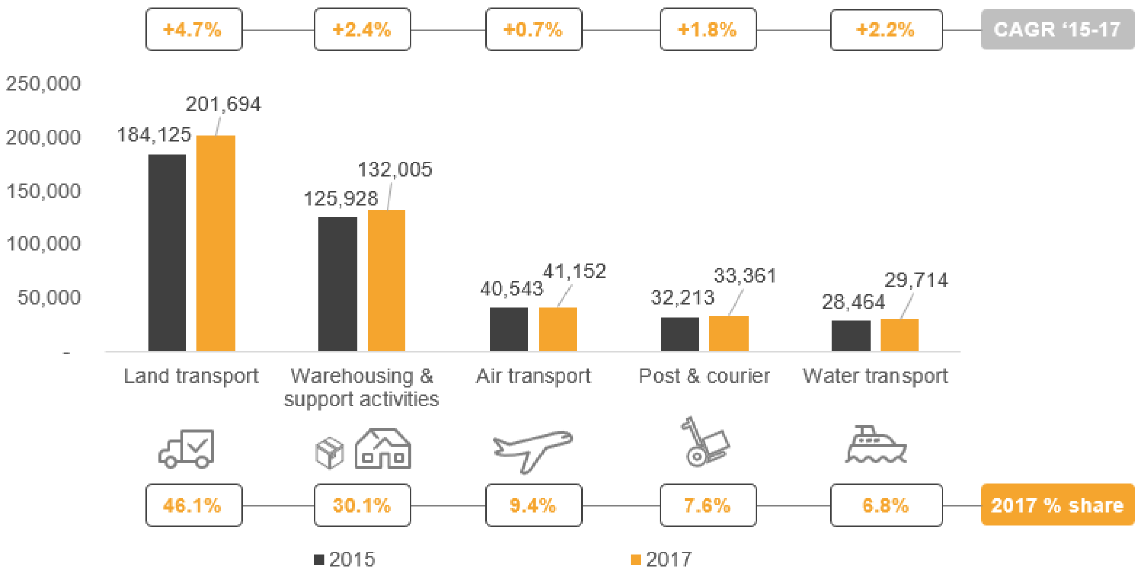


Source: Annual Economic Survey 2018 (DOSM)

7.3 Number of persons engaged

Land transport recorded the highest number of persons engaged, with 201,694 employed during 2017 (with a 46.1% share). The second largest contributor was warehousing and support activities with 132,005 persons in 2017 (30.1% share) followed by air transport (41,152 persons). These three activities would collectively contribute 85.6% share of total persons engaged in the transportation and storage services in 2017.

Figure 7-3: Number of persons engaged for transportation and storage services by activities

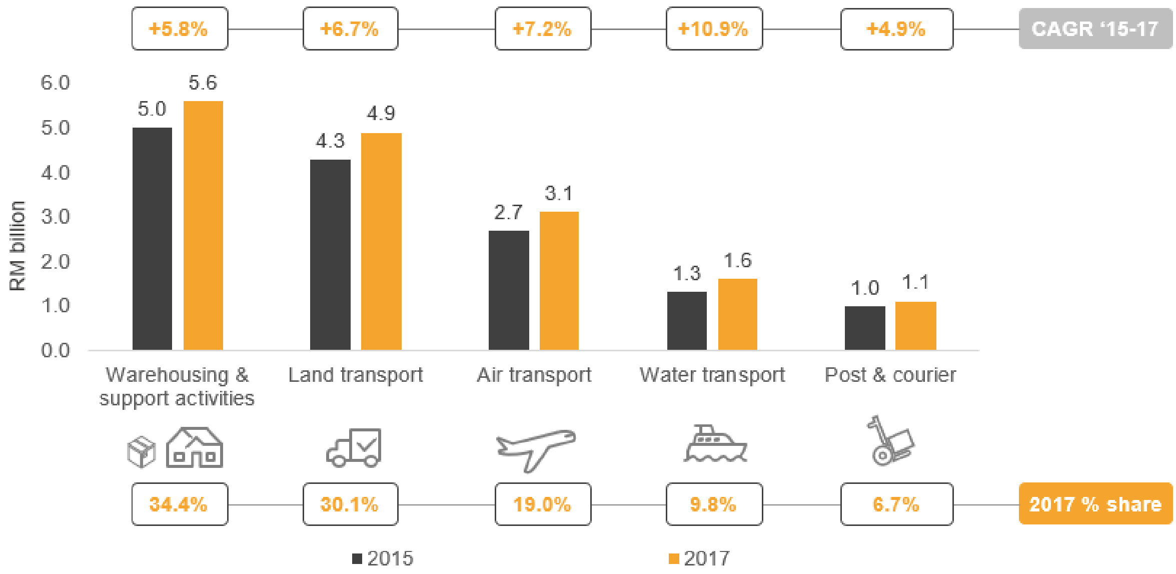


Source: Annual Economic Survey 2018 (DOSM)

7.4 Salaries and wages

The total salaries and wages paid in the transportation and storage services in 2017 amounted to RM16.2 billion. Warehousing and storage services recorded the highest salaries and wages of RM5.6 billion (34.2% share), while the second highest paid activity was land transport (RM4.9 billion). This was followed by air transport with RM3.1 billion (19.1% share), and collectively, all these three services registered a total of RM13.6 billion of salaries and wages paid in 2017. On average, salaries and wages received by employees in the transportation and storage services were RM3,487 monthly.

Figure 7-4: Salaries and wages for transportation and storage services by activities (RM billion)

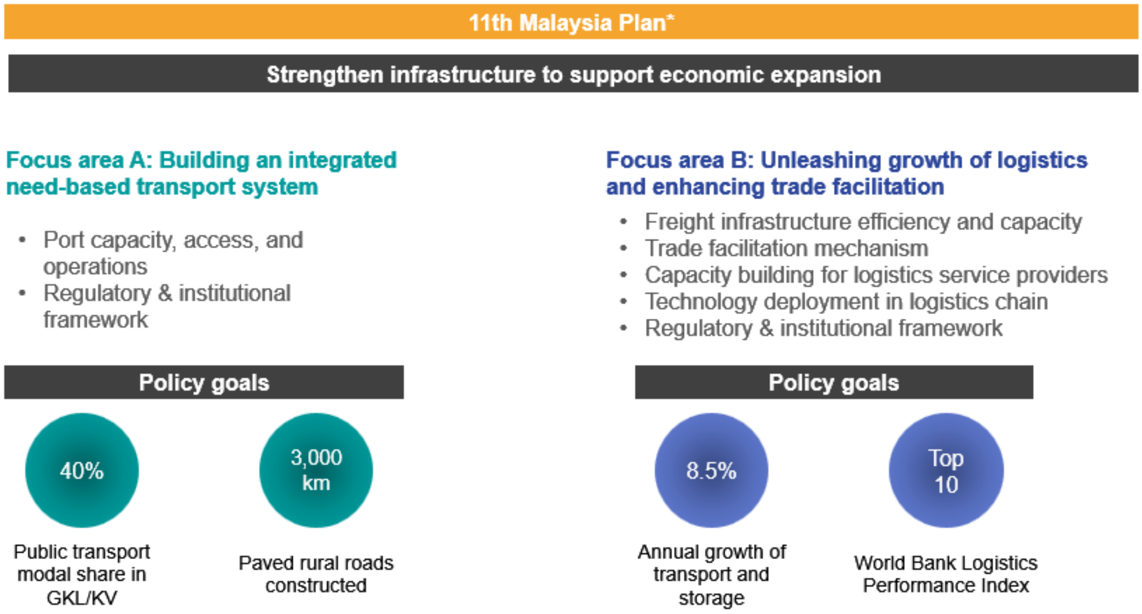


Source: Annual Economic Survey 2018 (DOSM)

7.5 National policies on the port logistics sector in Malaysia

7.5.1 11th Malaysia Plan ("RMK11")

The 11th Malaysia Plan highlights key pillars of national aspirations, one of the pillars is to strengthen infrastructure to support economic expansion. The RMK11 also reviewed the achievements of its predecessor, the 10th Malaysia Plan—Notably, two ports in Malaysia ranked in the top 20 of the World's Container Port rankings by cargo volume. Port Klang and Port of Tanjung Pelepas ranked 12th and 18th respectively in the aforementioned ranking.



** - Non-exhaustive*
Source: 11th Malaysia Plan ; Ipsos analysis

Under the infrastructure pillar, one of the focus areas is to build an integrated need-based transport system, through among others, expanding port capacity, access, and operations. A National Port Policy is expected to be implemented under this focus area, where systemic development of ports and jetties are to be carried out with the aim of improving the competitiveness of the national logistics chain.

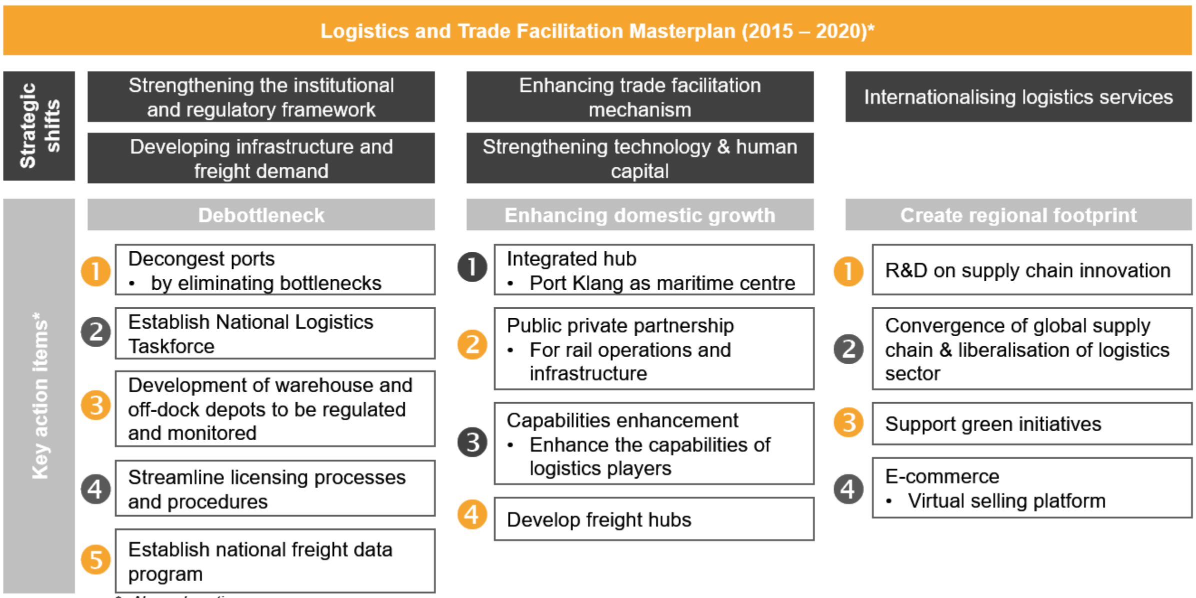
Further, a port community system will be established to facilitate information sharing between ports and private stakeholders including custom agents and other logistics players. The system is expected to act as the single source of interaction for the management, optimisation, and automation of logistic processes. Further, port competitiveness will be improved via activities to improve port accessibility, which may include expansion of capacity via the construction of extra berths and channel deepening works.

On the other hand, several key strategies have been put into place to unleash the growth of logistics and to enhance trade facilitation. Through the National Logistics Task Force, the logistics industry will be promoted and developed. Functions such as off-dock depots and warehousing will be regulated under the strengthened regulatory framework as well. To facilitate trade, the cargo clearance process will be expedited through collaborative efforts between the Royal Department of Customs and permit issuing agencies. The move towards paperless trading via the implementation of u-Customs is also anticipated to contribute to trade facilitation. Capacity building activities which include training and accreditation programmes will also be provided to logistics service providers.

7.5.2 Logistics and Trade Facilitation Masterplan (2015 – 2020) (“Masterplan”)

The Masterplan was developed by the Economic Planning Unit in 2015 with the strategic goal of positioning Malaysia as the preferred logistics gateway to Asia through five strategic shifts; i) Strengthening the institutional and regulatory framework; ii) Enhancing trade facilitation mechanism; iii) Developing infrastructure and freight demand; iv) Strengthening technology and human capital; and v) Internationalising logistics services.

Key action items have been iterated under each of the five strategic shifts, which have the effect of debottlenecking of the logistics industry, subsequently enhancing domestic growth and facilitate the creation of regional footprint. Driven by the five strategic shifts and the corresponding twenty-one action items, the Masterplan seeks to enhance the productivity and competitiveness of the logistics industry in Malaysia, and the recommendations within the Masterplan were integrated into the 11th Malaysia Plan to facilitate effective implementation of the Masterplan.



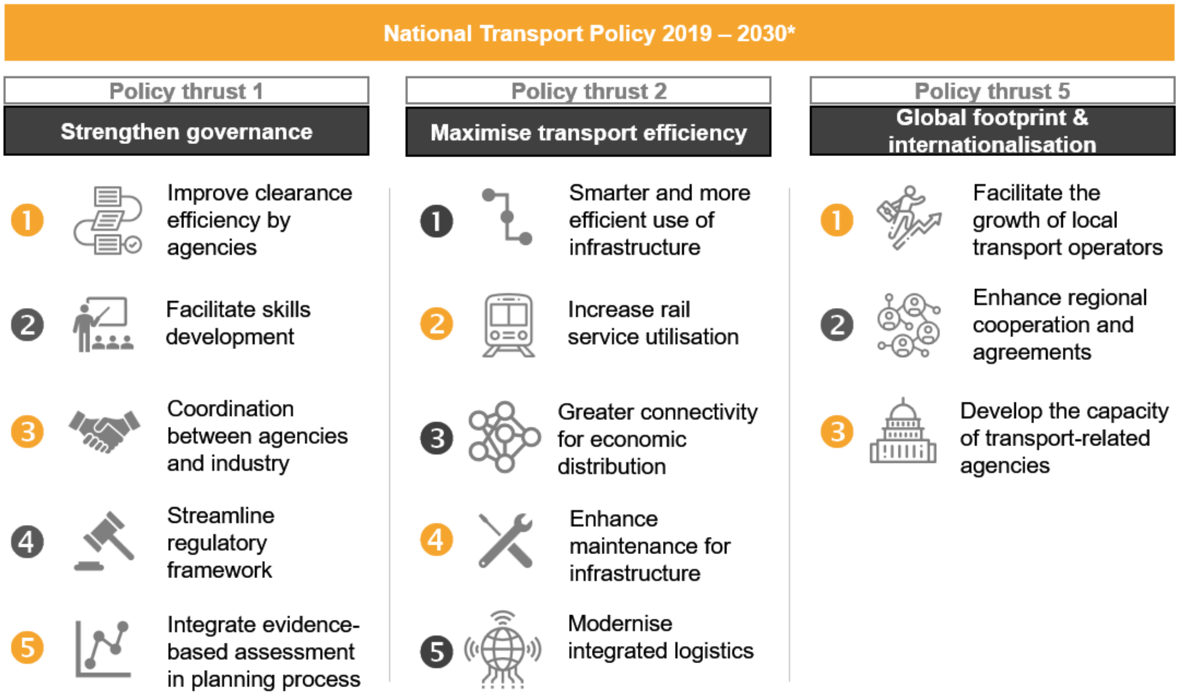
** - Non-exhaustive*
Source: Logistics and Trade Facilitation Masterplan (2015 – 2020); Ipsos analysis

The first strategic shift is to strengthen the institutional and regulatory framework, which will in turn reduce inefficiencies and redundancies in institutional structure and regulation framework. The second strategic shift points to enhancing trade facilitation mechanisms, which seeks to increase trade efficiency through improving the cargo clearance system, paperless trading, and trade documentation. Subsequently, the third strategic shift involves the development of infrastructure and freight demand. Cargo volume is to be consolidated through a well-defined ‘hub and spoke’ system, which will in turn enhance connectivity and optimise infrastructure usage.

The fourth strategic shift points to the strengthening of technology and human capital, which focuses on the talent development effort within the logistics industry. Lastly, the fifth strategic shift aims to internationalise logistics services through strengthening the internal capabilities and external readiness of logistics players, ensuring that they are competitive on a global level.

7.5.3 National Transport Policy 2019 – 2030 ("NTP")

The NTP has been developed to further the policy objective of promoting a sustainable transportation system that supports the economic growth of the country as well as enhancing the social inclusivity and accessibility for the people. Five policy thrusts and twenty-three strategies have been put in place to further the policy objective of the NTP.



** - Non-exhaustive*
Source: National Transport Policy 2019 – 2030; Ipsos analysis

Policy thrust 1, 2, and 5 are the key thrusts that relate to this market review. Particularly, policy thrust 1 entails several key action items in relation to governance of the transport sector such as measures to strengthen the federal-state coordination via National Transport Council. In addition, the first thrust of the NTP also entails the streamlining of non-tariff measures for imports and exports. Procedures and processes such as custom procedures are expected to be simplified to facilitate cargo movement as well as to encourage multimodal freight movement.

On the other hand, policy thrust 2 seeks to maximise the efficiency of transport infrastructure, services, and networks through optimisation, building, and maintenance activities. Key action items under this thrust mainly features the integration and enhancement of road-rail-port connectivity, preventative maintenance and best practices for maintenance in relation to transport infrastructure, and the possible digitalisation of the transportation sector.

Policy thrust 5 emphasises on the expansion of global footprint as well as the promotion of the internalisation of transport services. Notable key action items under this thrust includes capacity development for agencies and institutions related to the transportation sector. In addition, provisions have also been made to develop the standards for industry readiness of transport industry players for the international market.

7.5.4 Malaysia Shipping Masterplan 2017 – 2022 ("MSMP")

The MSMP aims to revitalize the shipping industry as a mean to strengthen the economy. The five-year plan aims to enhance the country's market share in the maritime transport and shipping service sector through enhancing its domestic, regional, and global maritime transport and shipping activities. Five focus areas have been highlighted in the MSMP, collectively they will rejuvenate and strengthen the shipping industry in Malaysia. The focus areas range from promoting employment to facilitating access to finance and ensuring innovation and sustainable growth of the maritime ancillary services.

Malaysia Shipping Masterplan 2017 – 2022*

Five Focus Areas

1. Promote the employment of Malaysian ships
2. Promote the employment of Malaysian maritime personnel including seafarers
3. Facilitate access to financing
4. Enhance Malaysia's attractiveness to shipping businesses
5. Promote innovation and sustainability of maritime ancillary services

Opportunities Beyond 2020

Imports / Exports
- Manufacturing
- Oil & Gas
- Agriculture
- Commodities

Maritime Transport Service Sector
- Malaysia Registered Ship-Owning, Managing & Operating Companies

Ancillary & Support Industry
- Shipbuilding & Repair
- Maritime Association, Legal, Security, Education
- Others – Ports, Insurance, Ship finance, salvage, etc.

Authority & Regulatory
- MoT
- MoF
- MITI
- MIDA
- Others.

** - Non-exhaustive*
Source: Malaysia Shipping Masterplan 2017-2022; Ipsos analysis

The MSMP also highlighted a series of long-term opportunities, which leverages on the ancillary and support industry to the shipping industry to secure indirect employment revenue beyond the direct employment revenue derive from the maritime transport service sector.

7.5.5 National Land Public Transport Master Plan ("NLPTMP")

The NLPTMP aims to deliver an impactful land public transport transformation, which will drive Malaysia to become an inclusive high-income nation through sustainable growth. The land public transport transformation is anchored on five strategic imperatives and five strategic objectives.

National Land Public Transport Master Plan*

Strategic Imperatives

1. Enhance connectivity of land transport
2. Enhance affordability and accessibility of public transport services
3. Enhance service level and convenience
4. Enhance safety level
5. Reduce congestion & pollution; Encourage cycling and walking for first/last mile

Strategic Objectives

① Physical connectivity
② Affordable and accessible
③ Convenient, quality service
④ Safety
⑤ Quality of life

** - Non-exhaustive*
Source: National Land Public Transport Master Plan; Ipsos analysis

There are five strategic imperatives outlined under the NLPTMP. Strategic imperative 1 aims at enhancing connectivity of land public transport through increasing public transport capacity. Example of initiatives that align with this imperative include the Klang Valley MRT project, Bus Rapid Transit (BRT) lines, expansion of the coverage of the Monorail line and the LRT lines, and others.

Some of the 5 strategic imperatives include the enhancement of safety level and service level, which may be achieved through measures relating to licensing, driver training, inspection of vehicle for roadworthiness, review of regulatory requirements, and public transport efficiency. The five strategic objectives of the NLPTMP largely echo the principle that land public transport needs to be affordable, accessible, convenient, quality, safe and secure, and well-connected.

7.5.6 National e-Commerce Strategic Roadmap ("NESR")

The NESR aims to drive the e-Commerce growth in Malaysia through six thrust areas encompassing the entire e-Commerce value chain. The first and second thrusts point to the acceleration of e-commerce and B2B e-procurement adoption rate respectively. The third thrust focuses on the lifting of non-tariff barriers along the value chain, which may range from increasing adoption of e-Payments in Malaysia, to the increase of maturity level in the domestic e-fulfilment sector. The remaining thrusts work on the realignment of existing economic incentives within the ecosystem to leverage on the potential multiplier benefits, strategic investment to key operators along the value chain, and assisting Malaysian companies to compete globally through e-commerce.

National e-Commerce Strategic Roadmap*

Six thrust areas	Selected key programmes
1 Accelerate e-Commerce adoption rate	Transform last-mile delivery network
2 Accelerate e-Procurement adoption rate	Reduce border clearance lead-time
3 Lift non-tariff barriers	Regional e-fulfillment hub
4 Realign existing economic incentives	E-Commerce training and talent development
5 Strategic investment in selected e-Commerce players	Promote E-Commerce to SMEs
6 Boost cross-border e-Commerce via promotion of national brand	Promote sub-sectors in global markets

** - Non-exhaustive*
Source: National e-Commerce Strategic Roadmap ; Ipsos analysis

Under the one of the eleven key programmes encapsulated within the NESR, MITI is expected to lead to reduce border clearance lead-time for both inbound and outbound parcels through a series of improvement initiatives under electronic systems solutions. Cross-border clearance policies and related regulations and processes are expected to be reviewed and revised to aid in the shortening of end-to-end clearance times at cross-border points.

7.6 General acts and regulations

7.6.1 Temporary Measures for Reducing the Impact of Coronavirus Disease 2019 (COVID-19) Act 2020 [Act 829]

The Temporary Measures for Reducing the Impact of Coronavirus Disease 2019 (COVID-19) Act 2020 “COVID-19 Act” has been enacted to provide temporary measures to mitigate the impact of COVID-19 via the modification 16 legislations, including but not limited to the Land Public Transport Act 2010 [Act 715], the Commercial Vehicles Licensing Board Act 1987 [Act 334], and the Limitation Act 1953 [Act 254].

The COVID-19 Act aims to relieve some of the contractual issues and other issues arising as a result of the COVID-19 outbreak and the corresponding movement control orders imposed in Malaysia to contain the outbreak through the provision of legal certainties to dispute resolution of contractual contentions from the enforcement and litigation perspectives. Further, through the provision of reliefs to businesses who found themselves at a position where they are unable to carry out their contractual obligations due to the COVID-19 outbreak, the Act also minimises the financial and social impacts of COVID-19.

7.7 Acts and regulations on port logistics

7.7.1 Federal Light Dues Act 1953 [Act 250]

The Federal Light Dues Act 1953 sets out provisions relating to the imposition of light dues. The scope of the Act is limited to Peninsular Malaysia only. Under the Act, the owner, agent or master of every ship are to pay light dues when entering any port or place within Peninsular Malaysia, subject to conditions. One of such conditions would be the exemption provisions in the 1953 Act, in which certain ships are exempted from the payment of light dues–ships belonging or chartered by the Government of Malaysia or the Government of any part of the Commonwealth, foreign ships of war, fishing craft, and ships of under fifteen tons. The 1953 Act also sets out other procedural provisions including the provision of receipts for dues paid, the constitution and duties of Light Dues Board which will administer the fund of moneys collected, the power of the Minister to exempt payment of dues in instances of undue hardships, as well as penalties of incompliance.

7.7.2 Langkawi International Yacht Registry Act 2003 [Act 630]

The Langkawi International Yacht Registry Act 2003 prescribed for the establishment of an international registry in Langkawi for yachts and yachting entities, including the aspects relating to administration and operation, and all other related matters. The Act sets out the establishment, administration and operation of the Langkawi International Yacht Registry. Provisions relating to the registration of yachts and yachting entities have also been prescribed for under the Act.

CHAPTER 3: MARKET ASSESSMENT FOR THE PORT LOGISTICS ECOSYSTEM IN MALAYSIA

8 Market structure of ports logistics in Malaysia

8.1 Key market forces across supply chain

For the purpose of this section, the following key market forces will be assessed to ascertain their impact on the port logistics sector vis-à-vis their roles. Particularly, the market forces' business / regulatory activities will be reviewed to assess their impact to the competition landscape of the sector as well as the direct/ indirect effect cascaded down onto the consumers. To ensure the comprehensiveness of the overview, the regulatory environment within which the relevant economic activities are carried out will also be iterated accordingly.

The key market forces / regulators integral to the supply chain, highlighted in this section include:

- Port operators
- Customs
- Shipping lines
- Other Government Agencies (OGAs)
- Container depot operators
- Freight forwarders
- Warehouse operators
- Hauliers

8.1.1 Regulatory environment

The port segment of the transportation sector falls under the purview of a number of Acts, regulations, ordinances and others. While general laws such as the Port Authorities Act 1963 applies across most ports such as among others, Port Klang, Port of Tanjung Pelepas, Malacca Port, and Kuantan Port, there are certain Acts, regulations, by-laws etc. that are applicable to specific ports. For example, the Penang Port Commission Act 1955 is only applicable to the Port of Penang, while the Bintulu Port Authority Act 1981 is only relevant in the context of Bintulu Port.

Port acts prescribe for the administration of ports and generally cover the following aspects of administration:

- Establishment, functions, power, and liabilities of the port authorities
- Processes and activities related to the ports, including the landing and shipping of cargo, permit for goods conveyance, licensed warehouse
- Offences and penalties for the corresponding offences

- Extension of functions of port authority via the power of Minister
- Others, which generally concern matters pertaining to the development and administration of ports

Table 8-1: Overview of ports and the corresponding local authorities, port operators, and port acts

Ports	Local authorities	Port operators	Acts
Port Klang	Port Klang Authority	Northport Sdn Bhd Westports Sdn Bhd	Port Authorities Act 1963
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	Konsortium Pelabuhan Kemaman Sdn Bhd	
Malacca Port	Malacca Port Authority	Malacca Port Authority	
Teluk Ewa Port	Teluk Ewa Port Authority / PPC (Teluk Ewa)	Kedah Cement Jetty Sdn Bhd	
Bintulu Port	Bintulu Port Authority	Bintulu Port Sdn Bhd	Bintulu Port Authority Act 1981
Penang Port	Penang Port Commission	Penang Port Sdn Bhd	Penang Port Commission Act 1955

Source: Ministry of Trade, Penang Port Commission

On a broader context, port operation and shipping activities are chiefly governed by the following acts, ordinances, and gazettes under the purview of the Ministry of Transport, as discussed in detail below:

Table 8-2: Overview of ports logistics players and the related governing laws and regulations[9]

Port's logistics players	Governing laws and regulations

Port authorities	• Port Authorities Act 1963
	• Port (Privatisation) Act 1990
	• Privatisation of the Federal Ports (Concession Agreement):
	  ○ Penang Port (1st January 1994)
	  ○ Bintulu Port (1st January 1993)
	  ○ Others[10]

Shipping lines	• Carriage of Goods By Sea Act 1950 • Merchant Shipping Ordinance (MSO) 1952
Freight forwarders	• Customs Act 1967 for: - Freight brokerage services - Freight receiving & acceptance services. - Transportation document preparation services - Customs clearance services (s.90)
Container depot operators **Warehouse operators**	• Relevant Local Regulation of each state for licensing • Section 65 of Customs Act 1967 - For licensing

Hauliers	• Customs Act 1967
	• Land Public Transport Act 2010
	  - License Carrier A
	  - License Carrier KA
	  - License Carrier C

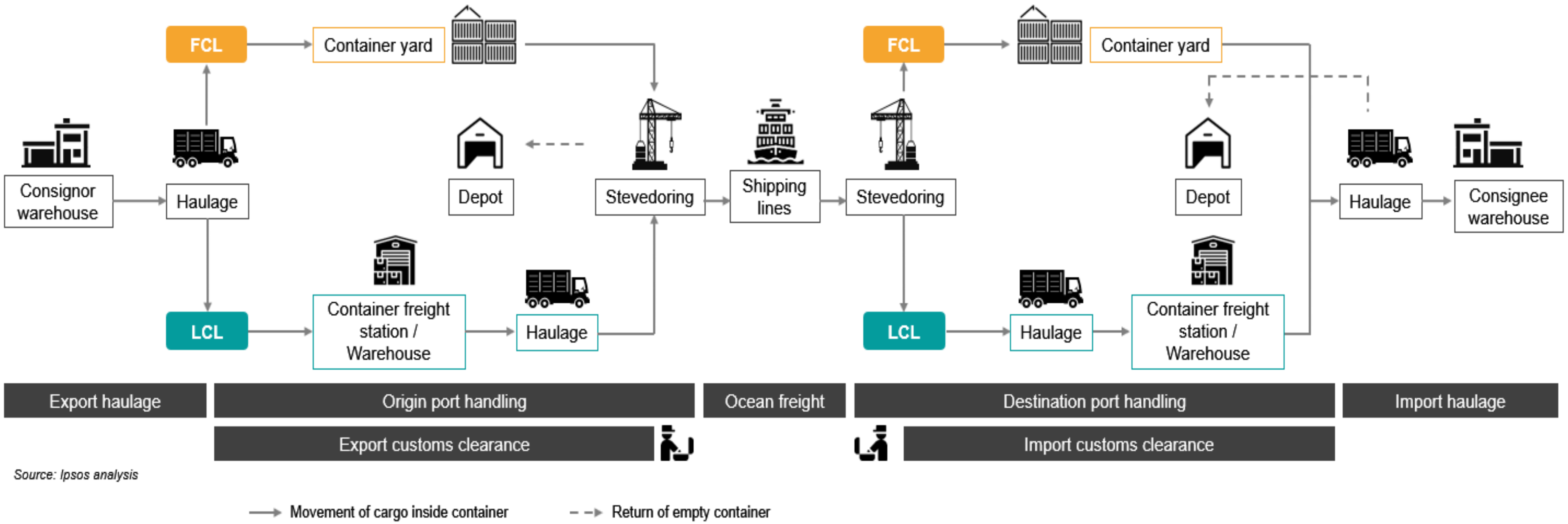
Source: Association of Southeast Asian Nations (ASEAN)

[9] Non-exhaustive

[10] Other port privatisation agreements include: Kuantan Port (1st January 1998); Kemaman Port (1st October 2006); Johor Port (16th January 1993); Port of Tanjung Pelepas (24th March 1995); Port Klang (Northport -1st December 1992 / Westport - 25th July 1994)

8.2 Port logistics supply chain

Figure 8-1: Port logistics supply chain



8.3 Overview of the import flow of goods

The import flow begins with the placement of order by a Malaysia importer for overseas goods or cargoes by sea transport. The overseas exporter would arrange for shipment of goods or cargoes to be delivered from warehouse to the port of origin by engaging a shipping line, after obtaining freight quotation and confirming the total freight charges with the shipping line. Import flow for goods or cargoes may generally be segmented into four stages:[11]

i) Documents preparation
ii) Custom clearance & tech control
iii) Ports & terminal handling
iv) Inland transportation & handling

Across the four stages of the import process, different logistics players and agencies are involved. While the logistics players and agencies involved in the first two stages are the same for both the import flow for FCL and LCL, there are slight differences for the last two stages. For instance, CFS or warehouse operator are involved in stage three in the context of LCL, but not for FCL. Detailed descriptions of players and agencies across all four stages for both FCL and LCL are as followed:

Table 8-3: Logistics players and agencies involved across the import process flow

Stages	Players and agencies	
	FCL	**LCL**
I. Documents preparation	Importer, PIAs, forwarding agent	Importer, PIAs, forwarding agent
II. Custom clearance & tech control	Shipping agent, freight forwarder, custom, PIAs, importer / bank	Shipping agent, freight forwarder, custom, PIAs, importer / bank
III. Ports & terminal handling	Forwarding agent, port operator	Forwarding agent, port operator, CFS / warehouse operator
IV. Inland transportation & handling	Shipping agent, haulier	Transporter

Source: Secondary desk research, Ipsos analysis

[11] Import Flow For Full Container Load (Port Klang). (2020). Retrieved 5 October 2020, from https://www.westportsholdings.com/wp-content/uploads/files/Import_Process_Flow-FCL.pdf

8.3.1 Document preparation

8.3.1.1 FCL & LCL

At the document preparation stage, importers will be preparing all relevant documents, such as the Certification of Origins ("COO") where applicable, application for Import Permit from relevant PIAs, and shipping documents. Subsequently, PIAs will be involved in the approval process of Import Permit. At the same time, forwarding agent would have received instructions for cargo clearance from the importer. Depends on the arrangement between forwarding agent and importer, forwarding agent may help prepare the necessary documentation including the bill of lading, import permit, invoices, and packing list. Forwarding agent will also submit K1 electronically.

8.3.2 Custom clearance & tech control

8.3.2.1 FCL

During the custom clearance & tech control stage, freight forwarder will obtain delivery order ("**DO**") from shipping agent in exchange of the bill of lading ("**BO**"). Further, the shipping agent will also submit the discharge list to port operator 6 hours before the arrival of vessel.

Custom clearance will also be carried out by customs, which begins with the receival of K1 electronically. Risk assessment, verification of exemption, goods assessment, and physical inspection will also be carried out. Prior to the approval and release of K1 by customs, importer or the bank will pay for duty either electronically or manually.

Also, during the physical inspection stage by customs, other relevant PIAs may also carry out their physical inspection where applicable and grant their approval in SMK.

8.3.2.2 LCL

During the custom clearance & tech control stage, a series of documents will be changing hands between shipping agent, freight forwarder, customs, and port operator. Firstly, a manifest (ocean BL) will be handed over from the shipping agent to customs and port operator as prescribed under s. 52 of the Customs Act. After the submission of manifest (ocean BL) by shipping agent, freight forwarder will then send a manifest (house BL) to customs and port operator. Closer to the arrival of the vessel – approximately 6 hours prior to the arrival, a discharge list will be handed over to the port operator by the shipping agents as well.

The exchange for delivery order will take place when the main freight forwarder submits ocean BL to shipping agent. At the same time, the main freight forwarder will also communicate to CFS / warehouse operator via delivery order with regards to break-bulking. Main freight forwarder will provide individual freight forwarder or forwarding agent with the integrated import document ("**IID**") upon receipt of House BL from them.

Meanwhile, the custom clearance function plays by customs for import of LCL remains the same to that of FCL. Similarly, importer / bank, and PIAs play the same function at this stage for both FCL and LCL.

8.3.3 **Ports & terminal handling**

8.3.3.1 FCL

Forwarding agent will be the key coordinator in for the ports and terminal handling. Request for delivery ("**RFD**") will be prepared and submitted to shipping agent, who will in turn advise on the return of empty container via a container movement order ("**CMO**").

Subsequently, a few verifications will be carried by the port operator, including the verification of release of DO or electronic DO ("**EDO**") by the shipping agent, as well as verifying that container release has been given by the custom. Forwarding agent will then be issued a gate pass or equipment interchange receipt ("**EIR**") by the port operator. Forwarding agent will settle outstanding port charges to port operator, then arrange for haulage or transportation for the container.

Prior to release at the gate from haulier, customs and port operator will be checking through documents including K1, EIR, and permit. Subsequently, shipping agents will also be advised by port operator upon the delivery of container to haulier or transporter.

8.3.3.2 LCL

CFS / warehouse operator plays an important role in relation to the ports & terminal handling for the import of LCL. Upon receipt of delivery order from freight forwarder, either the freight forwarder or CFS / warehouse operator will declare form ZB1 to the Free Zone Authority. Subsequently, CFS / warehouse operator will submit to port operator a drayage request form. Unstuffing of container and break-bulking of cargo will then be carried out at either the CFS or warehouse. Port charges will be paid by forwarding agent to CFS / warehouse operator, who will then arrange for transportation and prepare documentation including delivery order, IID, and processed K1 to be passed to the transporter. Cargo will be sent from CFS / warehouse operator to importer via the transporter, after verification of LCL cargo release by CFS / warehouse operator and the issuance of IID to forwarding agent for gate release.

8.3.4 Inland transportation & handling

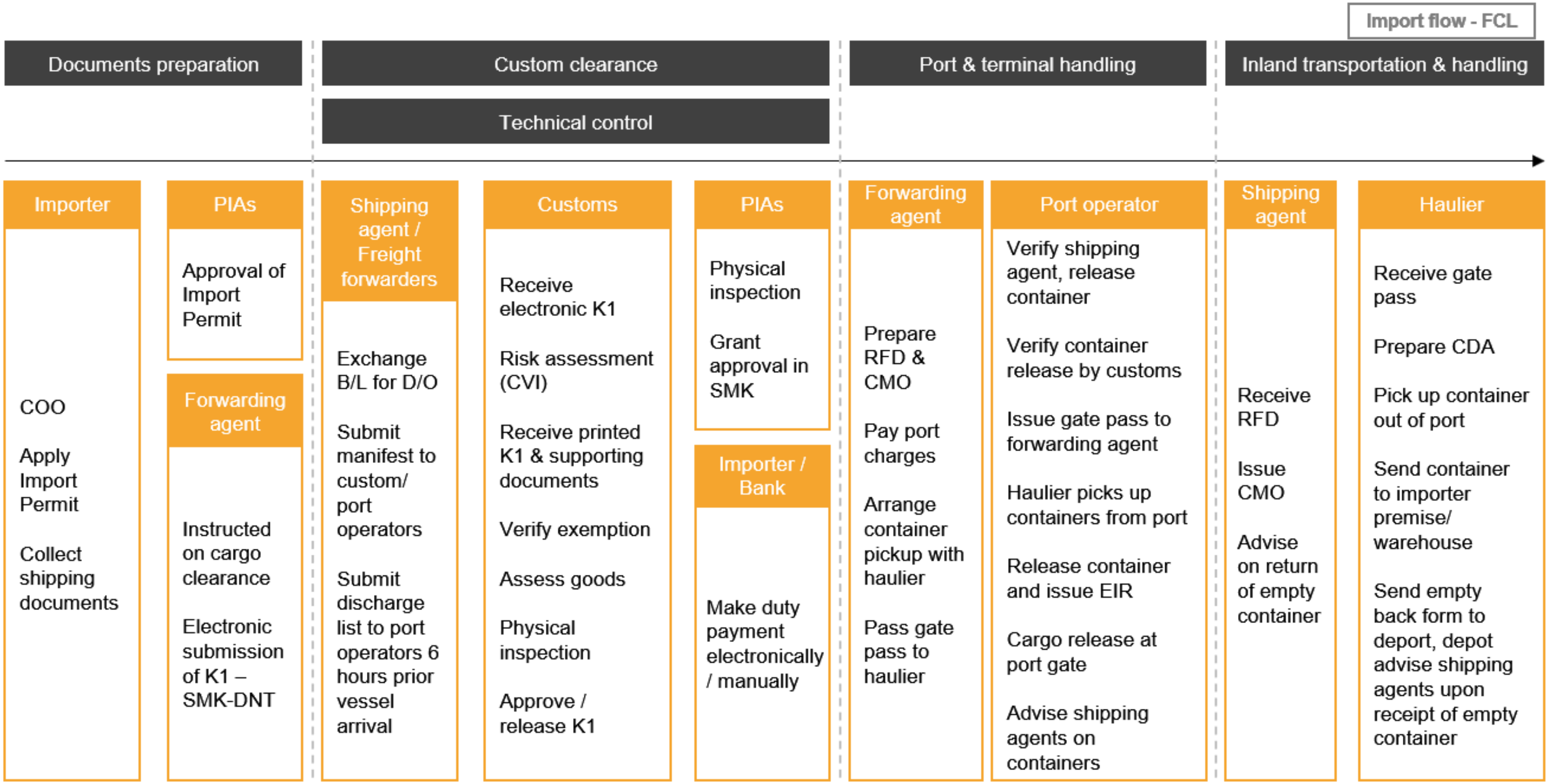
8.3.4.1 FCL

After receiving the gate pass from the forwarding agent, the haulier or transporter will then transport the container out of yard or interchange, to the importer’s premise or warehouse. Empty container will be returned to the pre-designated depot by haulier. Depot operators will be notifying shipping agent upon receiving the empty container.

8.3.4.2 LCL

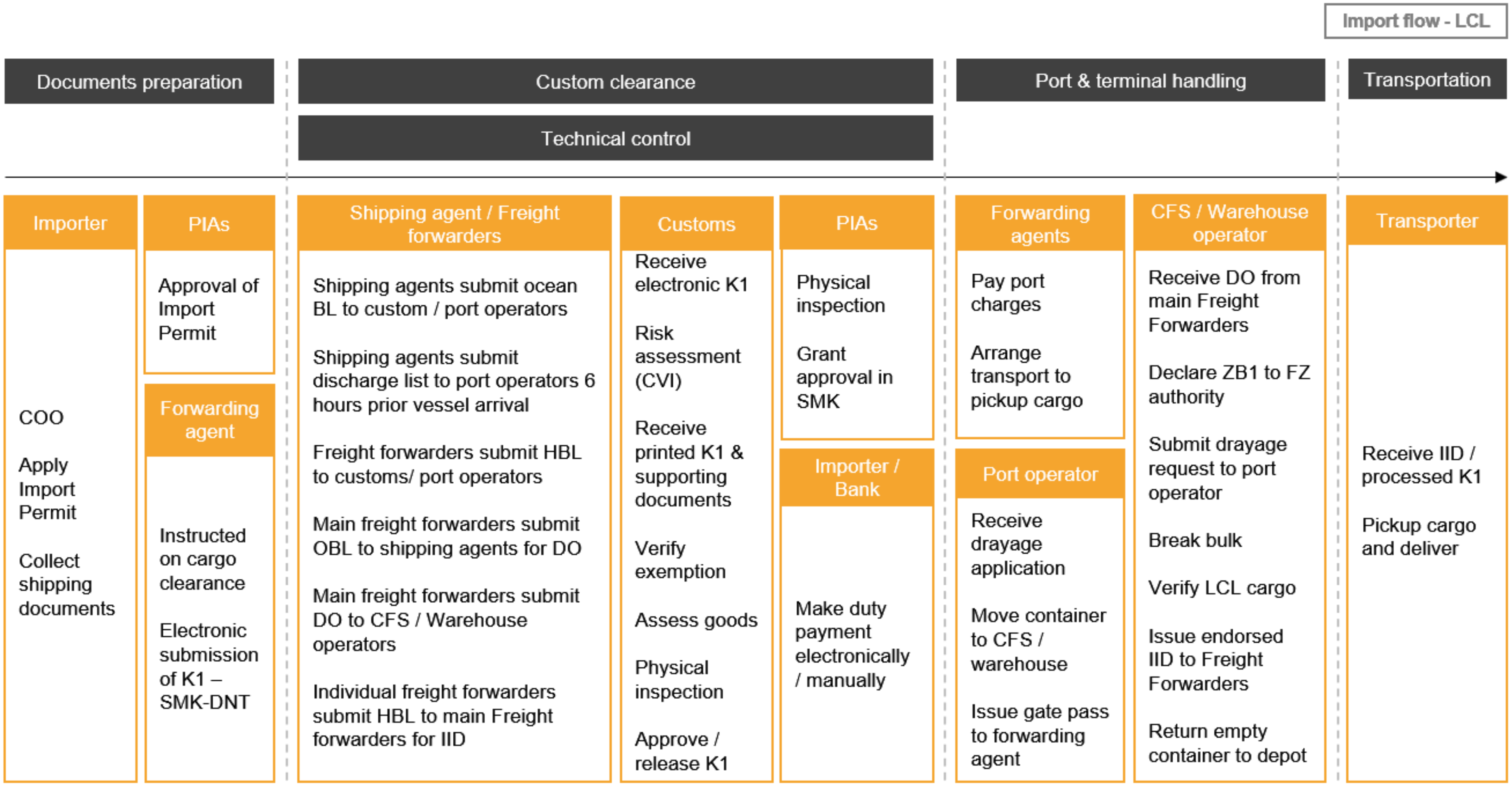
After the transporter delivered the cargo to importer, CFS / Warehouse Operator will coordinate with the shipping agent to arrange for the return of empty container to a pre-designated depot.

Figure 8-2: Overview of import flow for FCL



Source: Secondary desk research

Figure 8-3: Overview of import flow for LCL



Source: Secondary desk research

Table 8-4: Legend for the import flow of FCL and LCL

Legend	
LCL	Lesser than Container Load
FCL	Full Container Load
COO	Certificate of Origin
CFS	Container Freight Station
IID	Integrated Import Document
PIAs	Permit Issuing Authorities
CMO	Container Movement Order
RFD	Request for Delivery
K1 Form	Customs declaration form for import
DNT	Dagang Net Technologies (e-service provider)
SMK	Sistem Maklumat Kastam
B/L	Bill of Lading
D/O	Delivery Order

Source: Secondary desk research

8.4 Overview of the export flow of goods

The export flow begins with the placement of order by a foreign importer for Malaysian goods or cargoes by sea transport. The exporter would arrange for shipment of goods or cargoes to be delivered from warehouse to the port of origin by engaging a shipping line, after obtaining freight quotation and confirming the total freight charges with the shipping line. Export flow for goods or cargoes may generally be segmented into four stages:[12]

v) Documents preparation
vi) Inland transportation & handling
vii) Custom clearance & tech control
viii) Ports & terminal handling

Across the four stages of the export process, different logistics players and agencies are involved. While the logistics players and agencies involved in the first two stages are largely the same for both the export flow for FCL and LCL, there are differences for the last stage. For instance, CFS or warehouse operator are involved in stage four in the context of LCL, but not for FCL. Detailed descriptions of players and agencies across all four stages for both FCL and LCL are as followed:

Table 8-5: Logistics players and agencies involved across the export process flow

Stages	Players and agencies	
	FCL	**LCL**
I. Documents preparation	Importer & Bank, Exporter, PIAs, forwarding agent, shipping agent/ NVOCCs/ freight forwarder	Importer & Bank, Exporter, PIAs, forwarding agent, shipping agent/ NVOCCs/ freight forwarder
II. Inland transportation & handling	Shipping agent, depot, haulier, exporter, port operator	Freight forwarder, depot, transporter
III. Custom clearance & tech control	PIAs, customs	PIAs, customs
IV. Ports & terminal handling	Port operator, MITI/Chambers	CFS / Warehouse operator, port operator, shipping agent / freight forwarder, MITI/Chambers

Source: Secondary desk research, Ipsos analysis

[12] Export Flow For Full Container Load (Port Klang). (2020). Retrieved 25 January 2020, from https://www.westportsholdings.com/wp-content/uploads/files/Export_Process_Flow-FCL.pdf

8.4.1 Document preparation

8.4.1.1 FCL & LCL

At the document preparation stage, exporter will be preparing all relevant documents after the issuance of purchase order by importer, such as the commercial invoice, packing list, shipping documents, Certification of Origins ("COO") where applicable, and application for Export Permit from relevant PIAs. Subsequently, PIAs will be involved in the approval process of Export Permit. At the same time, forwarding agent would have received instructions for cargo clearance from the exporter. Freight quotation will be provided by shipper and freight charges would be confirmed at this stage.

8.4.2 Inland transportation & handling

8.4.2.1 FCL

Shipping agent will be sharing the Container Movement Order (CMO) with the forwarding agent, booking pre-advise with port operator and depot operator, as well as facilitate the release of containers to forwarding agent or shippers. Forwarding agent will then prepare Request for Deliver (RFD) to be shared with haulier along with the CMO, who will then plan for pick up of empty container. After the releasing of empty container by depot to haulier, haulier will send the empty container to the exporter's premise. Simultaneously, depot will update the container number to booking within the Port system as well as to the shipping agent. The container will then be stuffed and sealed by the exporter before being picked up by haulier again. Haulier will prepare Container Dispatch Advice (CDA) Form and deliver the stuffed container to the port. Port operator will be able to receive consignment details online or through EDI, and will proceed to verify container details and accept the container at the gate. Based on the declared export vessel, containers will be stacked at the container yard accordingly.

8.4.2.2 LCL

Freight forwarder will book container through shipping agent, as well as inform CFS/Warehouse operator on cargo consolidation. Copies of IED will also be prepared by freight forwarder, which will then be shared by forwarding agent, CFS/warehouse operator, and shipping agent. Haulier will be transport request by forwarding agent, and will then pick up cargo from the exporter's premise before delivering it to the designated CFS/Warehouse. Subsequently, haulier will also transport empty container from depot to CFS/Warehouse. Depot will update container number to booking in port system as well as to inform shipping agent.

8.4.3 Custom clearance & tech control

8.4.3.1 FCL & LCL

Forwarding agent will submit the K2 form electronically, which will then be channelled by Customs to PIAs for inspection or endorsement where required. K2 declaration will then be processed by Customs after receiving PIA's approval, and will be vetted by the Risk Assessment System– High risk cargo will have to undergo documentary check and scanning or physical inspection, while non-high risk cargo will be approved automatically. Duty will then be paid electronically and upon full payment, automatic release will be given by Customs. The K2 release information will be transmitted to port operator by Customs.

8.4.4 Ports & terminal handling

8.4.4.1 FCL

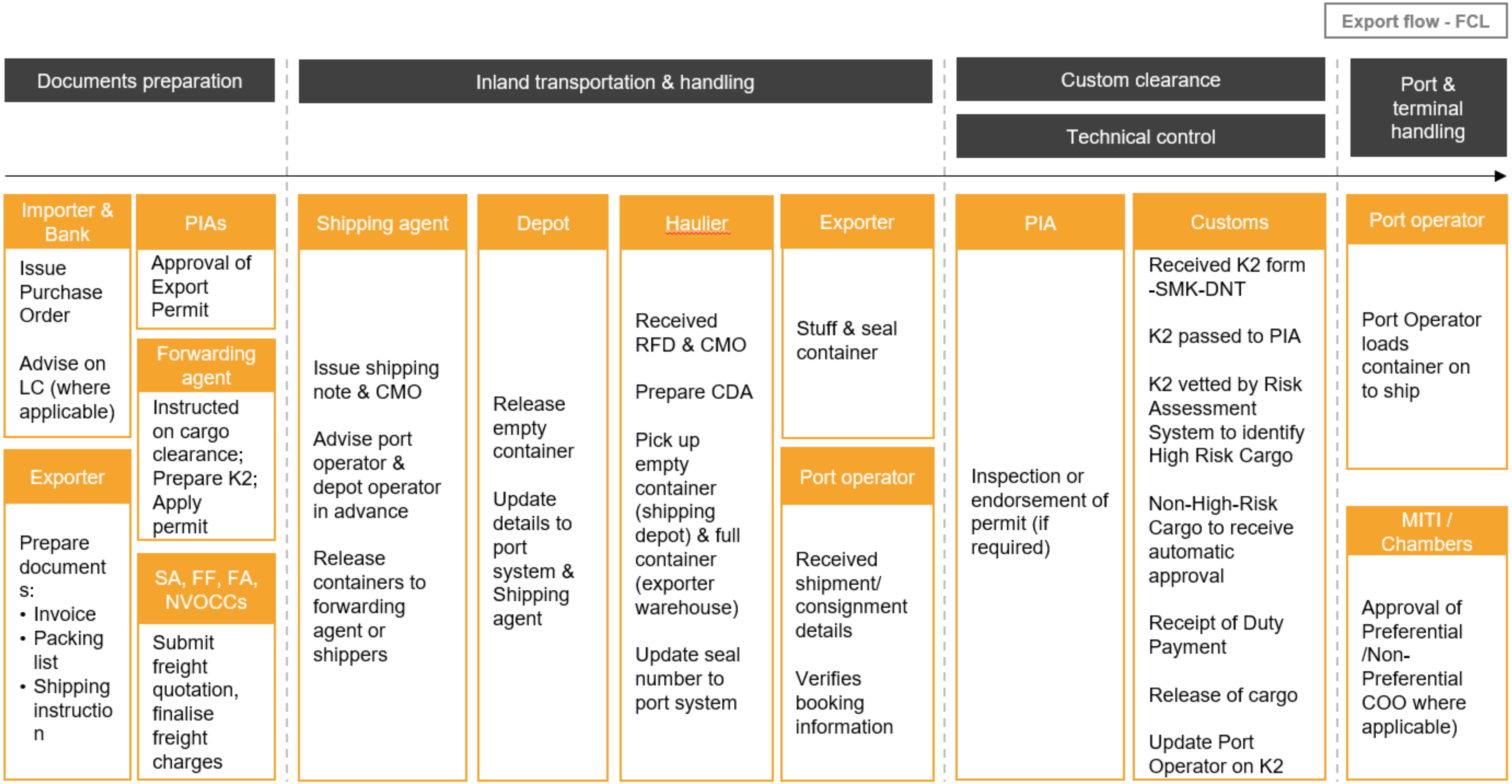
Port operator will receive release of containers either electronically or based on hard-copy K2. Shipping agent will send export manifest to Customs as well as advises shippers or forwarding agents on the shipping and freight charges via freight invoice. The shipping and freight charges will then be paid by forwarding agent on behalf of exporter, Bill of Lading will also be collected. Where applicable, approval of preferential (MITI) or non-preferential (Chamber of Commerce) COO will be given.

8.4.4.2 LCL

CFS/Warehouse operator will be given instruction on consolidation of LCL cargo by forwarding agent. At the same time, processed K2 will also be shared by forwarding agent to CFS/Warehouse operator. LCL cargo will be transported by haulier to CFS/Warehouse operator. CFS/Warehouse operator will then consolidate cargo and stuff into container. Application for drayage will be made. Containers will then be arranged to be moved from CFS/Warehouse to container yard by port operator. Main freight forwarder will then declare ZB1 electronically to Free Zone Authority. Port operator will then load container to vessel.

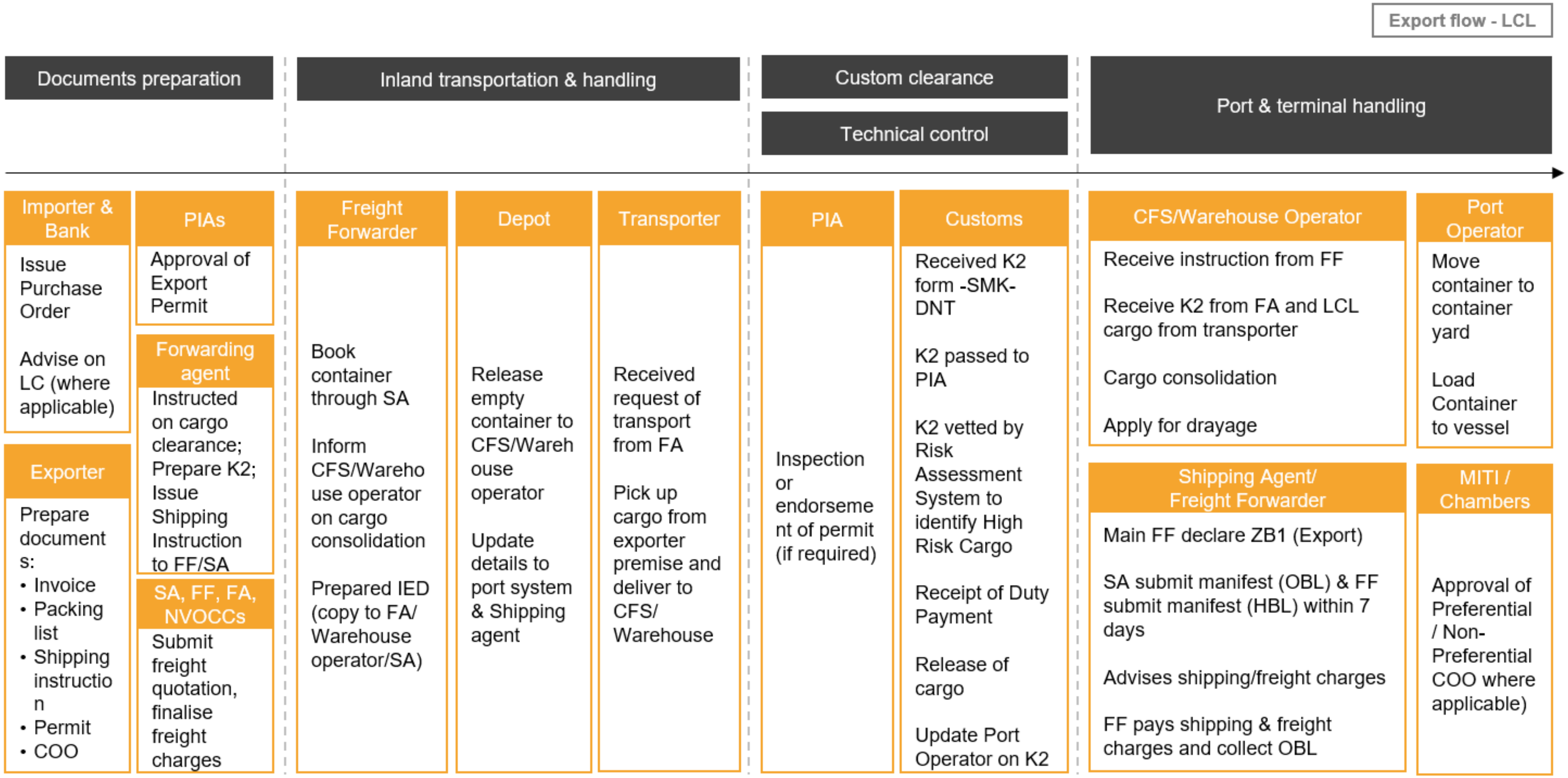
Within 7 days of vessel departure, shipping agent and freight forwarder are expected to submit export manifest– OBL and HBL respectively to Customs electronically. Freight forwarder will also advise shippers and forwarding agents (where applicable) on the shipping and freight charges. The shipping and freight charges will then be paid by freight forwarder on behalf of exporter, OBL will also be collected by freight forwarder. Freight forwarder will issue HBL to exporters or forwarding agent. Where applicable, approval of preferential (MITI) or non-preferential (Chamber of Commerce) COO will be given.

Figure 8-6: Overview of export flow for FCL



Source: MPC, Westports

Figure 8-7: Overview of export flow for LCL



Source: MPC, Westports

8.5 Overview of shipping charges & deposits

Shipping costs are the costs associated with the movement of cargo from the starting point to the end point. Shipping costs may be broadly categorised into two main groups, namely ocean costs and landside charges. Ocean costs are mainly comprised of among others, ocean freight, peak season surcharge, low sulphur surcharge, bunker adjustment factor ("**BAF**").

On the other hand, landside charges generally include costs associated with among others, ports, documentation, customs, and road. Some common examples of landside charges are terminal handling charge ("**THC**"), container handling charge ("**CHC**"), delivery order ("**DO**"), late delivery order collection, electronic data interchange ("**EDI**"), depot gate charge ("**DGC**"), sales of special services request ("**SSR**"), washing charge, equipment maintenance fee, agency recovery charge, cheque bounce charge, documentation fees, taxes and duties, and under- or overpayment charge.

Landside charges may be collected along the supply chain by different logistics players, such as shipping lines (THC, DO, EDI, and others), customs brokers (documentation fees, taxes and duties, and others), port operators (CHC, SSR, and others), depot operators (DGC, storage, and others), freight forwarders (charges collected on behalf of other players such as shipping lines, port operators (agency fees), and hauliers (haulage)), warehouse operators (storage, stuffing and unstuffing charges, value add services such as labelling, picking and packing), and hauliers (haulage).

Table 8-6: Landside charges (non-exhaustive) collected by logistics players

<table>
<tr><th>Ocean freight</th><th colspan="5">Destination port handling</th><th>Import haulage</th></tr>
<tr><th>Shipping lines</th><th>Customs</th><th>Port operators</th><th>Depot</th><th>FF</th><th>WO</th><th>Haulier</th></tr>
<tr>
<td><u>For import</u>
○ THC
○ DO
○ EDI
○ Container cleaning charge
○ Container maintenance service charge
○ Demurrage charge
○ Detention charge

<u>For export</u>
○ THC
○ Container Seal charge
○ BL Fee
○ Electronic Data Interchange (EDI)
Incidental charges
○ Email/Telex Release
○ Late shipping instruction fee
○ B/L Amendment Fee
○ Late Collection on B/L or Seaway Bill
○ Change Port of Discharge Fee
○ Change Place of Delivery Fee
○ Change of Destination Handling Fee
○ Late Advice of Rollover/Cancellation Fee</td>
<td>○ Taxes and duties</td>
<td>○ CHC
○ Marine charges
○ SSR
○ Extra movement charge
○ Container storage
○ SOLAS
○ Reefer Monitoring & Electricity Charges</td>
<td>○ DGC
○ LOLO
○ Chemical Washing
○ PreTrip Inspection (PTI) for Reefer
○ Maintenance & Repair (M&R)</td>
<td>○ Forwarding & Handling Fee
○ Documentation & EDI SMK
○ THC/ LCL Charges
○ Charges by Shipping Line
○ Charges by Haulage Company
○ Charges by Depot Operator
○ Charges by Port Operator</td>
<td>○ Stuffing/ Unstuffing for Container
○ Loading/Unloading to/from Lorry
○ Warehouse Handling In & Out
○ Warehouse Storage
○ Value-added services including:
  ○ Repacking
  ○ Restrapping
  ○ Scanning
  ○ Sorting
  ○ Palletising
  ○ Fumigation
  ○ Container Packing Certificate (CPC) for dangerous goods
  ○ Warehouse overtime</td>
<td>○ Haulage Charges
○ Toll charges
○ Fuel Adjustment Factor (FAF)</td>
</tr>
</table>

Source: Secondary desk research, In-depth interviews, Ipsos analysis

The collection of landside charges in Malaysia remains largely unregulated, with the imposition and quantum of charges being left to the discretion of logistics players. The imposition of landside charges is often fraught with contentions and allegations of unfairness. Complains regarding landside charges may largely be categorised into two main arguments—rational for imposition of charges (allegedly arbitrary landside charges that should not have been imposed), and quantum of charges (amount of charges being collected is unreasonably high).

One of the contentious landside charges would be THC as collected by shipping lines. THC is charged by port operators on shipping lines in the form of CHC. The costs of CHC are then passed on by shipping lines in the form of THC. CHC as imposed by port operators, is collected for the handling of containers at the container terminal prior to the loading of containers onto a vessel and for other associated costs. THC may range from approximately RM434 to RM1,020, while CHC ranges from approximately RM300 to RM400. Logistics players have raised concern over the difference in quantum between THC and CHC. In some cases, THC imposed by shipping lines may double the CHC imposed by port operators, which raise further questions as to the legitimacy and justification behind the drastic rates difference.

Table 8-7: Overview of selected landside charges rates

Charges	Rates	
	20' TEU	**40'FEU**
Terminal Handling Charge (THC) General Cargo	RM434.00 – RM480.00	RM653.00 – RM720.00
Terminal Handling Charge (THC) Dangerous Goods Class 2	RM550.00 – RM750.00	RM910.00 – RM1020.00
Terminal Handling Charge (THC) Dangerous Goods Class 3	RM505.00 – RM750.00	RM810.00 – RM1020.00
Delivery Order (DO)	RM170.00 – RM230.00	RM170.00 – RM230.00
Electronic Data Interchange (EDI)	RM30.00 – RM36.00	RM30.00 – RM36.00
Washing Charge	RM18.00 – RM105.00	RM25.00 – RM170.00
Equipment Maintenance Fee	RM40.00 – RM105.00	RM40.00 – RM170.00

Late Delivery Order Collection	RM100.00 – RM240.00	RM100.00 – RM240.00
Cheque Bounce Charge	RM50.00 – RM100.00	RM50.00 – RM100.00
Less / Over Payment	RM50.00 – RM100.00	RM50.00 – RM100.00
Agency Recovery Charge	RM5.00 – RM30.00	RM5.00 – RM30.00

Note: Rates (RM) are preliminary and subject to change as more information is gathered from interviews.
Source: In-depth interviews, Ipsos analysis

Beyond landside charges, one other practice within the ports supply chain that has allegedly caused hardship amongst logistics players include the collection of container deposit. Container deposit is collected by shipping lines as a security to ensure that import containers are returned safely and in a timely manner.

Depending on the nature of the cargo and the type of container, container deposit may range from approximately RM1,000 to RM10,000. Logistics players have commented that the practice of container deposit collection strains their cash flow. Concerns have also been expressed over the various deductions commonly made to the container deposit, some common examples include demurrage, detention, maintenance, and repair charges. Container deposit collection gave rise to a myriad of issues, some of the common complaints include:

- Container deposit made in cheque was banked in by shipping lines
- Difficulties in securing the return of container deposit in the event that shipping lines have gone out of business
- Delayed return of container deposit
- Strained cashflow due to prolonged deposit retention period
- Contentious automatic deduction of deposit

In response to the growing discontent, various alternatives to the container deposit collection practice have been introduced. These alternatives are non-cheque deposit (“**NCD**”), container ledger account (“**CLA**”), and **iCargo+**.

In 2011, the NCD scheme was introduced. The NCD scheme is only applicable in Port Klang and is under the management of SFFLA. To participate under the NCD scheme, participants must be a SFFLA member who does not have unsettled debt with shipping lines. A non-refundable fee of RM1,000 will be collected from participants under the scheme, and liability insurance of RM100,000 will also be taken out.

The CLA scheme has been in force since 1994 and is under the management of D&D Control (M) Sdn Bhd. Forwarding agents, merchants, and consignees are all eligible to participate under the nationwide scheme. However, a cash or credit ledger account is mandatory under the scheme, and liability insurance of RM100,000 will also be taken out.

iCargo+ has been in force nationwide since 2018. Under the management of Quantum Ivory Sdn Bhd, iCargo+ serves as an alternative to container deposit for merchants and consignees. Purchase of iCargo+ insurance is a pre-requisite for the participation under the scheme, and imports must be based on CIF or FOB to be eligible for the purchase of cargo insurance.

While the schemes extend coverage to demurrage and detention, container repair costs and total loss, the schemes do not cover losses and costs arising out of illegal acts and activities under Malaysian law. Further, losses and costs arising out of confiscation or detention of cargo by customs and other related agencies do not fall under these schemes.

In early 2020, MOT and PKA have announced that shipping lines are prohibited to collect container deposit. The three alternative schemes will have to be utilised in place of container deposit. While the introduction of these three schemes have generally received positive reception from the logistics players, some contentions surfaced. For example, the Shipping Association Malaysia (“**SAM**”) have publicly expressed that the alternative schemes to container deposit are merely proposed recommendations and not a gazetted law,[13] and the discontinuance of container deposit collection practices would hence be optional rather than mandatory.

Up to today – pending official clarification – there remain questions / uncertainties whether the recommended use of the three schemes (as an alternative to container deposit) is mandatory, and if the scheme such as NCD, should be implemented beyond Port Klang.

9 Other information related to port logistics

9.1 uCustoms

In a revolutionising initiative, the Royal Malaysian Customs Department ("**Customs**") is seeking to replace the Sistem Maklumat Kastam ("**SMK**") with the Ubiquitous Customs system, also known as uCustoms. To simplify, uCustoms is a fully integrated, end-to-end, Customs modernization solution that delivers 'Single Window' for goods clearance. [14]

All players who are involved in the import and export clearance process can register as users on uCustoms and are able to track the movement of goods through customs at every step. Users can track the arrival of the goods at customs control (including the submission of manifest by the vessel operator and customs declaration) to the payment of the applicable duties and taxes and removal of the goods from customs control.

[13] Freight forwarders call for authorities’ intervention to clear the air on shipping issues. (2020). Retrieved 30 September 2020, from https://www.theedgemarkets.com/article/freight-forwarders-call-authorities-intervention-clear-air-shipping-issues
[14] http://www.customs.gov.my/en/uc

A key driver in the development of uCustoms is to enhance the user-friendliness of the system. At the moment, the uCustoms system have the following features:

1. Online and operates 24/7 daily;
2. Offered free of charge;
3. Accessible from a variety of devices as a web-based programme; and
4. Accessible by all players involved in the import and export process.

Above all, the uCustoms aim to increase transparency in the customs processes and reduce the risk of fraud and corruption taking place as a result.

Besides that, to administer customs clearance and assessment through uCustoms, four designated Strategic Centres will be established, each with their own specific mandates.

uCustoms Strategic Centres	Description
National Targeting Centre (NTC)	Handles risk management, profiling and targeting of high risk vessels, cargo and passengers
National Clearance Centre (NCC)	Administers the clearance and assessment for low-risk declarations, as well as to process medium and high-risk declarations
Customs Examination Area (CEA)	A complex for cargo clearance inspections at all entrances and exits managed by the Special Inter Agency Taskforce
Customs Call Centre (CCC)	Operate as a helpdesk and provide support to uCustoms users and the business community

Source: Royal Malaysian Customs Department (RMCD)

While the uCustoms has been in the works for a number of years, effective from 5 March 2019, customs declaration for imports and exports through Port Klang are expected to be submitted through uCustoms unless they fall within certain exceptions, such as, less than a container load (LCL), goods subject to preferential tariff rate or duty and/or tax exemptions, or goods subject to import and export permit or licence.

Eventually, with the full implementation of uCustoms, it is envisaged to integrate the national windows of all ASEAN countries with an aim to further ease and smoothen customs processes for imports and exports within ASEAN, in fulfilment of the ASEAN Economic Community initiatives.

The introduction of an end-to-end, electronic regulations solutions such as uCustoms system is welcomed as its benefits are potentially extensive and it reduces cost and saves time on cross border movement of goods, and increased transparency. However, given the complexity of the system, full implementation of uCustoms has been delayed.

9.2 Cargo handling and stowage procedures

Discharging, loading, and securing of cargo are important aspects of cargo handling and stowage. To ensure smooth operation at the port, standard operating procedures in relation to these aspects have been put in place by the port authority. In the context of Port Klang, there is a recommended set of cargo handling and stowage procedures, which are as follow:

Discharging

- Sufficient separation within each row of cargo, package, bundle, or unit is necessary for the insertion of slings
- Separate cargo by types to enhance efficiency in discharging and to minimise the need to frequently change cargo gears
- Cargo of common mark should be stowed appropriately to facilitate smooth and continuous discharge, in order to avoid mixing of cargo on the wharf
- Appropriate gears shall be used
- Port operators may make the decision on the usage of appropriate gears where parties are unable to come to an agreement

Loading

- Appropriate platform and facilities are necessary for the slinging operation by stevedore while unloading on the wharf
- Separate cargo by types to enhance efficiency in discharging and to minimise the need to frequently change cargo gears
- Categorisation of cargo by types may ease discharging works at port of discharge
- Cargo of mix mark will be rejected on the wharf for loading
- Cargo to be loaded according to declared hatch list
- Appropriate dunnage shall be used to give space in between cargoes

Securing of cargo

- Lashing operation shall be carried out prior to departure from wharf
- Work details shall be discussed pre-arrival of cargo
- Necessary permits are compulsory where hot work is required
- Application of permits can be requested at Marine Department, Port Klang Authority and Port Operator
- Progressive lashing of vessels is required upon completion of consignment loading

Besides the guided safety procedures as the above mentioned, there are a few other significant actions that shall ensure the utmost safety of the personnel in charged. Proper attire with PPE is compulsory for all personnel involved at wharf side and on vessel. These personnel shall be briefed about their tasks prior to commencing operation. As for night operation on the ship and at wharf side, it is only allowed with sufficient lighting. Furthermore, hazardous cargo shall be handled with care in accordance with the necessary precautions advised by the Port Authorities Act and By-Laws. Proper usage of equipment used on ship and shore shall come with necessary certification per its intended function. Operator of cargo equipment and vehicles shall be equipped with proper training and certification.

9.3 Immigration clearance

Immigration clearance is mandatory for vessels arriving from foreign ports prior to cargo operations or the alighting of crew and passengers on shore. The Immigration Department expects crew or passenger list to be submitted at least 10 hours prior to vessel arrival. Where immigration clearance is required, cargo vessels must display numerical flags two above five in the day, or all-round lights red over white or green over green at night. Meanwhile for passenger vessels, the procedures by day differ slightly. Numerical flags three over four in the day shall be displayed. Immigration clearance will be carried out by immigration officers who will board the vessels on arrival at berths or at inner anchorages.[15]

9.4 Vessel Traffic Management System

Within the pilotage district of Port Klang, a Vessel Traffic Management System (**"VTMS**") is operated by the Port Klang Authority ("**PKA**") for the real-time monitoring of vessels to enhance navigation safety, to protect the environment, and to enable coordination in emergencies.[16] VTMS has jurisdiction within the pilotage district, which includes the approaches to the North and South Channel. To enhance coverage area and vessel detection, the VTMS radar is integrated with a network of four other radars including those located at Pulau Angsa, One Fathom Bank, and Bukit Jugra. The VTMS allows for tracking and identification of vessels prior to their arrival at the pilot stations, with the information related to the estimated time of arrival being relayed accordingly. Further, navigation information will also be relayed to vessels.

VTMS is operated out of the 19th floor of the Westports commercial tower and has a coverage of 26 nautical miles offshore.

9.5 Impact of Covid-19

Since the emergence of the Covid-19 pandemic, the unprecedented virus has spread across the globe and brought the world to a panic and standstill; countries went on lockdowns and economies were crippled and came to abrupt halt.

[15] Port Klang Authority. (2020). Port Klang Malaysia Marine Information Handbook [PDF]. Retrieved from https://www.pka.gov.my/phocadownloadpap/information/marine/MARINE%20HANDBOOK.pdf
[16] VTMS. (2020). Retrieved 5 October 2020, from https://www.pka.gov.my/index.php/en/facilities/vtms

Due to the novelty of the virus back in Q1 2020, China ceased almost all economic activities, which resulted in an adverse disruption to the global trade and supply chain. Shortly after, in Q2 2020, all corners of the world went into a lockdown and all trades came to a complete stop.

Due to all economic shutdowns, it was estimated that global trade in 2020 plunged ~32% caused by interruption in the transportation of goods. [17] Malaysia was not spared of this predicament, as it was reported in June 2020 that Malaysia's exports was expected to hit a record low of 25.5% drop year-on-year to RM62.7 billion since May 2009. [18] Likewise, Malaysia's import activities also suffered the worst plunge since January 2009 – a staggering 30% drop to RM52.3 billion from its previous year (2019).

The port logistics industry, one of the modes for cross-border transportation of goods, has also been affected in numerous ways. Issues range from shipping lines cancelling their sailings (blank sailings), shortage of containers and severe trade imbalances in evert parts of the world. [19] To aggravate the matter further, shippers / freight forwarders who failed to collect cargoes on time were charged a hefty amount of demurrage and detention charges. In Malaysia's context, shippers opined that the delay in container collection is a result of the Movement Control Order (MCO) in Malaysia, which took effect in March 2020.

That being said, global cargo demand is on its recovery trajectory, as demand gradually picked up beginning Q3 of 2020, simultaneously when Malaysia's MCO was lifted. Issues of trade imbalances and shortage of containers are being alleviated with China ramping up their container productions. It was reported that China has been producing 300,000 TEUs monthly since September 2020. [20]

As a result, the pandemic has accelerated digitalisation in many industries to save time, reduce physical contact to prevent the spread of Covid-19. Companies are moving towards paperless documentation and other cost saving measures as well. This was no exception for the port logistics sector – trends of digitalisation are emerging with increased utilisation e-commerce platforms, i.e. e-wallet payments, virtual meetings, and etc.

Additionally, big data is also playing its role and its adoption is slowly gaining traction. Big data is used to efficiently track containerised vessels to ensure cargos are delivered on time, enhance information visibility, and operational efficiency in the industry.[21] Malaysia (and the world) is still navigating with uncertainties, and port

[17] Trade set to plunge as COVID-19 pandemic upends global economy. (2020). Retrieved 6 January 2021, from https://www.wto.org/english/news_e/pres20_e/pr855_e.htm

[18] Malaysia's exports suffer worst slump in 11 years. (2020). Retrieved 7 January 2021, from https://www.theedgemarkets.com/article/malaysias-exports-suffer-worst-slump-11-years

[19] Paris, C. (2020). Container Shipping Lines Cancel Sailings to Weather Coronavirus Storm. Retrieved 6 January 2021, from https://www.wsj.com/articles/container-shipping-lines-cancel-sailings-to-weather-coronavirus-storm-11586205167

[20] China container production raised to 300,000 TEUs a month to ease global shortage. (2020). Retrieved 17 January 2021, from https://www.portcalls.com/china-container-production-raised-to-300000-teus-a-month-to-ease-global-shortage/

[21] Big Data in Maritime: How a shipping company can effectively use data. Retrieved 7 January 2021, from https://marine-digital.com/article_bigdata_in_maritime

logistics need to be ready to brace the volatility of fluctuating demand, at the same time work on building talents for digital operations, as well as improving working conditions for crew members to work in a safe and conducive environment.[22]

9.6 Competition & industry concerns

Logistics players have opined that port logistics is often fraught with issues and challenges that negatively affects their business operations, including the ease of doing business and the associated costs. One of the oft-cited fundamental reasons from which several other issues stem from, was inefficiencies in infrastructure. For instance, poor road infrastructure causes congestions and accidents, which hinders efficient road transport and curtails the growth of port logistics. Delays often translated into additional costs for logistics players across the supply chain. For example, logistics players have reflected that delays that resulted in demurrage and detention charges could sometimes be avoided if the issue of road and port congestion is eliminated.

Selected issues affecting the business operations of logistics players have been highlighted below, based on supply chain level (i.e. from which the issues stem from). Meanwhile, one of the competition-related issues that have been observed across the supply chain would be the aggressive merger & acquisitions (M&A) to become a vertically integrated supply chain player, which may increase market concentration/

Given the fragmented market with large number of players in the port logistics industry, in recent years, some logistics players have been aggressively adopting M&A practices in order to gain economies of scale and market share. These strategic acquisitions can be observed through international and local players; their primary objective is to increase their service offerings, while becoming a better integrated player / one-stop solution provider in the port logistics industry.

The increase in market concentration signifies the growing dominance of certain group of players, which could potentially call into question whether existing business practices and conducts tantamount to abuse of dominance.

[22] Trends in Maritime Logistics for 2021. Retrieved 7 January 2021, from https://www.sofarocean.com/posts/trends-in-maritime-logistics-for-2021

10 Ports and port operators

Ports in Malaysia may be categorised into three main categories:

i) Federal Ports
ii) State Ports
iii) Private ports

The main container handling ports are located at the west coast of Peninsular Malaysia, while the major bulk handling ports are on the East Coast region and East Malaysia (Sabah and Sarawak).

Today, Malaysia has a total of seven major Federal ports[23] namely Port Klang, Johor Port, Port of Tanjung Pelepas, Kuantan Port, Penang Port, Bintulu Port and Kemaman Port. All federal ports are under the jurisdiction of the Ministry of Transport ("**MOT**"). The establishment of Federal Ports is based on the Statutory Bodies of the Commission / Port Authority Act. The Acts established are Penang Port Commission Act 1955, Federal Port Authority Board Act 1963 and Bintulu Port Act 1981.

Federal Ports were originally managed by the Commission / Port Authority prior to the introduction of the Ports (Privatization) Act 1990, whereby the Act has enabled existing Port Commission / Authority acting as the Port Authority to assign duties and responsibilities to operate any port undertaking to any interested private parties. Following the Port Privatization Act in 1990, the port authorities have been transferring the operating activities to private parties, hereby establishing their own role as facilitator, regulator and owner of the designated port area.

On the other hand, the establishment of State Ports such as in Sabah and Sarawak, is by virtue of the Merchant Shipping Ordinance 1960. Meanwhile, privately owned ports such as Vale port in Perak, Sungai Udang Port in Melaka, and Kerteh Port in Terengganu, were established by gazetting of port limits under Sections 5 and 6 of the Merchant Shipping Ordinance 1952 and is regulated by the Malaysian Marine Department (JLM) on shipping traffic regulation. Port operations are managed by private companies at the port.

Table 10-1: Development and administrations of ports

Ports	Authority	Operator
Port Klang	Port Klang Authority	• **Westport Holdings Berhad** • **Northport (M) Berhad** *(MMC Group)*
Port of Tanjung Pelepas	Johor Port Authority (Tanjung Pelepas)	• **Port of Tanjung Pelepas Sdn Bhd** *(70% stake owned by MMC Group; and Maersk Group)*

23 Development and Administration of Ports. (2020). Retrieved 7 October 2020, from http://www.mot.gov.my/en/maritime/ports-in-malaysia/development-and-administration-of-ports

Johor Port	Johor Port Authority	• **Johor Port Berhad** *(MMC Group)*
Penang Port	Penang Port Commission	• **Penang Port Sdn Bhd** *(MMC Group)*
Kuantan Port	Kuantan Port Authority	• **Kuantan Port Consortium Sdn Bhd**
Kemaman Port	Kemaman Port Authority	• **Konsortium Pelabuhan Kemaman Sdn Bhd**
Malacca Port	Malacca Port Authority	• **Tanjung Bruas Sdn Bhd** *(MMC Group)*
Bintulu Port	Bintulu Port Authority	• **Bintulu Port Sdn Bhd**

Figure 10-1: Port locations in Malaysia

Source: Malaysian Investment Development Authority (MIDA)

10.1 Port performances

10.1.1 Container throughput (TEU)

On a national level, Malaysia recorded a total of ~26.7 million TEUs in 2020, with a CAGR of 2.2% from 2015 to 2020. Historically, the total number of TEUs had been consistently increasing since 2015, however Malaysia ports (largely Westports in Port Klang) experienced an anomaly in 2017, when the total TEUs registered a 4.3% dip in volume, recording ~23.8 million TEUs.

This was largely attributed to the loss on transhipments cargo to Singapore in the wake of the acquisition of Neptune Orient Line (NOL) which operates under APL Singapore, by CMA CGM.[24] The acquisition included the migration of five major shipping firms from Port Klang to Port of Singapore.[25] The migration of container volumes was further observed in Middle Eastern liner resulted from the merger between Hapag Lloyd and United Arab Shipping Company (UASC).[26]

That said, Malaysia ports quickly rebounded the following year, as ports registered a 4.9% volume growth in 2018 with 24.9 million TEUs, effectively 'normalising' back prior to the drop in 2017 (2016 TEUs were 24.8 million).

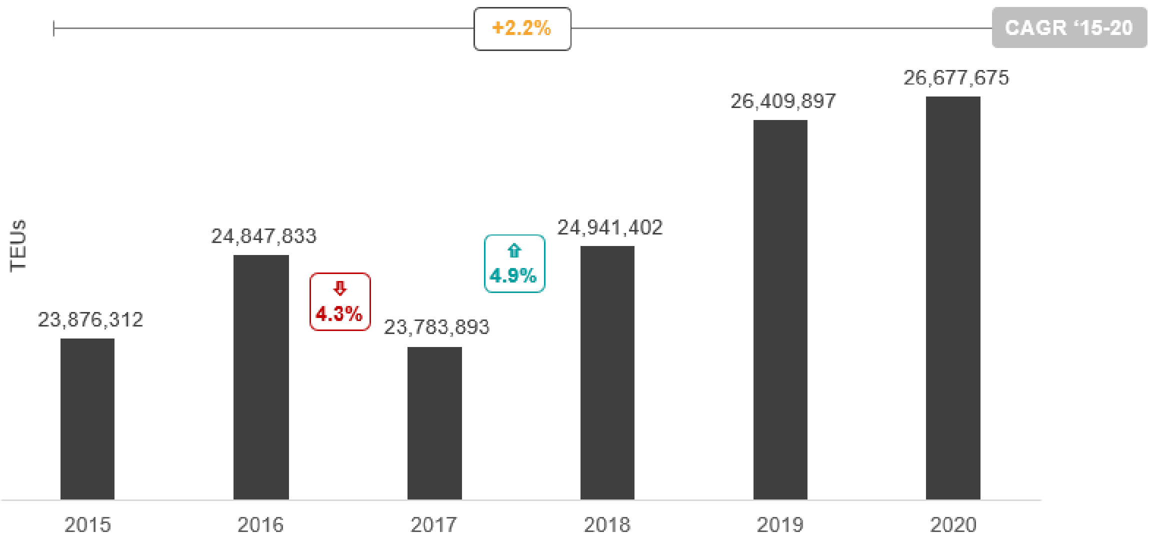
It can also be observed that despite the Covid-19 pandemic and nation-wide lockdown, Malaysia's container throughput (TEU) volume remained resilient; in fact, total TEU increased marginally in 2020.

[24] Malaysia's Westports 2017 throughputs falls to 9m TEUs. (2018). Retrieved 5 October 2020, from https://www.seatrade-maritime.com/asia/malaysias-westports-2017-throughput-falls-9m-teu

[25] Why Malaysian ports are losing out to Singapore. (2017). Retrieved 5 October 2020, from https://www.malaymail.com/news/malaysia/2017/09/14/why-malaysian-ports-are-losing-out-to-singapore/1464417

[26] Port Klang hit hard by alliance changes. (2017). Retrieved 5 October 2020, from https://splash247.com/port-klang-hit-hard-alliance-changes/

Figure 10-2: Total container throughput in Malaysia (TEUs)

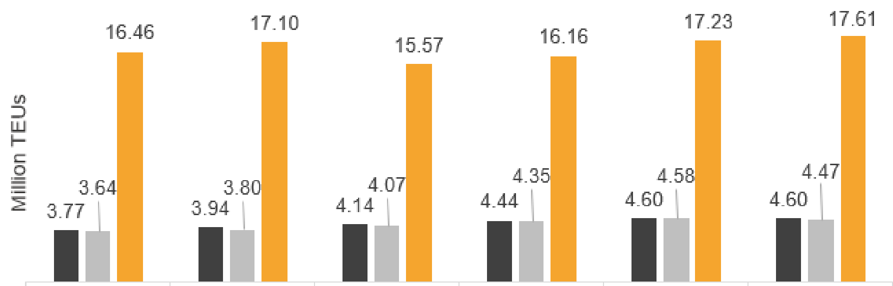


Source: Ministry of Transport (MOT)

Upon further examination, historical TEU volume that passed through Malaysia ports primarily comprised of transshipments, which made up averagely ~67% of total TEUs every year. The remaining TEUs were almost equally split between imports and exports containers.

The drop in TEUs in 2017 was largely a result of decreased number of transshipments coming into Malaysia ports during that year. The volume of transshipments fell from 17.10 million TEUs in 2016 to 15.57 million TEUs in 2017. However, transshipments volume quickly rebounded the following year (2018 transshipments: 16.16 million TEUs) and continued to increase in volume in subsequent years.

Figure 10-3: Breakdown of total container throughput in Malaysia (TEUs)



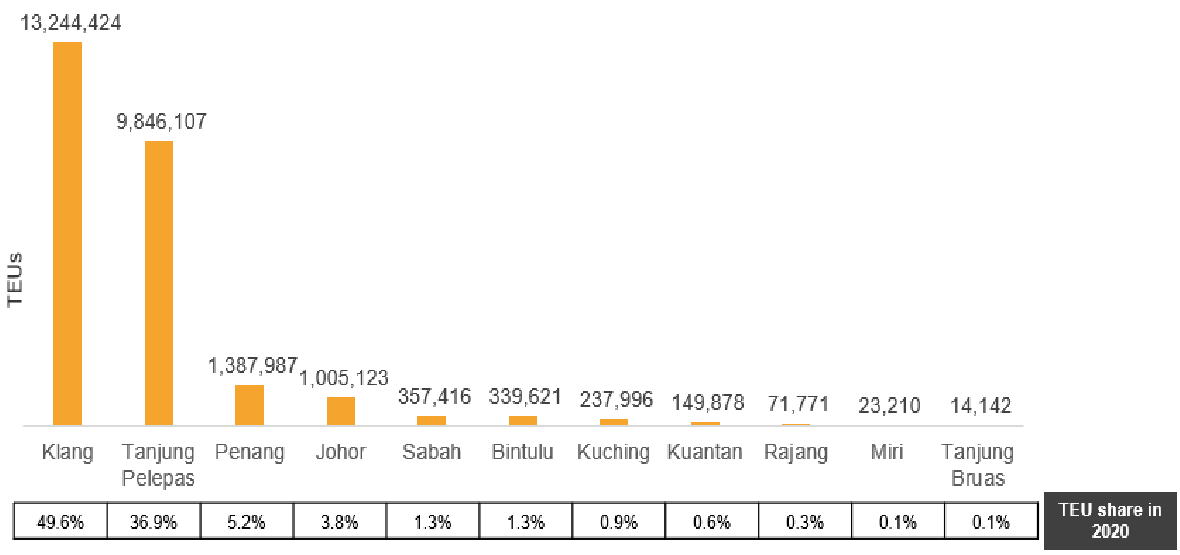
	2015	2016	2017	2018	2019	2020	CAGR '15-20
Exports	3,773,117	3,940,807	4,144,913	4,437,160	4,601,607	4,595,180	+4.0%
Imports	3,639,297	3,804,450	4,069,581	4,347,454	4,577,740	4,472,974	+4.2%
Transshipments	16,463,899	17,102,577	15,569,400	16,156,788	17,230,552	17,609,522	1.4%

Source: Ministry of Transport (MOT)

A further breakdown of container TEUs in 2020 shows that Port Klang would handle almost half of the total container throughput in Malaysia. Even historically, Port Klang had remained as the key port with the most number of container throughput. This was followed by Port of Tanjung Pelepas, Penang Port and Johor Port.

In 2020, Port Klang handled 13.24 million TEUs, which accounted for 49.6% of total container throughput in Malaysia. Port of Tanjung Pelepas followed suit with 9.85 million TEUs (36.9% TEU share), and combining these two ports together, their collective container throughput would make up 86.5% of TEU share in Malaysia in 2020.

Figure 10-4: Total container throughput by ports in Malaysia, 2020 (total TEUs: 26,677,675)



Source: Ministry of Transport (MOT)

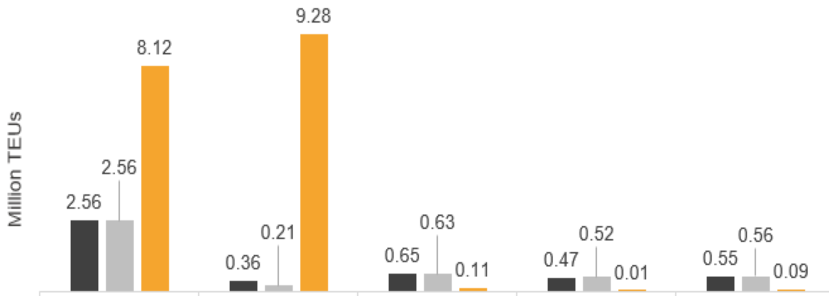
Further dissection of container throughput by ports shows that transshipments would predominantly make up 66.0% of TEU share in 2020, while the remaining share are almost equally split among exports and imports (17.2% and 16.8% respectively).

In Port Klang, its breakdown of container throughput would similarly reflect the nation's ratio. Port Klang's transshipments would make up 61.3% of total container throughput, while exports and imports recorded 19.4% and 19.3% respectively.

On the other hand, Port of Tanjung Pelepas, the port with second most TEUs, registered 94.2% of transshipments TEU vis-à-vis its total container throughput. This could signify that Port of Tanjung Pelepas has been positioned as an intermediary port / transit for containers before they are being shipped to their port of destination.

Combining the transshipments for both Port Klang and Port of Tanjung Pelepas, both these ports handled ~99% of total transshipments in Malaysia in 2020, indicating the importance and capabilities of these two ports for Malaysia's port landscape.

Figure 10-5: Breakdown of total container throughput by ports in Malaysia, 2020 (total TEUs: 26,677,675)



	Klang	Tanjung Pelepas	Penang	Johor	Others	Total	TEU % share
Exports	2,564,794	361,663	647,634	473,017	548,072	4,595,180	17.2%
Imports	2,556,428	208,372	630,829	519,041	558,304	4,472,974	16.8%
Transshipments	8,123,202	9,276,073	109,524	13,065	87,658	17,609,522	66.0%

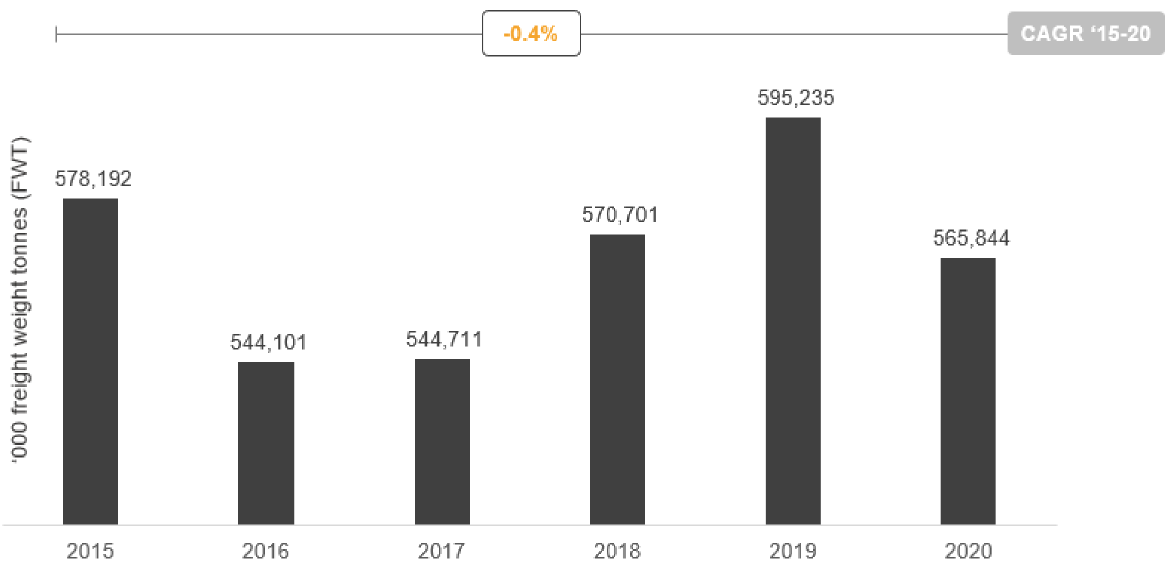
Note: Others include Sabah, Bintulu, Kuching, Kuantan, Rajang, Miri and Tanjung Bruas
Source: Ministry of Transport (MOT)

10.1.2 **Cargo throughput (FWT)**

Besides container throughput, Malaysia ports also handle conventional cargo such as dry bulk, liquid bulk general cargo. Collectively, Malaysia ports handled 565,844 freight weight tonnes ("**FWT**") in 2020, with a CAGR of -0.4% from 2015 to 2020.

Similar to container throughput, the cargo throughput also experienced a decline from but in 2016 and 2017, but quickly rebounded in 2018 and FWT has been increasing since.

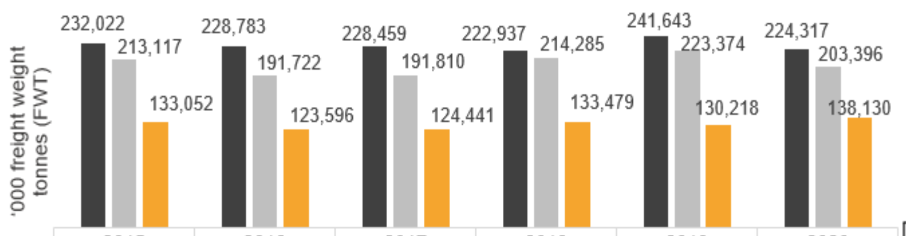
Figure 10-6: Total cargo throughput in Malaysia (FWT)



Source: Ministry of Transport (MOT)

A further breakdown of the cargo throughput shows that exports and imports make up ~78% of total cargo throughput each year, while the remaining ~28% consist of transshipments cargo. This is an opposite reflection of container throughput (TEU), where majority (~66%) of container throughput are made up of transshipments instead.

Figure 10-7: Breakdown of total cargo throughput in Malaysia (FWT)



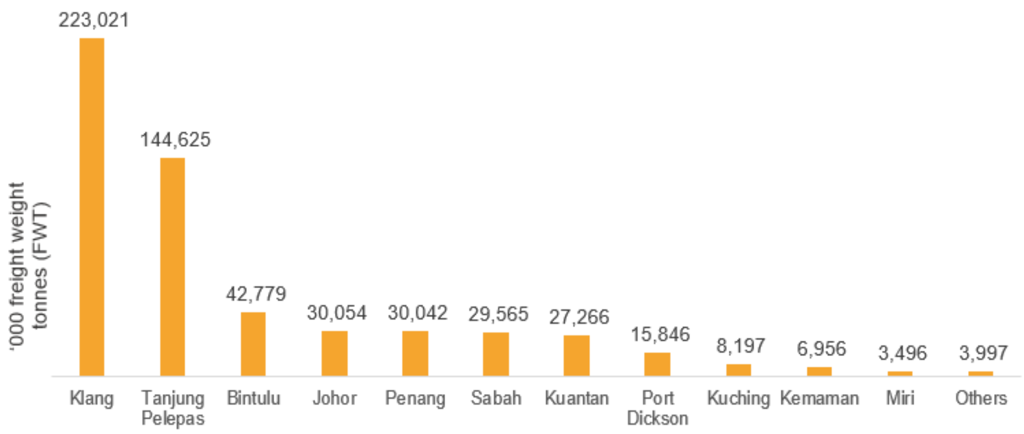
	2015	2016	2017	2018	2019	2020	CAGR '15-20
■ Exports	232,022	228,783	228,459	222,937	241,643	224,317	-0.7%
■ Imports	213,117	191,722	191,810	214,285	223,374	203,396	-0.9%
■ Transshipments	133,052	123,596	124,441	133,479	130,218	138,130	+0.8%

Source: Ministry of Transport (MOT)

Looking into the cargo throughput handled by ports in Malaysia, it is unsurprising that Port Klang remained as the number one port that handled the most volume.

In 2020, Port Klang handled about ~39% of total Malaysia's cargo throughput with 223 million FWT. This was followed by Tanjung Pelepas with ~145 million FWT (~26% share). Combining the capabilities of these two giants, they would add up to handle 65% of total Malaysia's cargo throughput, signifying their importance towards the nation's port landscape.

Figure 10-8: Total cargo throughput by ports in Malaysia, 2020 (total FWT: 565,844)



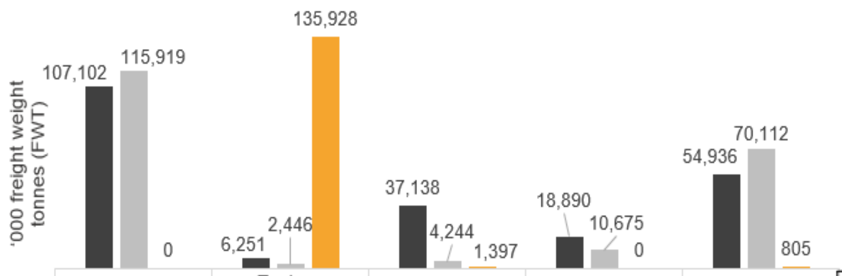
39.4%	25.6%	7.6%	5.3%	5.3%	5.2%	4.8%	2.8%	1.4%	1.2%	0.6%	0.7%	FWT share in 2020

Note: Others include Teluk Ewa, Rajang and Tanjung Bruas
Source: Ministry of Transport (MOT)

At the same time, it is interesting to note that Port Klang had zero transshipments in all of its 223 million FWT in 2020. In fact, historically since 2015, Port Klang had never handled transshipments cargo at both of their ports.

On the other hand, majority (~94%) of cargo handled at Tanjung Pelepas' were transshipments. A total of ~145 million FWT cargo were transited at the port, indicating its ideal strategic location to be viewed as an intermediary port for transshipments. In fact, the uniqueness of Port of Tanjung Pelepas had enabled them to essentially handle 99% of Malaysia's total transshipments cargo in 2020.

Figure 10-9: Breakdown of total cargo throughput by ports in Malaysia, 2020 (total FWT: 565,844)



	Klang	Tanjung Pelepas	Bintulu	Sabah	Others	Total	FWT % share
Exports	107,102	6,251	37,138	18,890	54,936	224,317	39.6%
Imports	115,919	2,446	4,244	10,675	70,112	203,396	35.9%
Transshipments	-	135,928	1,397	-	805	138,130	24.4%

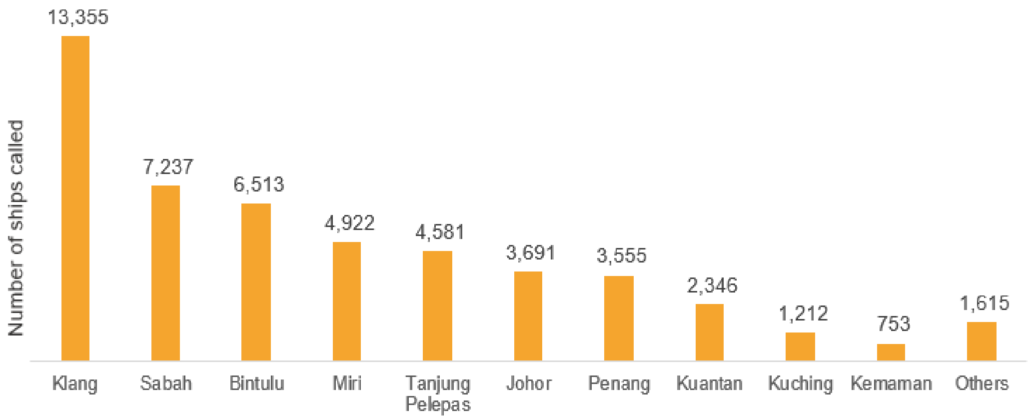
Note: Others include Penang, Johor, Kuantan, Port Dickson, Kuching, Kemaman, Miri, Teluk Ewa, Rajang and Tanjung Bruas

Source: Ministry of Transport (MOT)

10.1.3 **Number and types of ship calling**

In terms of number of ships called by ports in Malaysia, it was unsurprising that Port Klang berthed the most ships. In 2020, the number of ships that arrived at Port Klang accounted for ~27% (13,355 ships) of total ships that arrived in Malaysia. However, it was interesting to note that despite Tanjung Pelepas' high volume of TEU and cargo, the port was ranked fifth (4,581 ships) in total ships called in 2020, suggesting larger ships and vessels arrived at the Port of Tanjung Pelepas.

Figure 10-10: Total number of ships called by ports in Malaysia, 2020



26.8%	14.5%	13.1%	9.9%	9.2%	7.4%	7.1%	4.7%	2.4%	1.5%	3.2%	**Ship share in 2020**

Note: Others include Port Dickson, Rajang, Teluk Ewa and Tanjung Bruas
Source: Ministry of Transport (MOT)

A further breakdown of the types ships called by ports in Malaysia is shown in the table below. In Port Klang, it seems that only feeder vessels carrying containers were berthed, while conventional vessels were typically general cargo ships and liquid tankers.

On the other hand, Port of Tanjung Pelepas berthed main line and feeder vessels at its port but did not handle general cargo and liquid tankers. Liquid tankers, which includes LNG and crude oil, were mostly called at Bintulu, Penang and Kuantan.

Table 10-2: Types of ship calling by ports in Malaysia, 2020

Ports	Foreign Going							Coastal							Grand total
	Container		General cargo	Liquid tankers	Dry bulk	Others	Total	Container		General cargo	Liquid tankers	Dry bulk	Others	Total	
	Main Line	Feeder						Main Line	Feeder						
Klang	-	9,309	814	1,379	372	155	**2,029**	-	-	905	203	88	23	**107**	**1,326**
Penang	717	596	186	555	159	673	**2,886**	-	-	-	105	127	-	**437**	**669**
Johor	-	-	-	-	-	-	**-**	-	-	-	-	-	-	**-**	**-**
Kuantan	27	357	452	611	463	21	**1,931**	-	15	-	19	281	11	**89**	**415**
Bintulu	158	113	118	895	192	100	**1,576**	-	-	503	123	608	49	**3,654**	**4,937**
Tanjung Bruas	-	-	57	11	41	26	**135**	-	-	-	3	19	11	**-**	**33**
Kuching	-	126	60	133	41	144	**504**	-	-	347	197	82	6	**76**	**708**
Miri	-	-	67	30	24	-	**121**	-	-	23	4,759	19	-	**-**	**4,801**
Rajang	-	-	5	14	2	-	**21**	-	447	-	87	5	-	**-**	**539**
Sabah	-	-	-	-	-	-	**-**	-	-	-	-	-	-	**-**	**-**
Port Dickson	-	-	97	340	-	-	**437**	-	-	-	-	249	-	**8**	**257**
Kemaman	-	-	36	425	138	-	**599**	-	-	-	3	148	3	**-**	**154**
Telok Ewa	-	-	-	27	46	26	**99**	-	-	-	-	14	42	**38**	**94**
Tanjung Pelepas	1,558	2,862	-	-	-	-	**4,420**	-	-	161	-	-	-	**-**	**161**
Total	**2,460**	**13,363**	**1,892**	**4,420**	**,478**	**1,145**	**4,758**	**-**	**462**	**1,939**	**5,499**	**1,640**	**145**	**4,409**	**14,094**

Source: Ministry of Transport (MOT)

10.2 Overview of selected port statistics

To paint a holistic overview of port performances and to compare port performances across different ports, the following indicators may serve as a benchmark. These indicators include among others, port capacity, port throughput, capacity utilisation, local vs. transhipment ratio, and number of container berths.

Table 10-3: Overview of selected port statistics

Ports (Value in 2019) / Indicators[27]	Northport	Westports	PTP	Johor	Penang
Capacity (million TEUs)	5.6	10.9	12.5	1.2	2
Throughput (million TEUs)	2.7	9.9	9.1	1	1.5
Capacity Utilisation	48%	78.4%	73%	83%	75%
Local:Transhipment	52:48	-	7:93	99:1	95:5
Water Depth (metre)	11.5 – 17.0	15-17.5m	15.0 – 18.0	11.6 – 12.1	11.0 – 12.0
No. of Container Berths	14	20	14	3	6
Container Quay Length (KM)	3	5.8km	5	0.7	1.5
No. of Container QC	34	-	58	8	12

Source: Secondary desk research

[27] Corresponding values to the indicators are based on publicly available information.

10.2.1 Port Klang: Northport

Northport is one of the three ports in Port Klang, with the other two ports being Northport and Southpoint (formerly known as Port Swettenham). It is one of the oldest port areas in Port Klang. Northport is managed by Northport (Malaysia) Bhd, a wholly-owned subsidiary of MMC Corporation Berhad. Northport is also served by major highways including PLUS, NKVE, Federal, KESAS, ELITE, KARAK, and SKVE.

Northport is well-connected both regionally and globally. In the global context, Northport has direct connection to more than 20 countries and 70 ports, and is served by 24 MLOs, 9 coastal liners, 16 feeders, and 111 NVOCCs.

10.2.1.1 Key features and strengths

Northport's strong growth may be attributed to its strong Break Bulk and RORO cargo volumes, further strengthened by the strategic collaboration with Proton to engage Northport as the homeport for all Proton vehicles and CKD.[28]

In June 2019, Northport launched a mobile app, allowing users to access relevant information such as latest notices, vessel schedules, and cargo information and progress update. Through promoting paperless transaction and integration in the process flow, this helps to improve port efficiency. Security features at Northport include more than 150 units of CCTVs and drone surveillance.

Table 10-4: Overview of key statistics on Northport

Indicators	Value (2019)
Capacity (million TEUs)	5.6
Throughput (million TEUs)	2.7
Capacity Utilisation	48%
Local:Transhipment	52:48
Water Depth (metre)	11.5 – 17.0
No. of Container Berths	14
Container Quay Length (KM)	3
No. of Container QC	34

Source: MMC Annual Report 2019

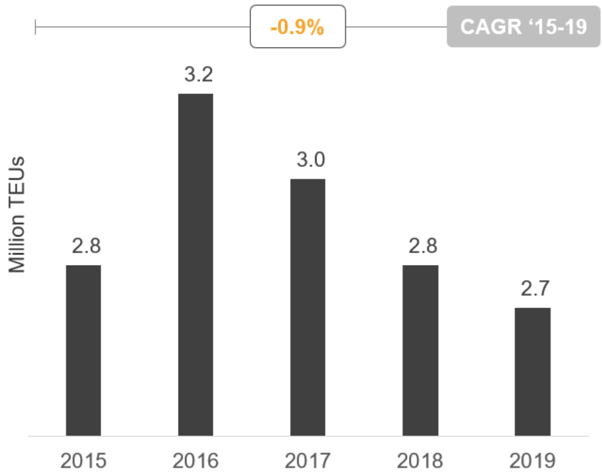
10.2.1.2 Port capacity

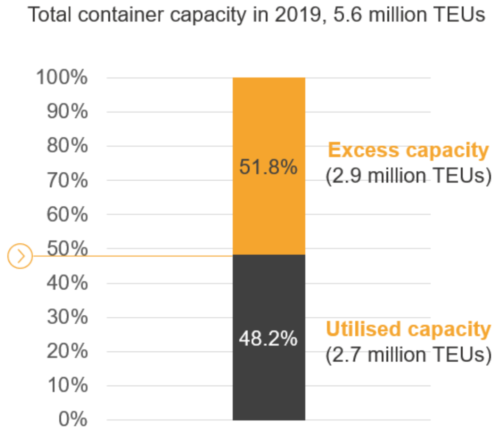
The total container throughput by TEUs at Northport contracted slightly from 2.8 million TEUs in 2015 to 2.7 million TEUs in 2019, at a CAGR of -0.9%.

On the other hand, the total container capacity of Northport in 2019 was 5.6 million TEUs, with 48.2% of the capacity utilised (2.7 million TEUs). This translates into an excess capacity of 2.9 million TEUs, which is approximately 51.8% of Northport's total container capacity.

[28] MMC Corporation Berhad. (2020). *MMC Annual Report 2019*. MMC Corporation Berhad.

Figure 10-11: Total container throughput (TEUs) and capacity in Northport

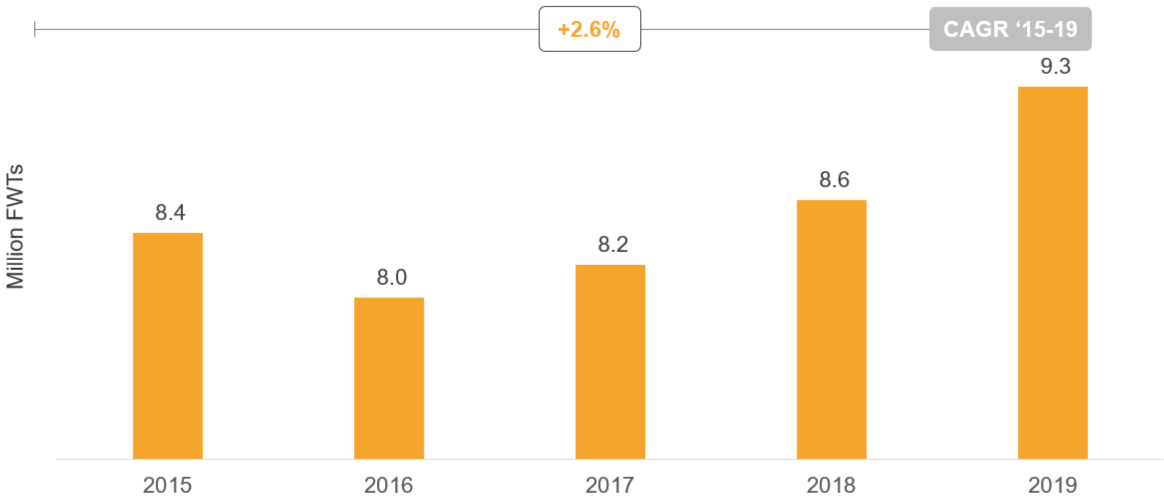




Source: Port Klang Authority (PKA), Annual reports

On the other hand, the total cargo throughput by FWT in Northport grew from 8.4 million FWTs in 2015 to 9.3 million FWTs in 2019 at a CAGR of 2.6%.

Figure 10-12: Total cargo throughput (FWTs) in Northport

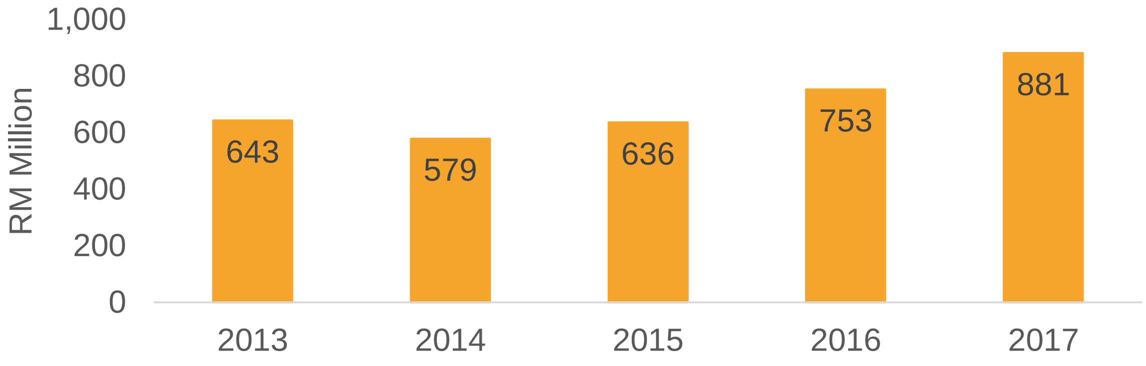


Source: Port Klang Authority (PKA), Annual reports

10.2.1.3 Financial performance

Northport Malaysia Bhd recorded a revenue of approximately RM881 million in 2017, growing at a CAGR of approximately 8.2% from RM643 million in 2013. This was a 16.9% growth in revenue from the previous year.

Figure 10-13: Revenue of Northport Malaysia Bhd in RM Million, 2013 – 2017



Source: SPEEDA

10.2.2 Port Klang: Westports

Westports is one of the three ports in Port Klang, with the other two ports being Northport and Southpoint (formerly known as Port Sweetenham). Westports is managed by Westports Holdings Berhad. Further, Westports is well-connected by major highways including PLUS, NKVE, Federal, KESAS, ELITE, KARAK, and SKVE.

Westports is well-connected on both long-haul and short-haul routes, with weekly connection to regions including North America, South America, Middle East, Africa, Australasia, Europe, Indian sub-continent, Far East, and ASEAN.

10.2.2.1 Key features and strengths

Westports serve its stakeholders through an integrated community portal, eTerminal Plus. The portal is available both as an online portal and as mobile application. It facilitates generation of gate pass, inspection release, EDO release, e-load or discharge instructions, enquiries on containers, and others. Westports also has a community portal for conventional cargo, iTAP. iTAP is equipped with features such as auto-billing, generation of gate pass, digital IID / IED, and others. The aforementioned portals promote paperless transaction and integration in the process flow, which ultimately drives port efficiency.

Table 10-5: Overview of key statistics on Westports

Indicators	Value (2019)
Capacity (million TEUs)	10.9
Throughput (million TEUs)	9.9
Capacity Utilisation	78.4%
Water Depth (metre)	15-17.5m
No. of Container Berths	20
Container Quay Length (KM)	5.8km

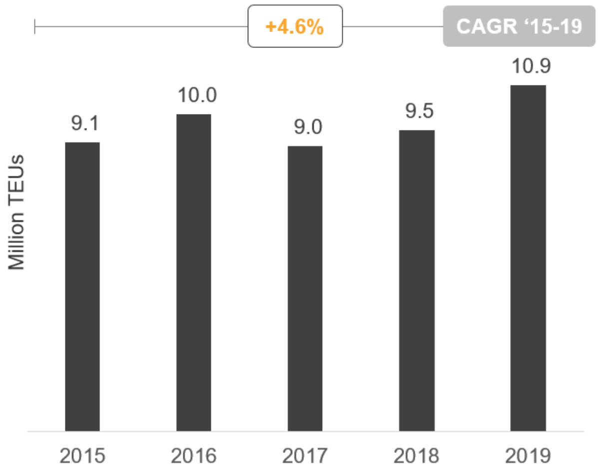
Source: Westports

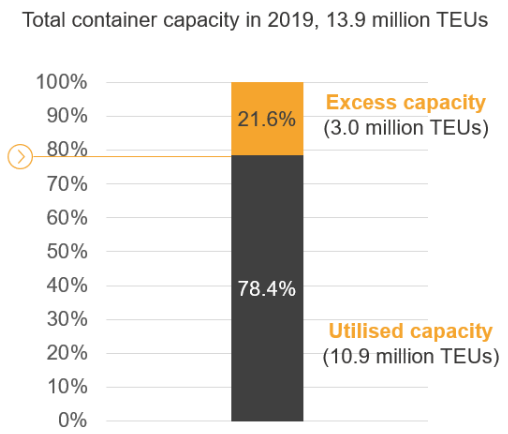
10.2.2.2 Port capacity

The total container throughput by TEUs at Westports grew from 9.1 million TEUs in 2015 to 10.9 million TEUs in 2019, at a CAGR of 4.6%.

On the other hand, the total container capacity of Westports in 2019 was 13.9 million TEUs, with 78.4% of the capacity utilised (~10.9 million TEUs). This translates into an excess capacity of 3.0 million TEUs, which is approximately 21.6% of Westports' total container capacity.

Figure 10-14: Total container throughput (TEUs) and capacity in Westports

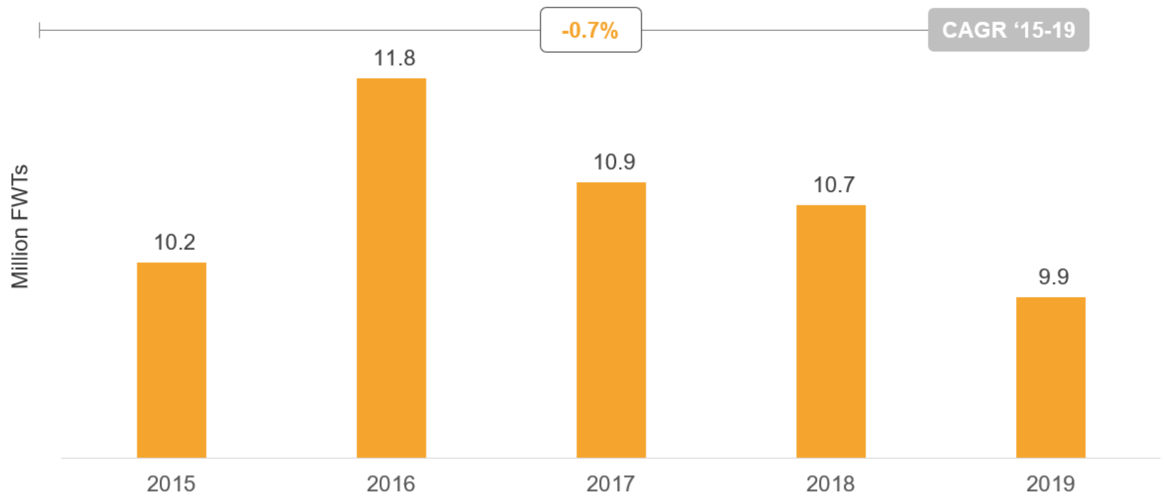




Source: Port Klang Authority (PKA), Annual reports

On the other hand, the total cargo throughput by FWT in Westports declined slightly from 10.2 million FWTs in 2015 to 9.9 million FWTs in 2019 at a CAGR of -0.7%.

Figure 10-15: Total cargo throughput (FWT) in Westports

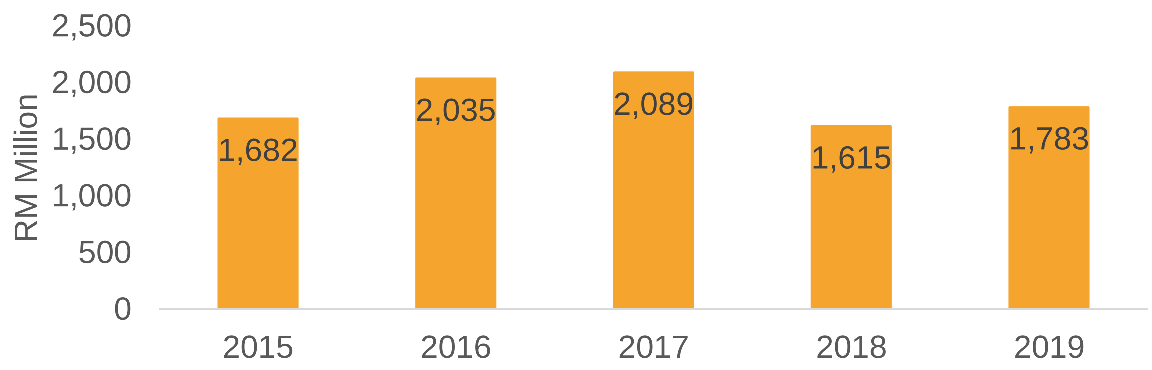


Source: Port Klang Authority (PKA), Annual reports

10.2.2.3 Financial performance

Westports Holdings Berhad recorded a revenue of approximately RM1,783 million in 2019, growing at a CAGR of approximately 1.5% from RM1,682 million in 2015.

Figure 10-16: Revenue of Westports Holdings Berhad in RM Million, 2015 – 2019



Source: Westports Holdings Bhd Annual Report 2019

10.2.3 Port of Tanjung Pelepas ("PTP")

PTP is one of the two major port located in the state of Johor, with the other major port being Johor Port. PTP is managed by Port of Tanjung Pelepas Bhd, a joint venture between MMC Group and Maersk Group, with the former holding 70% stake and the latter, 30% stake in the company.

10.2.3.1 Key features and strengths

PTP is the largest transhipment hub port in Malaysia and has been ranked 18th in the 2018 World Top Container Ports. The strong partnership between PTP and the 2M alliance (of which Maersk is a part of) is one of the reasons for its global success. In 2019, PTP has become the first port in the world to load a vessel with more than 19,000 TEUs.

Table 10-6: Overview of key statistics on PTP

Indicators	Value (2019)
Capacity (million TEUs)	12.5
Throughput (million TEUs)	9.1
Capacity Utilisation	73%
Local:Transhipment	7:93
Water Depth (metre)	15.0 – 18.0
No. of Container Berths	14
Container Quay Length (KM)	5
No. of Container QC	58

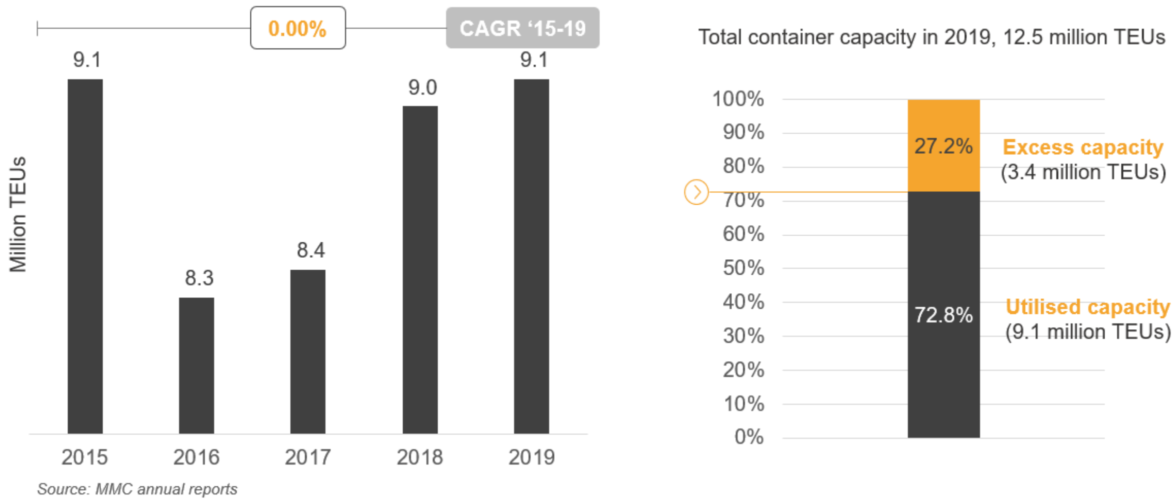
Source: MMC Annual Report 2019

10.2.3.2 Port capacity

In 2019, the total container throughput by TEUs at PTP were recorded as 9.1 million TEUs. Coincidentally, the same TEUs was recorded at PTP back in 2015.

On the other hand, the total container capacity of PTP in 2019 was 12.5 million TEUs, with 72.8% of the capacity utilised (~9.1 million TEUs). This translates into an excess capacity of 3.4 million TEUs, which is approximately 27.2% of PTP's total container capacity.

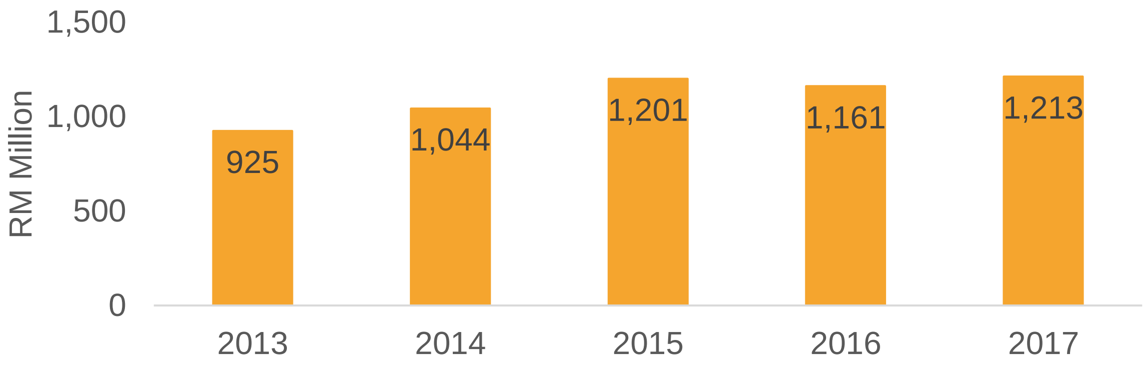
Figure 10-17: Total container throughput (TEUs) and capacity in PTP



10.2.3.3 Financial performance

Pelabuhan Tanjung Pelepas Sdn Bhd recorded a revenue of approximately RM1,213 million in 2017, growing at a CAGR of approximately 7.0% from RM925 million in 2013. This was a 4.5% growth in revenue from the previous year.

Figure 10-18: Revenue of Pelabuhan Tanjung Pelepas Sdn. Bhd in RM Million, 2013 – 2017



Source: SPEEDA

10.2.4 Johor Port

Located at Pasir Gudang, Johor Port is the largest palm oil and edible oil terminal in the world. The port has a strong focus on handling liquid bulk, as evident by its high annual throughput of more than 10 million tonnes. Managed by Johor Port Bhd, a wholly-owned subsidiary of MMC Group, Johor port is one of the two major ports located in the state of Johor, with the other major port being Port of Tanjung Pelepas.

10.2.4.1 Key features and strengths

The strong growth of the port over the years is supported by the rapid growth in the cargo volume for transhipment cargo and hinterland cargo, as well its role as the intra-Asia port for cargoes from East Malaysia. Moreover, Johor Port also serves as one of the biggest non-ferrous metals trading hub globally after securing the designation as an approved location from London Metal Exchange in 2004.

Further, the port enjoys a strategic advantage due to its geographical location. Having affordable landmass and being in close proximity with one of the strongest economic hubs in the region, Singapore, Johor port is an attractive option to businesses.

2019 was a record year for Johor Port, as it handled the highest container throughput in its history at 1.0 million TEUs.[29] Same year in March, a joint venture between KA Petra and Hutchison Ports have been established to develop the largest oil and gas ship-to-ship transhipment hub in the world, located right at Johor Port.

[29] MMC Corporation Berhad. (2020). *MMC Annual Report 2019*. MMC Corporation Berhad.

Table 10-7: Overview of key statistics on Johor Port

Indicators	Value (2019)
Capacity (million TEUs)	1.2
Throughput (million TEUs)	1
Capacity Utilisation	83%
Local:Transhipment	99:1
Water Depth (metre)	11.6 – 12.1
No. of Container Berths	3
Container Quay Length (KM)	0.7
No. of Container QC	8

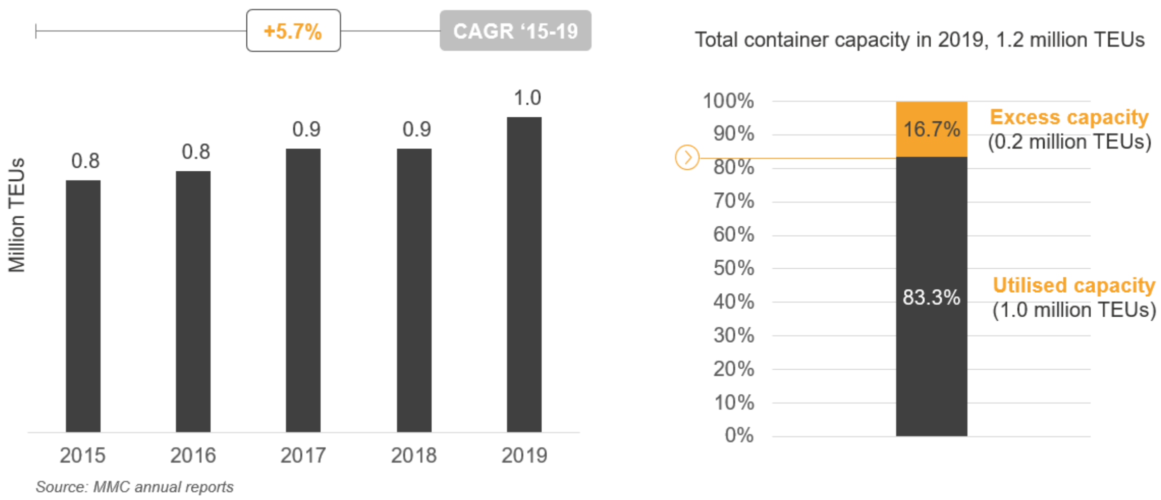
Source: MMC Annual Report 2019

10.2.4.2 Port capacity

The total container throughput by TEUs at Johor Port grew from 0.8 million TEUs in 2015 to 1.0 million TEUs in 2019, at a CAGR of 5.7%.

On the other hand, the total container capacity of Johor Port in 2019 was 1.2 million TEUs, with 83.3% of the capacity utilised (~1.0 million TEUs). This translates into an excess capacity of 0.2 million TEUs, which is approximately 16.7% of Johor Port's total container capacity.

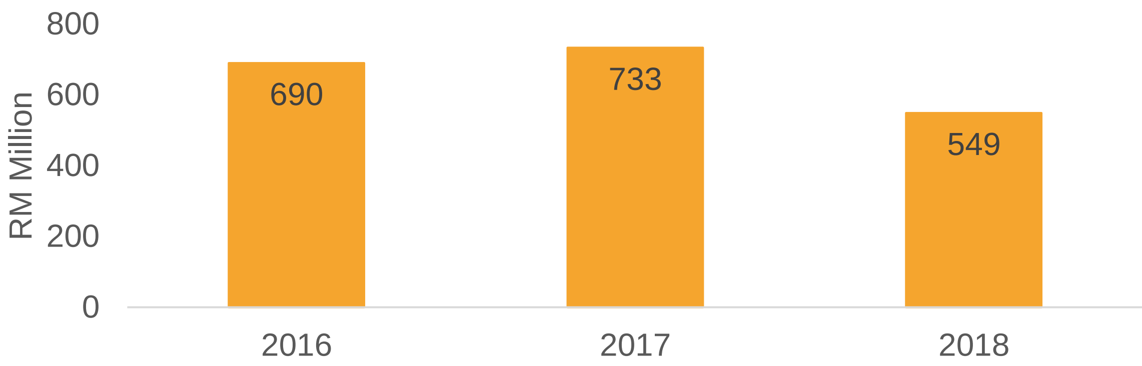
Figure 10-19: Total container throughput (TEUs) and capacity in Johor Port



10.2.4.3 Financial performance

Johor Port Bhd recorded a revenue of approximately RM549 million in 2018, which was a 7.3% decrease from its revenue of RM690 million in 2016, and a 25.1% decrease from the previous year.

Figure 10-20: Revenue of Johor Port Bhd in RM Million, 2016 – 2018



Source: SPEEDA

10.2.5 **Penang Port**

Penang Port is managed by Penang Port Sdn Bhd, a wholly-owned subsidiary of MMC Group. The two key points of interest in Penang Port are Swettenham Cruise Pier, and the Butterworth and Prai wharf, upon which the main container handling point, North Butterworth Container Terminal ("**NBCT**") is located.

10.2.5.1 Key features and strengths

Penang Port plays a crucial role to help shippers access the northern region in Malaysia and southern Thailand. The port also serves cruise ships from all over the world, cementing its essential role in the local tourism industry. Subsequently in 2019, the Swettenham Pier Cruise Terminal at Penang Port was redeveloped, enabling it to berth 2 mega cruise vessels at the same time.[30]

Table 10-8: Overview of key statistics on Penang Port

Indicators	Value (2019)
Capacity (million TEUs)	2
Throughput (million TEUs)	1.5
Capacity Utilisation	75%
Local : Transhipment	95:5
Water Depth (metre)	11.0 – 12.0
No. of Container Berths	6
Container Quay Length (KM)	1.5
No. of Container QC	12

Source: MMC Annual Report 2019

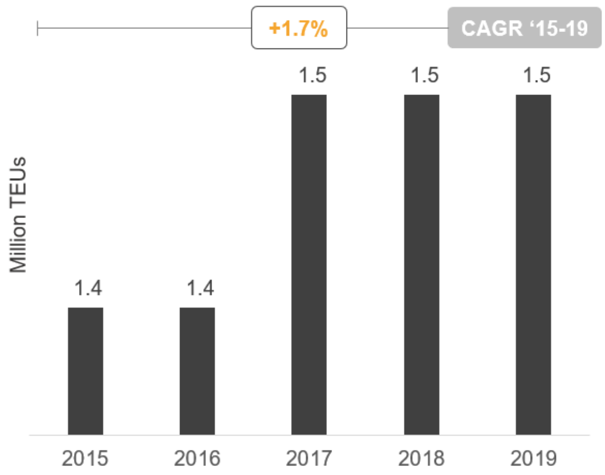
[30] MMC Corporation Berhad. (2020). *MMC Annual Report 2019*. MMC Corporation Berhad.

10.2.5.2 Port capacity

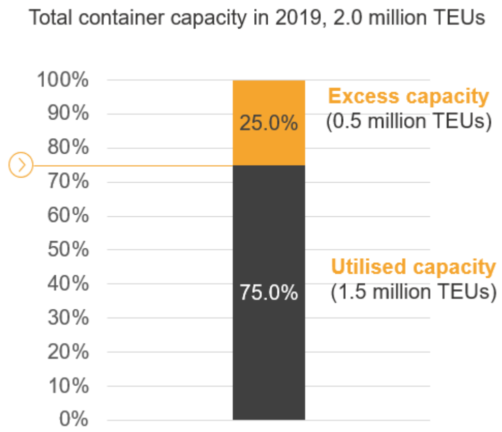
The total container throughput by TEUs at Penang Port grew from 1.4 million TEUs in 2015 to 1.5 million TEUs in 2019, at a CAGR of 1.7%.

On the other hand, the total container capacity of Penang Port in 2019 was 2.0 million TEUs, with 75.0% of the capacity utilised (~1.5 million TEUs). This translates into an excess capacity of 0.5 million TEUs, which is approximately 25.0% of Penang Port's total container capacity.

Figure 10-21: Total container throughput (TEUs) and capacity in Penang Port



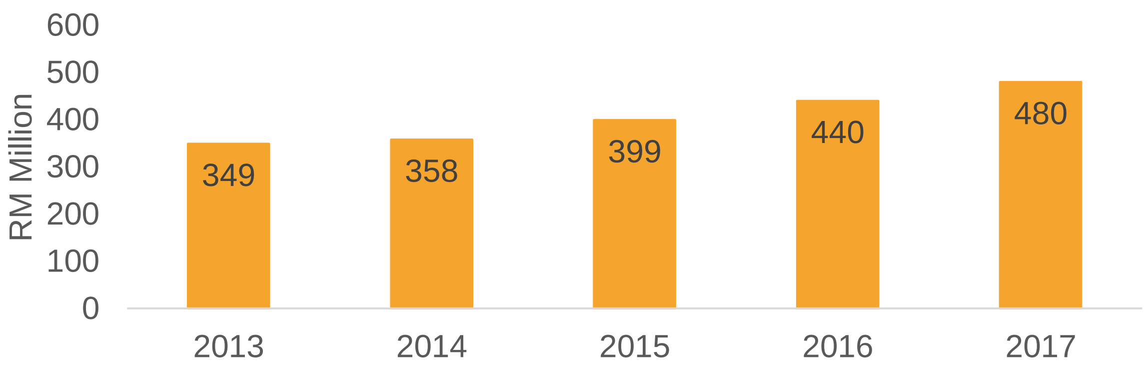
Source: MMC annual reports



10.2.5.3 Financial performance

Penang Port Sdn Bhd grew 8.3% from approximately RM349 million in 2013 to approximately RM480 million in 2017, which was a 9.1% growth from the previous year.

Figure 10-22: Revenue of Penang Port Sdn Bhd in RM Million, 2013 – 2017



Source: SPEEDA

10.2.6 Malacca Port (Tanjung Bruas Port)

Malacca Port, also known as Tanjung Bruas Port, is managed by MMC Group via Tanjung Bruas Port Sdn Bhd. Tanjung Bruas Port operates as a feeder port for Northport and Johor Port. It houses small to mid-sized vessels that has a length of less than 170m, with up to 20,000 Deadweight Tonnage capacity.

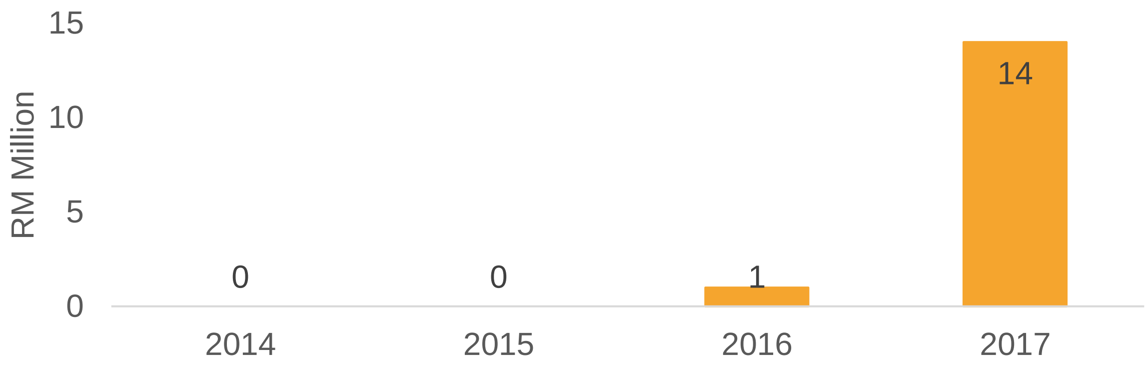
10.2.6.1 Key features and strengths

In 2019, the port achieved a personal record high for handling the highest conventional cargo since its privatisation in 2016.[31] In the same year, the port started its container operations. The new RORO ferry connection established between Indonesia and Malacca is expected to add a competitive edge to the port in the long run once regulatory challenges relating to customs compliance have been overcame.

10.2.6.2 Financial performance

The reported revenue of Tanjung Bruas Port Sdn Bhd was approximately RM14 million in 2017.

Figure 10-23: Revenue of Tanjung Bruas Port Sdn Bhd in RM Million, 2014 – 2017



Source: SPEEDA

[31] MMC Corporation Berhad. (2020). *MMC Annual Report 2019*. MMC Corporation Berhad.

10.3 Regulatory environment

No	Relevant Port Act in Malaysia	Remarks
1	Port Authorities Act 1963 [Act 488]	• Governs the operations of ports including among others, Port Klang, Johor, and Kuantan ports. • Prescribed for processes and activities related to the ports, ranging from the landing and shipping of cargo and permit for goods conveyance, to licensed warehouse (Part IV). Provisions have also been made with regards to the offences and penalties for the corresponding offences (Part VI), as well as the extension of functions of port authority via the power of Minister (Part VIIA). • The port authority is also empowered under the Act (s. 26) to give general security by bond or otherwise for the payment of the import duty payable in respect of goods stored in licensed warehouse or the due exportation of such goods.
2	Ports (Privatisation) Act 1990 [Act 422]	• Governs the privatization of the port undertakings by port authorities and all other related matters • Prescribed for the transfer of port undertakings and port privatization plan • Set out provisions on the licensing of operators as well as their corresponding duties
3	Penang Port Commission Act 1955 [Act 140]	• Sets out provisions relating to the Port Commission for the Port of Penang, and other related purposes including various financial provisions • Prescription of matters relating to the interpretation of terminologies (Part I), and the establishment, incorporation and constitution of the Penang Port Commission (Part II), down to recovery of rates and sale of undelivered goods (Part IV) and others. • Empowered Port Commission to levy rates in accordance with a scale (scale of rates), for the landing, shipping, wharfage, cranage, storage or demurrage of goods at any wharf, dock, pier, building or other place in its possession or control • Rates may also be levied for vessels and boats lying alongside its property, carriage of goods to or from its property, and the embarking, landing, and use of its property.

		Further, the Act also set out the duties and powers of the Commission, as well as limitation of its liabilities.
4	Bintulu Port Authority Act 1981 [Act 243]	• Provides for the establishment of the Bintulu Port Authority and sets out its duties and powers • Prescribed for the transfer and vesting of responsibility in the Bintulu Port Authority for the development, control and administration of Bintulu Port • Empowers the Bintulu Port Authority to levy charges in accordance with a scale (scale of charges) for among others, the landing, shipping, wharfage, lighterage, cranage and storage of goods, and the use of the Authority's vessels and vehicles and demurrage; the mooring of vessels and boats; the embarkation and landing of persons; the use of tugs, firefloats and launches; as well as the use of a quay, wharf, dock, jetty, pier, etc
5	Sabah Port Authority Enactment 1967	• Provides for the establishment of Sabah Ports Authority • As with the other Acts of Parliaments that provide for the establishment of port authority, the Sabah Port Authority Enactment 1967 prescribed for the establishment, powers, functions, and responsibilities of the Sabah Ports Authority.
6	Sarawak Port Authorities Ordinance 1961	• Provides for the establishment of Port Authorities for certain Ports, including the Kuching Port Authority, the Rajang Port Authority, and the Miri Port Authority • As with the other Acts of Parliaments that provide for the establishment of port authority, the Sarawak Port Authorities Ordinance 1961 prescribed for the establishment, powers, functions, and responsibilities of these selected port authorities.
7	Free Zones Act 1990 [Act 438] & amendments	• The Free Zones Act 1990 and its 2019 amendments provide for the establishment of free zones in Malaysia in order to promote the country's economy. • Free Zones Act serves to promote the entrepot trade in Malaysia and has significant impact for manufacturing companies involved in the production or assembly of products mainly for export. free zones also help attract foreign businesses to make

		Malaysia their base for manufacturing or distribution activities, which could translate into a constant flow of cargo for the ports in the country. • Free zone is prescribed to be any part of Malaysia that is declared to be a free commercial zone or a free industrial zone under s.3(1) of the Act. • Free zones are hence deemed to be outside the Principal Custom Area (s. 2 (1A) of the customs Act 1967),[32] and as such the activities and industries within free zones are subjected to minimal customs formalities. Customs duty, excise duty, and sales tax will not be imposed on goods and services brought into, produced, manufactured or provided in a free zone. • Main free zones in Malaysia inlcude the Port Klang Free Zone, Port of Tanjung Pelepas Free Zone, Bayan Lepas Free Industrial Zone, and Pasir Gudang Free Commercial Zone.

[32] With the exception of Prohibition of Imports and Exports under Section 31 of the Customs Act 1967

10.3.1 Port Authorities Act 1963 [Act 488]

The Port Authorities Act 1963 prescribes for the establishment of port authorities and their functions, as well as all matters related to the aforementioned aspects. The Act governs the operations of ports including among others, Port Klang, Johor, and Kuantan ports.

The Port Authorities Act 1963 sets out the various aspects relating to the establishment, functions, power, and liabilities of the port authorities (Part I and Part IIIA). Besides, the Act also prescribed for processes and activities related to the ports, ranging from the landing and shipping of cargo and permit for goods conveyance, to licensed warehouse (Part IV). Provisions have also been made with regards to the offences and penalties for the corresponding offences (Part VI), as well as the extension of functions of port authority via the power of Minister (Part VIIA).

Particularly, the port authorities are empowered to levy charges, recover charges in arrears, recover pilotage due, as well as to sell goods remaining in custody. The port authority is also empowered under the Act (s. 26) to give general security by bond or otherwise for the payment of the import duty payable in respect of goods stored in licensed warehouse or the due exportation of such goods.

10.3.2 Ports (Privatisation) Act 1990 [Act 422]

The Ports (Privatisation) Act 1990 prescribed for the privatization of the port undertakings by port authorities, and all other related matters. The Act prescribed for the transfer of port undertakings and port privatization plan. Licensing of operators as well as their corresponding duties have also been set out under the Act.

10.3.3 Penang Port Commission Act 1955 [Act 140]

The Penang Port Commission Act 1955 sets out provisions relating to the Port Commission for the Port of Penang, as well as provisions for all other purposes connected to the aforementioned port, including various financial provisions. Wide range of matters relating to the Penang Port Commission have been prescribed by the Act, ranging from matters relating to the interpretation of terminologies (Part I), and the establishment, incorporation and constitution of the Penang Port Commission (Part II), down to recovery of rates and sale of undelivered goods (Part IV) and others.

Under the Act, the Penang Port Commission is empowered to levy rates for in accordance with a scale (scale of rates), for the landing, shipping, wharfage, cranage, storage or demurrage of goods at any wharf, dock, pier, building or other place (collectively as “property”) in its possession or control. Rates may also be levied for vessels and boats lying alongside its property, carriage of goods to or from its property, and the embarking, landing, and use of its property. Further, the Act also set out the duties and powers of the Commission, as well as limitation of its liabilities.

10.3.4 Bintulu Port Authority Act 1981 [Act 243]

The Bintulu Port Authority Act 1981 provides for the establishment of the Bintulu Port Authority. The Act also prescribed for the transfer and vesting of responsibility in the Bintulu Port Authority for the development, control and administration of Bintulu Port.

Under the Act, the Bintulu Port Authority is empowered to levy charges in accordance with a scale (scale of charges) for among others, the landing, shipping, wharfage, lighterage, cranage and storage of goods, and the use of the Authority's vessels and vehicles and demurrage; the mooring of vessels and boats; the embarkation and landing of persons; the use of tugs, firefloats and launches belonging to or maintained by the Authority; as well as the use of a quay, wharf, dock, jetty, pier, landing-place, foreshore or other property vested in or under the control of the Authority. Further, the Act also set out the duties and powers of the Authority, as well as limitation of its liabilities.

10.3.5 Sabah Port Authority Enactment 1967

The Sabah Port Authority Enactment 1967 provides for the establishment of Sabah Ports Authority. As with the other Acts of Parliaments that provide for the establishment of port authority, the Sabah Port Authority Enactment 1967 prescribed for the establishment, powers, functions, and responsibilities of the Sabah Ports Authority.

10.3.6 Sarawak Port Authorities Ordinance 1961

The Sarawak Port Authorities Ordinance 1961 provides for the establishment of Port Authorities for certain Ports, including the Kuching Port Authority, the Rajang Port Authority, and the Miri Port Authority. As with the other Acts of Parliaments that provide for the establishment of port authority, the 1.2.8Sarawak Port Authorities Ordinance 1961 prescribed for the establishment, powers, functions, and responsibilities of these selected port authorities.

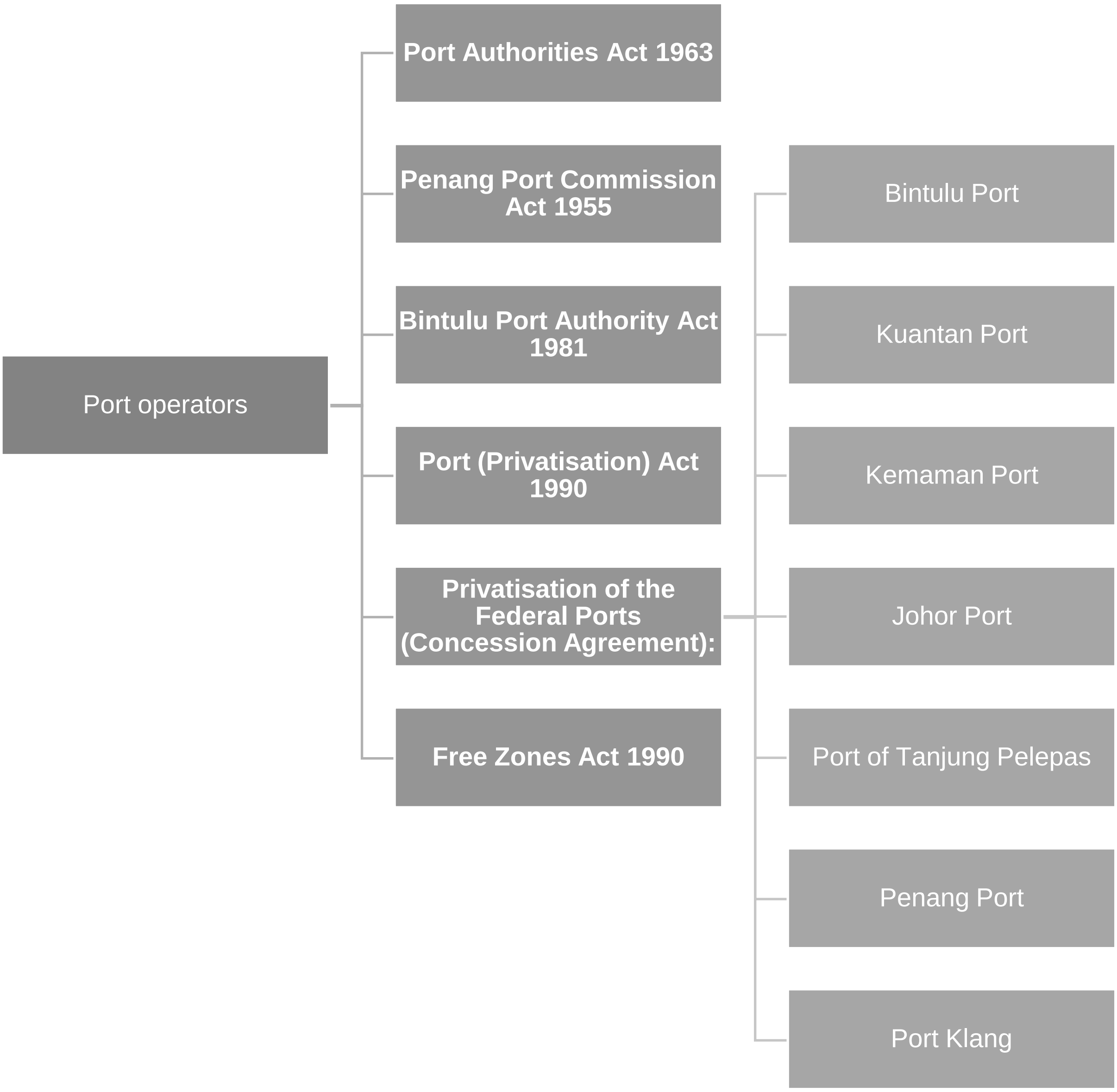
10.3.7 Free Zones Act 1990 [Act 438] & amendments

The Free Zones Act 1990 and its 2019 amendments provide for the establishment of free zones in Malaysia in order to promote the country's economy. Under the Act, free zone is prescribed to be any part of Malaysia that is declared to be a free commercial zone or a free industrial zone under s.3(1) of the Act. Free Zones Act serves to promote the entrepot trade in Malaysia and has significant impact for manufacturing companies involved in the production or assembly of products mainly for export. Further, free zones also help attract foreign businesses to make Malaysia their base for manufacturing or distribution activities, which could translate into a constant flow of cargo for the ports in the country.

In line with the purpose of free zones, free zones are hence deemed to be outside the Principal Custom Area (s. 2 (1A) of the customs Act 1967),[33] and as such the activities and industries within free zones are subjected to minimal customs formalities. Customs duty, excise duty, sales tax, and service tax will not be imposed on goods and services brought into, produced, manufactured or provided in a free zone. Some of the main free zones in Malaysia inlcude the Port Klang Free Zone, Port of Tanjung Pelepas Free Zone, Bayan Lepas Free Industrial Zone, and Pasir Gudang Free Commercial Zone.

[33] With the exception of Prohibition of Imports and Exports under Section 31 of the Customs Act 1967

Figure 10-24 Regulatory environment – Port operators[34]



[34] Asean.org. 2015. *ASEAN Member States Domestic Rules And Regulations Relevant To The Logistics And Transport Sectoral Services*. [online] Available at: <https://asean.org/wp-content/uploads/images/2015/february/logistic_services/File%2003-5%20Malaysia%20Relevant%20Laws%20%20Regulations%2017th%20LTSSWGlinks.pdf> [Accessed 1 March 2021].

10.4 Potential competition issues

10.4.1 Concessionaires exercising rights under concession agreements in manner that may potentially result in adverse effect on the competition

Context. Port concession agreement–a contract in which operating rights for ports is transferred by the government to private entities, is a widely used port ownership model in Malaysia.

Under the port concession agreement, private entities (i.e. port operators) obtained the right to provide and control access to port infrastructure services, usually with the obligations to develop, operate, and maintain port infrastructure facilities on an exclusive basis.

The manner in which concession agreement is implemented by concessionaires such as port operators can give rise to competition issues which prevent, restrict, or distort competition across the supply chain level within the port logistics sector.

Some of the grievances shared by downstream players against the exercise of exclusive rights by port operators include the increase in rental for warehouses, land, and charges for port services, introduction of new charges for port services, imposing mandatory requirement to engage port operators for the provision of certain services. There was also a complaint on a local port operator's refusal to issue support letter to support applications of downstream players to protect its own business interest in the downstream market.

However, it is to note that port concessionaires do not have monopoly right to port operations. For instance, in Sabah, the Ports Privatisation Agreement specifically stated that the objective of privatisation is to promote competition (Recital D of the Privatisation Agreement). Clause 9.3 also provided that concessionaires are only given the first right of refusal for a period of 5 years should the State Government /Port Authority decided to issue another port concession licence. Further, charges including warehouse rentals, port services charges are gazetted under Port Tariff, whereby the increment in rates or imposition of new charges would require the prior approval of Sabah Ports Authority and the State Government. Sabah Ports (Privatisation) Enactment 1998 also empowered interested parties to make application for a port concessionaire to provide port services.

Table 10-9: Selected ports in Malaysia and the corresponding concessionaires

Ports	Operator
Port Klang	• **Westport Holdings Berhad** • **Northport (M) Berhad** *(MMC Group)*
Port of Tanjung Pelepas	• **Port of Tanjung Pelepas Sdn Bhd** *(70% stake owned by MMC Group; and Maersk Group)*
Johor Port	• **Johor Port Berhad** *(MMC Group)*
Penang Port	• **Penang Port Sdn Bhd** *(MMC Group)*
Kuantan Port	• **Kuantan Port Consortium Sdn Bhd**
Kemaman Port	• **Konsortium Pelabuhan Kemaman Sdn Bhd**
Malacca Port	• **Tanjung Bruas Sdn Bhd** *(MMC Group)*
Bintulu Port	• **Bintulu Port Sdn Bhd**

Source: Secondary research

Harm to competition. The exercise of rights vested in the port operators by the concession agreements may harm market competition where there is potential abuse of dominant position by port operators.

Competitive harm from port operators' abuse of domination position can potentially arise through:

1. Bundling of port infrastructure access and services under the concessionary agreement with provision of other services by port operators, such as manpower for the stuffing and unstuffing of containers within the warehouse area;
2. Refusal to supply or limit access to essential infrastructure to other downstream players;
3. Discriminatory conduct that applies different conditions to equivalent transactions including demonstrating preferential treatment to related companies operating in downstream market, subsequently discourages new market entry and market expansion, harms competition in downstream market, and damages or forces an equally efficient competitor from the downstream market. This includes the refusal to support downstream players meet the

mandatory pre-requisites set by OGAs due to port operators' / related companies involvement in the downstream market; and
4. Unfair determination or revision of price, such as imposition of new charges / increasing rental for warehouses, land, and services.

The exercise of exclusive rights granted under the concession agreements by port operators may give rise to competitive harm in instances of abuse. The potential competition concerns highlighted above might merit further detailed assessment through investigation.

*Box 1: Port operators, discriminatory practices - **Australia***

In 2018, the Australian Competition & Consumer Commission (ACCC) launched proceedings against NSW Port Operations Hold Co Pty Ltd and its subsidiaries (Port Botany Operations Pty Ltd and Port Kembla Operations Pty Ltd) for making agreements with the State of New South Wales. It was alleged that the agreements had an anti-competitive purpose and effect.

Some of the effects of the agreements were:

- The State of NSW was obliged to compensate the operators of Port Botany and Port Kembla if container traffic at the Port of Newcastle is above a minimal specified cap
- The Port of Newcastle was required to reimburse the State of NSW for any compensation paid to operators of Port Botany and Port Kembla under the Botany and Kembla Port Commitment Deeds.

ACCC alleged that the agreements were likely to prevent or hinder the development of container terminal at Newcastle and had the purpose to substantially lessening competition.

It was also alleged that the reimbursement provision is an anti-competitive consequence of the agreements, and it makes the development of container terminal of Newcastle uneconomic. If a competing container terminal cannot be developed, NSW ports will remain the only major supplier of port services for container cargo for 50 years.

ACCC sought declarations that the compensation provisions contravene the Competition and Consumer Act 2010. Injunctions were also sought to restrain the operators from seeking compensation.

Box 2: Port operators, discriminatory practices - Germany & New Zealand

Germany
Scandlines, the owner and operator of the ferry port of Puttgarden, Germany, was found by the Bundeskartellamt (German federal cartel office) to have illegally prevented competitor access to the ferry port. Bastø Fosen and Eidsiva were two Norwegian shipping companies that were seeking to gain access to the port.

Scandlines was the sole provider of services on the Puttgarden–Rødby route, and several competitors wished to operate on the route but were refused access to the Port of Puttgarden.

New Zealand
The Commerce Commission of New Zealand investigated a complaint lodged by International Stevedoring Operations Limited (ISO) against Northport Ltd for refusal to supply.

Northport Ltd (the owner of the Port of Marsden Point) had granted an exclusive licence to its own joint-venture port services company that prevented ISO from accessing the required facilities to handle cargo. ISO threatened Northport with legal action for refusal to grant access.

Northport then offered an arrangement whereby ISO could access the port but cargo must be stored away from the port and transported to and from by road, without any reconfiguring on the quayside. This was a substantially more expensive means of operation and made it uneconomic for ISO and other competing companies to handle cargo at the Marsden Point Port.

10.5 Other areas of concerns

10.5.1 [Market concern] Poor infrastructure connectivity and road condition safety

Description. Logistics players have opined that port logistics is often fraught with issues and challenges that negatively affects their business operations, including the ease of doing business and the associated costs. One of the oft-cited fundamental reasons from which several other issues stem from, was inefficiencies in infrastructure.

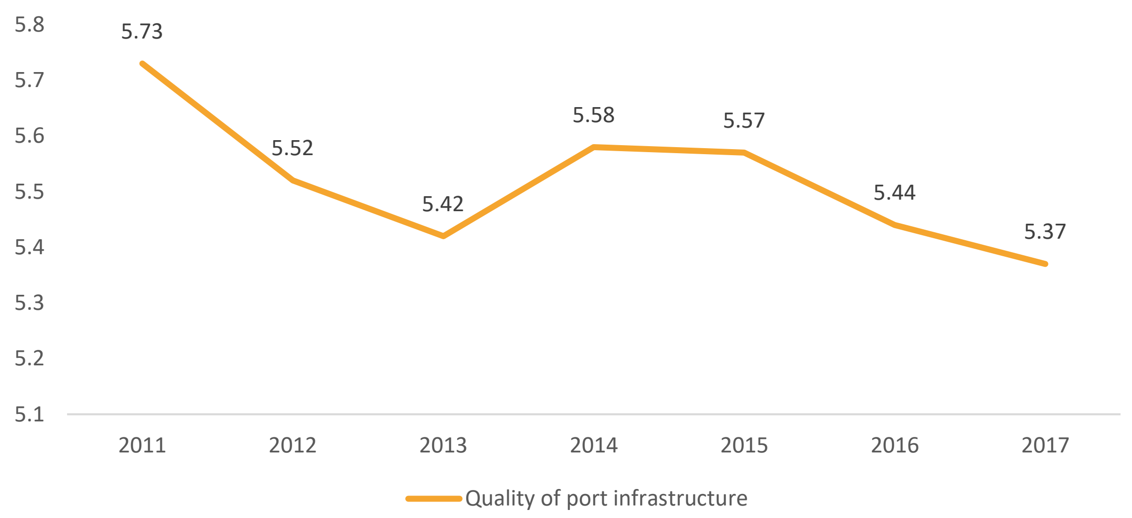
For instance, poor road infrastructure causes congestions and accidents, which hinders efficient road transport and curtails the growth of port logistics. Delays often translated into additional costs for logistics players across the supply chain. For example, logistics players have reflected that delays that resulted in demurrage and detention charges could sometimes be avoided if the issue of road and port congestion is eliminated.

This is evident through the LPI rankings, where Malaysia's ranking has seen a decline from rank 27 in 2007 to rank 41 in 2018. The LPI measures 160 countries through six key indicators. In particular, Malaysia was ranked 40, and only scored 3.15 (out of a total score of 5.0) for the indicator "quality of trade and transport-related infrastructure". This score has also been declining, from a high of 3.56 in 2014 to 3.15 in 2018.

Malaysia's decline in logistics performance is also reflected in the Quality of Port Infrastructure Index, where data of port infrastructure quality is collected from 151 countries according to the Global Performance Index. Malaysia's score has been declining gradually over the years, from a score of 5.73 in 2011, to a score of 5.37 in 2017.[35]

Year	LPI ranking	Score
2007	27	3.56
2018	⇩ 41	⇩ 3.15

Figure 10-25: Quality of Port Infrastructure, 2011 – 2017



[35] World Bank (2018) Quality of Port Infrastructure, Index

11 Customs and Other Government Agencies (OGAs)

11.1 Regulatory environment

11.1.1 Customs Act 1967 [Act 235] & amendments

Customs Act 1967 is an Act relating to custom and sets out the customs regime for Malaysia, including on the levying of customs duties, importation and exportation, transit and transhipment, port clearances, warehousing, goods declaration, tariff treatment, as well as licensing provisions for various port logistics players. Particularly, s. 90 of the Act also governs the approval of forwarding / shipping agents as an import or export agent pertaining to Customs matters, while s. 65 governs the licensing of warehouses, which include Public Bonded Warehouse Licence, as well as Private Bonded Warehouse Licence.

Subsequently, the 1967 Act was amended by the Customs (Amendment) Act 2019 where extensive amendments were introduced to the existing customs law.

Some of the notable key amendment provisions include:

- Extended timeline – from 3 years to 6 years for Customs to demand for payment of underpaid duties as well as for Customs to perform audits
- Empowerment of the Director General of Customs to issue public rulings on application of the Act. This is foreseen to bring about certainty to businesses as businesses gain clarity into Customs' interpretation of the Act and Customs operate with more transparency
- New governing provisions for the rules of origins and tariff treatment, including regulatory provisions on among others, the appointment of issuing authorities, application for certificate of origin, documentation obligation for origin-related information, and responsibilities of importers, exporters, and the producers of goods

Figure 11-1 Regulatory environment – Customs[36]

Source: Association of Southeast Asian Nations (ASEAN), Ipsos Analysis

11.2 Other areas of concerns

11.2.1 [Regulatory concern] Licensing requirement in issuing Customs Brokerage Licence (CBL) may limit the number of new entrants and potentially restrict and distort competition

Description. The equity requirement under s. 90 of CA 1967 to apply for a forwarding agent license may exclude prospective entrants who could not meet the specifications, where one of the pre-requisites requires for at least 51% of Bumiputera participation on share capital, management and employees.[37]

On the other hand, the CBL for shipping agents, the 30% Bumiputera participation requirement has been removed, while the requirements on staff and management ratio remains. This issue has also been escalated for discussion between Customs, MOF and Bumiputera Development Agenda Unit (TERAJU).

Implications. The equity requirement for forwarding agent license may deter / make it more difficult for new entrants to enter the market as they struggle to satisfy the Bumiputera requirements. As a result, those market players who are unable to secure the issuance of license, have resorted to rent-seeking practices / buy off-the-shelf licenses.

Besides that, when entry to market is regulated, this may allow for existing incumbent players to act without constraints and act anti-competitively. This was evident through existing industry practice, where some CBL license holders have taken advantage of this situation to misuse their CBL by renting / selling them to prospective entrants at exorbitant prices.

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[36] Asean.org. 2015. *ASEAN Member States Domestic Rules And Regulations Relevant To The Logistics And Transport Sectoral Services*. [online] Available at: <https://asean.org/wp-content/uploads/images/2015/february/logistic_services/File%2003-5%20Malaysia%20Relevant%20Laws%20%20Regulations%2017th%20LTSSWGlinks.pdf> [Accessed 1 March 2021].

[37] Customs Agent - Official Portal Royal Malaysian Custom Department. (2020). Retrieved 2 October 2020, from http://www.customs.gov.my/en/pg/Pages/pg_cag.aspx

11.2.2 [Market concern] Variances in custom clearance practices

Description. Market players have expressed concerns about custom operations and its related enforcement practices, where certain custom clearance practices have led to delays and congestion at the port. Some of the custom practices that have been observed to lead to containers being held up include the following:

- Issuance of new custom orders;
- Introducing changes to custom procedures;
- Carrying out additional / surprise exit-inspections; and
- Variances in the interpretation of custom orders.

Variances in custom clearance practices can lead to delays, which would translate into detention and demurrage charges for market players as they are caught off guard by the sudden changes and are unprepared to make corresponding preparations. Ultimately, these detention and demurrage charges are passed on to shippers / consumers to bear.

Besides that, market players cited the lack of proper consultation prior to the issuance of new custom orders have led difficulties in the implementation process. Similarly, when new custom procedures are in place, market players often found themselves not properly informed and hence lacked proper documentation, which also led to delays in goods / cargo clearances.

Industry insights:
Varying custom clearance procedures within the same port

Logistics players have reported that in practice, the custom clearance procedures are unclear and may vary even within the same port. In the context of Port Klang, it has been reported that same items that can be cleared in Northport may not receive custom clearance at Westport, likely due to varied experience or knowledge of customs personnel from both ports.

The knowledge level of custom officers has also been cited as an indirect reason for delays. Junior custom officers often find themselves in the position where they are unsure of a certain item and will frequently resort to inspection. This leads to delay that could have been prevented.

Source: In-depth interviews

Implications. Industry players have cited port delays and congestions as one of the reasons to detention and demurrage charges. Rising detention and demurrage charges translates into rising cost of doing business, and this could potentially lead to the additional costs being transferred to consumers as shippers increase the cost of goods to mitigate the rising transportation costs.

11.2.3 [Regulatory concern] Fatigue regulatory requirements limit business expansion opportunities

Description. To ensure continued growth of the shipping industry in the country, port operators seek out business expansion opportunities to further their objective.

It has been reported that one of the main barriers to business expansion pertains to regulatory constraint. In the past, port operators have faced situations whereby business opportunities are lost as a result of convoluted regulatory requirements posed in relation to the execution of proposed business plans. It is possible for potential investors and business partners to be put off by the stringent and convoluted regulatory constraints, subsequently leading to the reconsideration and cancellation of proposed business plans.

Industry insights:
Multiplicity of OGAs hampers ease of doing business

Logistics players have reflected that the multiplicity of OGAs, including among others MAQIS, CIDB, SIRIM, and COA, and the associated inspection requirements and compliance procedures are overly convoluted and should be simplified to enhance the ease of doing business.

Further, it has also been reflected that the high costs of application for certain import licenses and the complicated application process are a hindrance to port competitiveness.

Source: In-depth interviews

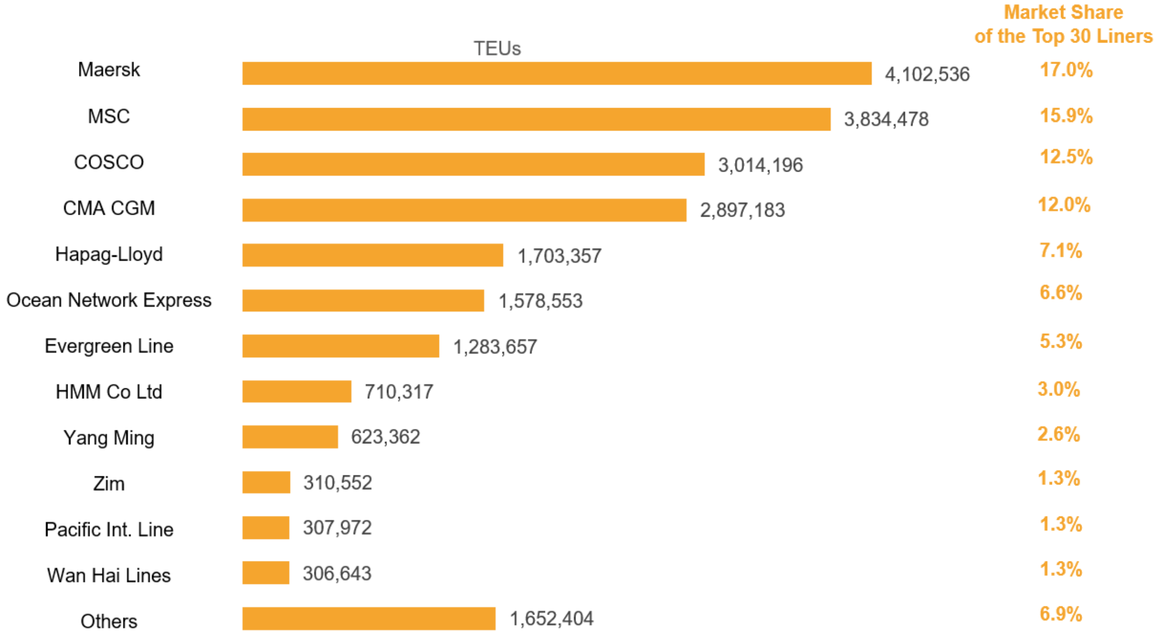
Implications. Regulatory constraints hinder port development and foreclosed business opportunities to prospective investors and business partners to the port operators.

12 Shipping lines

A shipping line is a company or organisation that owns and operates vessels. They are responsible for the smooth transportation of the cargo aboard their ships from port-to-port, organises each vessel's rotation, and operates on strictly commercial terms. Shipping lines provide service of transporting goods by means of high-capacity, ocean-going ships that transit regular routes on fixed schedules.

Among the top 30 global shipping lines, the shipping lines with container vessels capacity of more than one million TEUs are Maersk, Mediterranean Shipping Company, COSCO, CMA CGM, Hapag-Lloyd, Ocean Network Express, and Evergreen Line. An overview of the top 30 global shipping lines, as measured by the capacity of container vessels based on twenty-foot equivalent units (TEUs) and market share, are as followed.

Figure 12-1: Top 30 shipping lines by TEUs and their corresponding market share



Others: Zhonggu Logistics Corp., KMTC, IRISL Group, Antong Holdings (QASC), SITC, X-press Feeders Group, UniFeeder, TS Liners, Sinokor Merchant Marine, Matson, Global Feeder Shipping LLC, RCL (Regional Container L.), Sinotrans, Arkas Line / EMES, Salam Pacific Indonesia Lines, SM Line Corp., Swire Shipping, Sea Land Shipping.

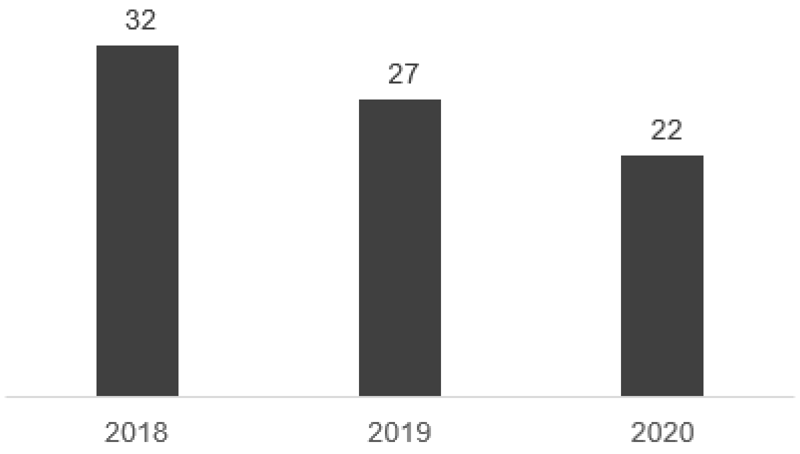
Source: Alphaliner (2020)

12.1 Number of players in Malaysia

Currently, there are approximately ~300 shipping lines / agents[38] operating in Malaysia. Almost half of which are members of the Shipping Association of Malaysia (SAM), which is an organisation established to look after the interests of the shipping lines and companies operating in Malaysia.

According to Royal Malaysian Customs Department ("**RMCD**"), a total of 81 shipping agent licenses were issued for shipping agents in the period of 2018-2020:

Figure 12-2: Number of shipping agent licenses issued, 2018 - 2020



Source: RMCD

RMCD is responsible for the issuance of licenses for logistics industry players including forwarding agents, shipping agents, freight forwarders, public bonded warehouse and private bonded warehouses.

[38] The number of players are derived from official statistics based on the number of companies registered under the relevant MSICs, as captured under official platforms e.g. SSM database.

12.2 Profiling of selected key players

No	Shipping Lines	Remarks
1	Maersk Malaysia Sdn Bhd	• Global market share: 17.0% • Annual movement of containers around 12 million containers • Depot operates in Port Tanjung Pelepas, Port Klang & Penang Port • Ships: 691 vessels • Custom brokerage: import and export custom clearance, custom transit • Have vertically integrated businesses, including freight forwarding, stevedoring, custom brokerage, warehousing, and haulage
2	MTT Shipping Sdn Bhd	• Containers: Dry cargo containers, Reefers, Special containers • Depot: 4,000 TEU capacity • Ships: 7 vessels • Have vertically integrated businesses, including freight forwarding, stevedoring, custom brokerage, warehousing, and haulage
3	Harbour Link Group Berhad	• Total fleet tonnage of 4,700 TEUs (in 2019) • Containers: Containers rental services • Depots: Strategic container yards located near Malaysia ports • Have vertically integrated businesses, including customs brokerage, stevedoring, freight forwarding, warehousing, haulage, and lorry transportation
4	POS Logistics Sdn Bhd	• Containers: Trucking containers • Depots: 60 acres of container yard • Ships: 3 RORO vessels, 2 bulk carriers • 7 warehouses at the capacity of 1.55 million square feet with 240,000 square feet of temperature-controlled warehouse • Have vertically integrated businesses, including customs brokerage, freight forwarding, warehousing, haulage, and lorry transportation

5	Mediterranean Shipping Company (MSC)	• Has a capacity of approximately 3.83 million TEUs • Global market share: ~15.9% • Vessels (global): 560 vessels • 493 offices in 155 countries with 70,000 employees • 19 years of operation in Malaysia • MSC runs its business out of 4 major ports including Westports, Penang Port, Johor Port, and Port of Tanjung Pelepas • 4 local offices, with its main office located in Klang, Selangor
6	COSCO	• 3.01 million TEUs • Global market share: 12.5% • Contains 7 listed companies, and one of them is the COSCO Corporation (Singapore) Limited • The Singapore-based subsidiary expanded its logistics network to Malaysia after acquiring 80% stake in Malaysian-owned shipping companies including Guper Integrated Logistics, Gem Logistics, Dolphin Shipping Agency, and East West Freight Services.
7	CMA CGM	• Global market share: ~12% • Over 110,000 employees across 160 countries • Operates primarily out of Westports
8	Hapag-Lloyd	• Capacity of approximately 1.70 million TEUs • Global market share: 7.1% • Employs more than 13,000 employees in its 388 offices across 129 countries • Headquarters is in Hamburg, Germany. Also operates out of 5 other regional offices in Genoa, Piscataway, Valparaiso, Singapore, and Dubai • Has presence in 13 strategic ports in Malaysia and Brunei, catering to all aspects of shipping and logistical needs.
9	Ocean Network Express (ONE)	• Founded recently in 2017 as a result of the joint venture between three independent Japanese container lines, "K" Line, Mitsui O.S.K. Line, and Nippon Yusen Kaisha • ONE operates across 120 countries

		• Global market share: ~6.6% • Estimated capacity of approximately 1.58 million TEUs • ONE's first office in Malaysia was established in 2018, and has since expanded to having 12 offices in Malaysia • Port of Tanjung Pelepas was included in the loop of ONE's shipping route for its Southeast Asia – Australia service.[39] The shipping route was ONE's strategic focus in 2019.
10	Evergreen Line	• Total capacity of approximately 1.28 million TEUs • Global market share: ~5.3% • Strong focus in building efficient e-commerce platforms and green technology including environmental-friendly container ships • In 2002, Evergreen Line migrated its operations from Singapore to Port of Tanjung Pelepas, attracted by its strategic location and lower cost of operation

[39] Network, M. (2019). Ocean Network Express Enhances Asia Australia Services. Retrieved 6 October 2020, from https://www.marineinsight.com/shipping-news/ocean-network-express-enhances-asia-australia-services/

12.2.1 Maersk Malaysia Sdn Bhd

Founded in 1928, Maersk is a Danish international container shipping company who holds the position as the global leader of the container logistics industry. Maersk has 374 offices in 116 countries, with a total of 79,000 employee. As of September 2020, Maersk has the largest capacity among all of the container shipping companies. With 4.10 million TEUs, Maersk commands a market share of 17.0%.

With the access to a global network of roads, railways, and sea-based routes, Maersk has achieved a highly integrated supply chain and optimised cargo flow. This is further enhanced by the digitalisation of its core operations.

Table 12-1: Vertical integration structure of Maersk Malaysia Sdn Bhd

Containers	Annual movement of 12 million containers
Depot (On / Off dock)	• Port of Tanjung Pelepas • Port Klang • Penang Port
Ships	691 vessels
Customs brokerage	• Import and export customs clearance • Customs transit
Freight forwarding services	Comprehensive freight forwarding services
Warehouse	• Consolidation and deconsolidation centres • Fulfilment centres
Haulage	Haulier trucks / Prime movers
Lorry transportation	Trucks[40]

Maersk has established its presence in Malaysia since 1974 and currently operates 308 self-owned vessels and 383 chartered vessels globally. Several offices have been set up throughout the major ports in Malaysia including Port Klang, Tanjung Pelepas and Penang Port.

On top of the conventional services, Maersk has also broadened its scope of services to other highly specialized areas such as the delivery of electronics, chemicals, and machineries which bolstered Maersk's competitiveness in the Malaysian shipping industry. Tanjung Pelepas, the biggest port in the Southern part of Malaysia has undergone significant development with Maersk being one of the major port users since the early 2000s.

[40] Priority Group of Companies- Reviews, Rate Quote. Retrieved 13 October 2020, from http://www.shipping-international.com/companies/priority-group-of-companies.html

Currently, there are 23 local depot operators supporting Maersk's business in Malaysia with inland distribution solutions by trucks, rails and barges.[41]

12.2.2 MTT Shipping Sdn Bhd

MTT Shipping was incorporated in December 2010 and it has grown into one of the leading carriers in Malaysia with its possession own container vessels and offers a comprehensive port logistics solution. Historically, it was the inception of Malaysian Trade and Transport Co in 1963, which pioneered the barging, stevedoring and shipping services in Georgetown, Penang.[42]

With the aim of offering a one-stop logistics solution, the Priority Group of Companies was founded in 1988 and cooperated closely with MTT Shipping to provide freight forwarding, warehousing, hauling and trucking services. As of October 2020, Alphaliner ranked MTT Shipping in the 73rd place according to number of vessels at 7 ships that carry a total capacity of 9,781 TEUs.[43]

Table 12-2: Vertical integration structure of MTT Shipping Sdn Bhd

Containers	• Dry cargo containers • Reefers • Special containers
Depot (On / Off dock)	4,000 TEU capacity
Ships	7 vessels
Customs brokerage	Priority Synergy Sdn Bhd
Stevedoring	50 years track record by Malaysia Trade and Transport Co
Freight forwarding services	Priority Cargo Sdn Bhd
Warehouse	• Priority Bonded Warehouse Sdn Bhd • Bonded and non-bonded warehouse • 120,000 square feet •
Haulage	Priority Haulage and Distribution Sdn Bhd
Lorry transportation	• Priority Haulage and Distribution Sdn Bhd • 50 trucks

[41] Inland services in Malaysia. (2020). Retrieved 14 October 2020, from https://www.maersk.com/local-information/asia-pacific/malaysia/local-solutions/inland-services
[42] MTT | About Us. Retrieved 13 October 2020, from http://www.mttgroup.com.my/?page_id=9
[43] PublicTop100. (2020). Retrieved 13 October 2020, from https://alphaliner.axsmarine.com/PublicTop100/

12.2.3 Harbour-Link Group Berhad

Incorporated on September 2002 and officially listed on the Main Market of Bursa Malaysia Securities Berhad on January 2004, Harbour-Link was formed by the integration of all related business activities. Prior to the establishment of Harbour-Link Group Berhad, Harbour-Link M Sdn Bhd and Harbour-Link Agencies Sdn Bhd have over 45 years of experiences and knowledge in the shipping, marine and integrated logistics services. The Group has grown to offer a comprehensive range of services from container rental services, depot storage capacity, ship chartering, custom brokerage services, stevedoring, freight forwarding services, warehousing, heavy hauling and trucking service to fulfil its client needs.

According to their 2019 Annual Report, Harbour-Link operates its container liners at a total fleet tonnage of 4,700 TEUs, serving from local offices and branch offices in Singapore, Hong Kong, China and Korea to its global network.

Table 12-3: Vertical integration structure of Harbour-Link Group Berhad

Containers	Containers rental services
Depot (On / Off dock)	Strategic container yards located near Malaysia ports
Ships	• Harbour Hornbill • Harbour Ivory • M.V. Harbour Mariner
Customs brokerage	Offers customs clearance and coordination
Stevedoring	• Stevedore supply • Forklifts and skilled operators supply • Lashing and unlashing work
Freight forwarding services	• 3PL • Freight forwarding on door-to door basis
Warehouse	• Bonded warehouse for dutiable goods • Non-bonded warehouse for long-term and short-term storage
Haulage	• 20 Multi - axle trailers (Goldhofer) • 6 Multi - axle trailers (Commetto) • 1 Prime Mover (Man) • 3 Prime Movers (Scania) • 1 Goldhofer Drop Deck Platform (240 Ton Capacity) • 6 Self-propelled multi - axle trailers (Goldhofer)
Lorry transportation	Trucks and tractors

12.2.4 POS Logistics Berhad

A fully owned subsidiary of POS Malaysia, POS Logistics was founded in 1984 with a humble scale of 15 prime movers and 60 trailers to cater the logistics needs in Malaysia. POS Logistics now operates 3 Roll-On/Roll-Off (RORO) vessels that enables an end-to-end automotive logistics service,[44] and 2 bulk carriers (POS Logistics 1 and POS Logistics 2) for containerised shipping.

On top of the automotive logistics services, POS Logistics has also broadened its scope of logistics services to cover e-commerce logistics, as well as specialised logistics in the oil and gas, power and utility, and aviation and defence industry. Having 7 warehouses at the capacity of 1.55 million square feet with 240,000 square feet of temperature-controlled warehouse, POS Logistic has definite capacity to accommodate massive number of containers.[45] It also covers inland transportation services that comprehends the fully integrated logistics solutions.

Table 12-4: Vertical integration structure of POS Logistics Berhad

Containers	Trucking containers
Depot (On / Off dock)	60 acres of container yard
Ships	• 3 RORO vessels • 2 bulk carriers
Customs brokerage	Covers exports and imports consignments
Stevedoring	N/A
Freight forwarding services	Extensive freight forwarding services
Warehouse	• 7 warehouses in Malaysia • Totals up to 1.55 million square feet • 240,000 square ft temperature-controlled warehouse
Haulage	• 438 prime movers • 2,552 trailers • 19 car carriers • 2 motorcycle carriers
Lorry transportation	• 22 box trucks • 25 40-footer curtain siders • Bulk tankers • Petroleum tankers

[44] Vehicle Shipping Services | Pos Logistics. Retrieved 14 October 2020, from https://www.poslogistics.com.my/solutions/vehicle-shipping-services/
[45] POS Logistics. (2017). *POS Logistics Corporate Brochure* [Ebook] (p. 2). Retrieved from https://issuu.com/poslogistics/docs/pos_logistics_corporate_brochure

12.2.5 Mediterranean Shipping Company (MSC)

MSC was founded in 1970 by the Aponte family, with its headquarters in Geneva, Switzerland. As the second largest shipping company in the world, MSC has a capacity of approximately 3.83 million TEUs, commanding approximately 15.9% of the market share. Over the years, MSC has expanded its operation. To date, MSC has approximately 560 vessels globally and operates out of its 493 offices in 155 countries with 70,000 employees.

MSC has made significant investment into digitalisation and green technologies to achieve higher operational efficiency while minimizing its environmental footprint. With more than 19 years of history of operating in West Malaysia, MSC runs its business out of 4 major ports including Westports, Penang Port, Johor Port, and Port of Tanjung Pelepas. MSC also have 4 local offices, with its main office located in Klang, Selangor.

12.2.6 COSCO

China Ocean Shipping Company Ltd., better known as COSCO Group, was formed in 2016 as a result of the merger between two well-established shipping lines, China Ocean Shipping Company and China Shipping (Group) Company. As of September 2020, COCSO has a total capacity of 3.01 million TEUs, which translates into 12.5% of market share. With its headquarters in Shanghai, the Chinese state-owned company involves itself in international and domestic maritime logistics services, among other services such as ship leasing, insurance servicing, supply chain financing, equipment manufacturing, offshore engineering, and vessel agency servicing.

COSCO Group contains 7 listed companies, and one of them is the COSCO Corporation (Singapore) Limited. The Singapore-based subsidiary expanded its logistics network to Malaysia after acquiring 80% stake in Malaysian-owned shipping companies including Guper Integrated Logistics, Gem Logistics, Dolphin Shipping Agency, and East West Freight Services.[46] COSCO's main local office is located in Selangor. It also operates out of its branch offices in Penang, Johor and Kuching.

12.2.7 CMA CGM

Founded in 1978, CMA CGM is a French shipping company with its headquarters in France. The group employs over 110,000 employees across 160 countries. CMA CGM holds 12.0% of market share and has an estimated capacity of 2.90 million TEUs,

[46] COSCO Shipping Int. (Singapore) to Expand in Malaysia. (2019). Retrieved 6 October 2020, from https://www.maritime-executive.com/article/cosco-shipping-int-singapore-to-expand-in-malaysia

ranking it closely after Maersk, MSC, and COSCO. With its efficient operation, high reliability, and an extensive global network of expertise, the company promises unique cargo solutions customised to each business need.

CMA CGM chose Westports, Port Klang as its mega transhipment hub since 1998. In bringing along high volume of containers to Westports, CMA CGM contributed partly to the growth of Westports. In 2009, Westports facilitated the French liner for its first On Dock Depot in Asia, demonstrating the liner's influence in Malaysia.[47]

12.2.8 Hapag-Lloyd

Founded in 1970, Hapag-Lloyd currently has a capacity of approximately 1.70 million TEUs, translating into approximately 7.1% of market share. It employs more than 13,000 employees in its 388 offices across 129 countries. Hapag-Lloyd's headquarters is in Hamburg, Germany. It also operates out of 5 other regional offices in Genoa, Piscataway, Valparaiso, Singapore, and Dubai.[48]

Hapag-Lloyd aspires to be one of the top market players in terms of service quality, profitability, and global presence. Staying true to its German roots, Hapag-Lloyd adopts the German way of operation—speedy, efficient, and reliable through its ecosystem of smart technology, smart containers and smart network.

Hapag-Lloyd first entered the Malaysian market in the 1970s. To date, Hapag-Lloyd has presence in 13 strategic ports in Malaysia and Brunei, catering to all aspects of shipping and logistical needs.

12.2.9 Ocean Network Express (ONE)

ONE was founded recently in 2017 as a result of the joint venture between three independent Japanese container lines, "K" Line, Mitsui O.S.K. Line, and Nippon Yusen Kaisha. Headquartered in Singapore, ONE operates across 120 countries. It has an estimated capacity of approximately 1.58 million TEUs, translating into 6.6% of the market share. ONE's notable achievements over the short span of 3 years can largely be attributed to the quality of its services, reliability, innovative business practices, and aspiration to achieve high customer satisfaction.[49]

ONE's first office in Malaysia was established in 2018, and has since expanded to having 12 offices in Malaysia. Port of Tanjung Pelepas was included in the loop of

[47] CMA CGM hopes to maintain growth rate | Borneo Post Online. (2011). Retrieved 6 October 2020, from https://www.theborneopost.com/2011/01/17/cma-cgm-hopes-to-maintain-growth-rate/
[48] About us - Hapag-Lloyd. Retrieved 6 October 2020, from https://www.hapag-lloyd.com/en/about-us.html
[49] Ocean Network Express | ONE. (2020). Retrieved 6 October 2020, from https://www.one-line.com/en/standard-page/ocean-network-express

ONE's shipping route for its Southeast Asia – Australia service.[50] The shipping route was ONE's strategic focus in 2019.

12.2.10 Evergreen Line

Founded in 2007, Evergreen Line was formed as a result of the merger between Evergreen Marine Corp. Ltd., Italia Marittima S.p.A., Evergreen Marine (UK) Ltd., Evergreen Marine (HK) Ltd., and Evergreen Marine (SG) Pte Ltd. Evergreen Line has a total capacity of approximately 1.28 million TEUs as of September 2020, which translates to approximately 5.3% of the market share[51]. Evergreen Line has a strong focus in building efficient e-commerce platforms and green technology including environmental-friendly container ships.

Since 1979, Evergreen Line has gradually strengthened its presence in Malaysia. In 2002, Evergreen Line migrated its operations from Singapore to Port of Tanjung Pelepas, attracted by its strategic location and lower cost of operation.[52]

[50] Network, M. (2019). Ocean Network Express Enhances Asia Australia Services. Retrieved 6 October 2020, from https://www.marineinsight.com/shipping-news/ocean-network-express-enhances-asia-australia-services/

[51] EVERGREEN LINE. (2020). Retrieved 6 October 2020, from https://www.evergreen-line.com/static/jsp/whats.jsp

[52] Bhd., P. (2002). Pelabuhan Tanjung Pelepas Sdn Bhd. - Evergreen Services: Confidence Vote For M'sian Ports - Dr Ling. Retrieved 6 October 2020, from https://www.ptp.com.my/media-hub/news/evergreen-services-confidence-vote-for-m-sian-por

12.3 Regulatory environment

No	Relevant Acts	Remarks
1	Carriage of Goods by Sea Act 1950 [Act 527], amendments, and other related legislations	• Carriage of Goods by Sea Act ("COGSA") 1950 sets out provisions pursuant to the carriage of goods by sea in ships, from any port in Malaysia to any other port in or outside of Malaysia • COGSA gives effect to the International Convention for the Unification of Certain Rules of Law relating to Bills of Lading, Brussels 1924 ("Hague Rules") by virtue of its First Schedule. The Hague Rules set upon carriers a non-excludable minimum standard of duty, liabilities, and limitations. • Laid out rules relating to bills of lading, encompassing provisions on definitions, risks, responsibilities and liabilities, rights and immunities, surrender of rights and immunities, and increase of responsibilities and liabilities, special conditions, limitations on the application of the rules, and the limitation of liability. • COGSA applies only to Peninsular Malaysia, COGSA's Sabah-equivalent legislation would be the Merchant Shipping (Applied Subsidiary) Regulations 1961, with the Sarawak-equivalent being Merchant Shipping (Implementation of Conventions relating to Carriage of Goods by Sea and to Liability of Shipowners and Others Regulations, 1960. • COGSA has been amended by Carriage of Goods by Sea (Amendment) Act 2019 and Carriage of Goods by Sea (Amendment) Act 2020 to foster greater trade facilitation through closing the gaps within the existing legal framework. • Amendments were intended to update the existing laws to reflect modern trade requirements as well as to foster adherence to the Hague Visby Rules and SDR Protocol
2	Merchant Shipping Ordinance 1952 [Ord. 70/1952] & related legislations	• Consolidate and amend the law related to Merchant Shipping. MSO is the backbone of the legal framework in Malaysia that governs the registration of ships, licensing, safety and security, load line and loading, liabilities as well as limitations of liability of shipowners. • Amended by Merchant Shipping (Amendment) Act 2017 (MSAA 2017). The 2017 amendments introduced new amendments on among others, requirements for registration of ships, set up of Malaysia Shipping Development Fund to improve the shipping industry in Malaysia, relaxation of stringent requirement in MSO that prescribed for foreign shareholding and paid-up capital requirements

12.3.1 Carriage of Goods by Sea Act 1950 [Act 527], amendments, and other related legislations

The Carriage of Goods by Sea Act ("COGSA") 1950 sets out provisions pursuant to the carriage of goods by sea in ships, from any port in Malaysia to any other port in or outside of Malaysia. COGSA gives effect to the International Convention for the Unification of Certain Rules of Law relating to Bills of Lading, Brussels 1924 ("Hague Rules") by virtue of its First Schedule. The Hague Rules set upon carriers a non-excludable minimum standard of duty, as well as prescribed for their liabilities and limitations thereof. The scope of the Act is limited to Peninsular Malaysia only. While the COGSA applies only to Peninsular Malaysia, COGSA's Sabah-equivalent legislation that gives force to the Hague Rules in the state would be the Merchant Shipping (Applied Subsidiary) Regulations 1961, with the Sarawak-equivalent being Merchant Shipping (Implementation of Conventions relating to Carriage of Goods by Sea and to Liability of Shipowners and Others Regulations, 1960.

The First Schedule of the Act – an incorporation of the 1924 Hague Rules, laid out rules relating to bills of lading, encompassing provisions on definitions, risks, responsibilities and liabilities, rights and immunities, surrender of rights and immunities, and increase of responsibilities and liabilities, special conditions, limitations on the application of the rules, and lastly, the limitation of liability.

The COGSA has been amended by Carriage of Goods by Sea (Amendment) Act 2019 and Carriage of Goods by Sea (Amendment) Act 2020 to foster greater trade facilitation through closing the gaps within the existing legal framework. The amendments were intended to update the existing laws to reflect modern trade requirements as well as to foster adherence to the Hague Visby Rules and SDR Protocol. Notably, the amendments provided for remedy to recognise electronic sea carriage documentation. The scope of documents relating to shipping transactions were also broadened (s. 4 to s. 6 of the 1950 Act) through the insertion of "sea carriage documents". Under the amendments, the Minister of Transport were given the power to amend the Schedule of the Act to facilitate prompt implementation of changes that have taken place within the international maritime sphere. The amendment Acts were perceived as a step towards the modernisation of archaic shipping legislations adopted in Malaysia.

12.3.2 Merchant Shipping Ordinance 1952 [Ord. 70/1952] & related legislations

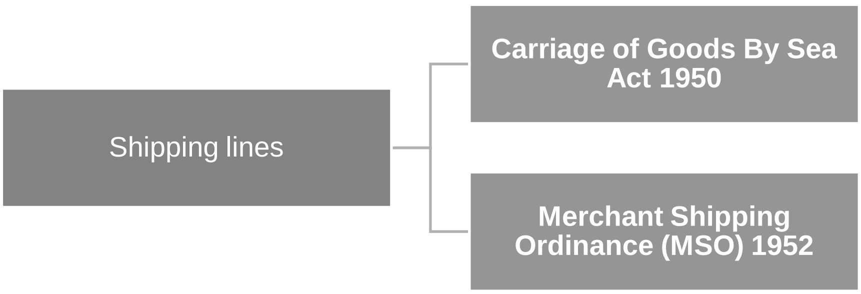
The Merchant Shipping Ordinance ("MSO") 1952 seeks to consolidate and amend the law related to Merchant Shipping. MSO is the backbone of the legal framework in Malaysia that governs the registration of ships, licensing, safety and security, load line and loading, liabilities as well as limitations of liability of shipowners.

The MSO has been amended by Merchant Shipping (Amendment) Act 2017 (MSAA 2017). The 2017 amendments introduced new amendments on among others, requirements for registration of ships. The number of categories of ship registrations have been increased under MSAA. Further, under MSAA, Malaysian companies are no longer subjected to the stringent requirement in MSO that prescribed for foreign shareholding and paid-up capital requirements. The age and tonnage criteria is also removed under MSAA – a shift from the previous position in MSO where ships not fitted with mechanical means of propulsion, more than 15 or 20 years of age, less than 1,600 gross tonnage are not accepted for registration under Malaysia International Ship Register. Under MSAA, the age and tonnage criteria will fall under the purview of the Minister, who may prescribe for a stricter or more lenient criteria based on his/her discretion.

Malaysia Shipping Development Fund has also been set up to improve the shipping industry in Malaysia through a series of awards, scholarships, research grants and projects, seminars, and others. The fund will be funded by the payments of annual tonnage fee collected.

In expanding the categories of ship registration and relaxing the ship registration requirements, the MSAA encourages shipowners and bareboat charterers to flag their ships in Malaysia, which will in turn drive the growth of Malaysian shipping tonnage. The amendments introduced by the MSAA is in line with the Ministry of Transport's aspirations set out in the Malaysia Shipping Master Plan, which seeks to revitalize the shipping industry through improving access to financing as well as to facilitate employment of Malaysian ships.

Figure 12-3 Regulatory environment – Shipping lines[53]



Source: Association of Southeast Asian Nations (ASEAN), Ipsos Analysis

[53] Asean.org. 2015. *ASEAN Member States Domestic Rules And Regulations Relevant To The Logistics And Transport Sectoral Services*. [online] Available at: <https://asean.org/wp-content/uploads/images/2015/february/logistic_services/File%2003-5%20Malaysia%20Relevant%20Laws%20%20Regulations%2017th%20LTSSWGlinks.pdf> [Accessed 1 March 2021].

12.4 Potential competition issues

12.4.1 Possible concerted practice in introducing selected landside charges and subsequent acts of price following in increasing the charges

Context. On top of charging sea freight rates, shipping lines also impose landside charges that come in many forms. Some of the most common landside charges incurred include:

Charges	Description
Agency Recovery Fees	Charges collected for the recovery for operating expenses.
Carrier EDI Fee	Charges collected for the declaration of Manifest.
Container Seal Charge	Charges collected for the sealing of container, applicable to export only.
Delivery Order Fee	Charges collected for the issuance of Delivery Order.
Demurrage Charge	Charges collected for the late removal of container for unpacking after the free-of-charge period offered by the shipping line.
Detention Charges	Charges collected for the failure to return empty container back to a nominated depot within the agreed free-of-charge period.
Telex Release Fee	Charges collected for the issuance of BL by Telex.
Terminal Handling Charges	• Container handling charge * collected by Terminal Operator • Charges associated with the empty repositioning of containers such as washing, LOLO, and storage.

Source: Secondary research, PKA

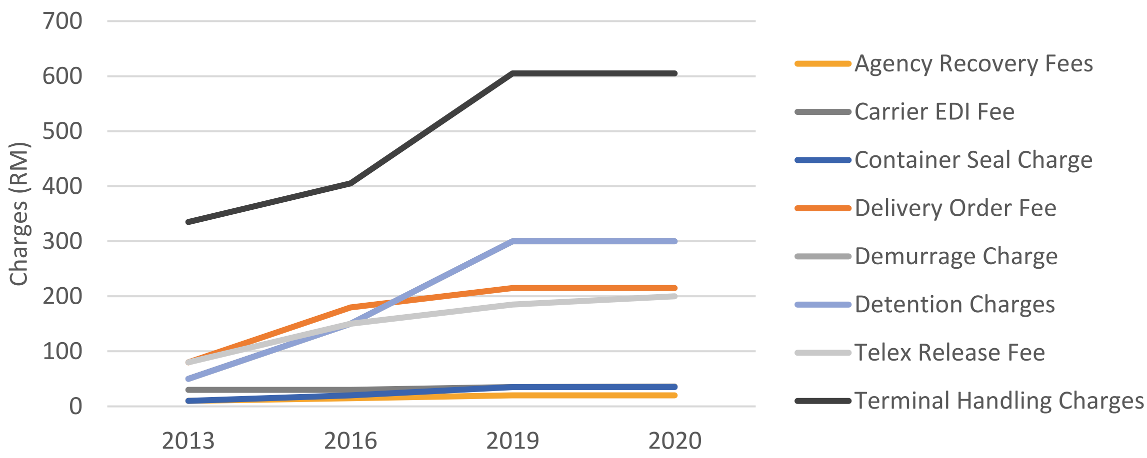
According to market players, the collection of landside charges is (1) a form of cost recovery charge; (2) typically unregulated and shipping lines generally have discretion over the type and amount to be imposed; (3) these charges have been increasing over the years; and (4) freight forwarders / shippers are not able to retrieve their containers unless they pay these stipulated charges.

There are indicative evidence that may suggest shipping lines might be behaving in a concerted manner during the introduction / implementation of selected landside charges. Through documents collected for the purpose of this market review, it can be observed that several shipping lines have implemented selected landside charge within a brief time frame (i.e. a span of four months).

At the same time, there could potentially be price-following behaviours that come in the form revising / increasing their selected landside charges. Through documents collected, it can be observed there are collective movements of price revisions within a short time period as well (i.e. 7 shipping lines revised their DO fees to RM 150 within 3 months).

Figure 12-4 Landside charges from 2013 to 2020

Charges (RM)	2013	2016	2019	2020
Agency Recovery Fees	10	15	20	20
Carrier EDI Fee	30	30	35	36
Container Seal Charge	10	20	35	35
Delivery Order Fee	80	180	215	215
Demurrage Charge	50	150	300	300
Detention Charges	50	150	300	300
Telex Release Fee	80	150	185	200
Terminal Handling Charges	335	405	605	605

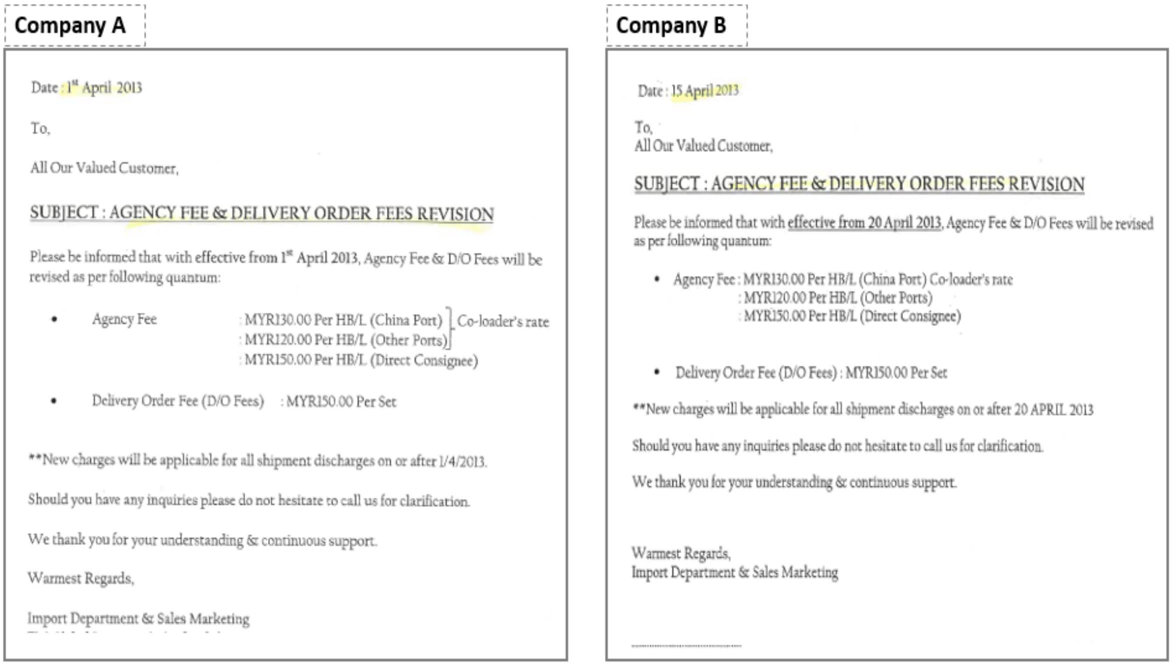


Source: FMFF

Year	Month	Implementation of charges	No. of players	Revision of charges	No. of players
2009	July	Container Deposit Charge	2		
	September			Documentation Fee	2
	October			Demurrage Charges	2
	November	Container Cleaning/washing Fee	1	Documentation Fee	1
	December	Container Seal Fee	2	Container Cleaning Fee	1
				Container Deposit Charge	1
				Late Collection Charges	2
2010	January				1
	February			Documentation Fee	1
	April			Late collection Charges	1
	May			Documentation Fee	1
	August	Container cleaning/washing Fee	1		
2011	April	Container cleaning/washing Fee	1		
	June – October	Agency Recovery Charge	4		
	August			Container cleaning/washing Fee	1
	November			THC	1
	December			Demurrage Charges	1
				Documentation Fee	2
2012	January			Container Seal Fee	
				Documentation Fee	3
	February				
	March			THC	1
	November 2012 – January 2013			THC	9

	December			Container cleaning/washing Fee	**1**
2013	January			Documentation Fee	**1**
	February			THC	**2**
				Documentation Fee	**2**
				Container Seal Fee	**2**
	March			Documentation Fee	
	April			Agency + DO Fee	**3**
				Documentation Fee	**1**
				THC	**3**
	May				
				Agency + DO Fee	**7**
	June				
	July				
	August			Documentation Fee	**2**
	September				
2014	June - July			DGC	**2**
	October - December			DGC	**3**
2015	April			DGC	**1**
2016	December			DGC	**1**
2017	January			DGC	**1**
	August – December			DGC	**4**
2018	August			DGC	**1**
2019	January - March			DGC	**3**
	August			DGC	**1**
	November 2019 – April 2020			DGC	**8**
2021	April	E-BL Fees	1	DGC	**1**
				Documentation Fee	**2**

Figure 12-5: Identical circular used by different companies for revision of landside charges



Company A

Date : 1st April 2013

To,

All Our Valued Customer,

SUBJECT : AGENCY FEE & DELIVERY ORDER FEES REVISION

Please be informed that with effective from 1st April 2013, Agency Fee & D/O Fees will be revised as per following quantum:

- Agency Fee : MYR130.00 Per HB/L (China Port) Co-loader's rate
  : MYR120.00 Per HB/L (Other Ports)
  : MYR150.00 Per HB/L (Direct Consignee)
- Delivery Order Fee (D/O Fees) : MYR150.00 Per Set

**New charges will be applicable for all shipment discharges on or after 1/4/2013.

Should you have any inquiries please do not hesitate to call us for clarification.

We thank you for your understanding & continuous support.

Warmest Regards,

Import Department & Sales Marketing

Company B

Date : 15 April 2013

To,
All Our Valued Customer,

SUBJECT : AGENCY FEE & DELIVERY ORDER FEES REVISION

Please be informed that with effective from 20 April 2013, Agency Fee & D/O Fees will be revised as per following quantum:

- Agency Fee : MYR130.00 Per HB/L (China Port) Co-loader's rate
  : MYR120.00 Per HB/L (Other Ports)
  : MYR150.00 Per HB/L (Direct Consignee)
- Delivery Order Fee (D/O Fees) : MYR150.00 Per Set

**New charges will be applicable for all shipment discharges on or after 20 APRIL 2013

Should you have any inquiries please do not hesitate to call us for clarification.

We thank you for your understanding & continuous support.

Warmest Regards,
Import Department & Sales Marketing

Harm to competition. The collective introduction and revision (increments) of these landside charges do not appear to be made completely independent from other shipping lines and they may have potentially been following each other without reasonable justification / explanation.

As a result, the collective introduction and revision (increments) of these landside charges would ultimately be borne by shippers / consumers, thus further increasing the cost of importing and inadvertently increase the cost of goods and nation's cost of living.

Additionally, these anti-competitive conducts may further lead / encourage other shipping lines to follow-suit, since these landside charges could also be viewed as potential avenues to increase their revenue.

*Box 3: Price fixing / price following by shipping lines - **Italy***

Shipping agents participated in a secret cartel that set prices for services, including issuing bills of lading for exports and delivery orders for imports, for over 5 years. The shipping agents were found to be exerting "a significant impact on the market for maritime transport". While most of its members were based in Genoa, their fixed prices acted as a reference for transactions in other Italian ports, including Gioia Tauro, the container transshipment hub, and La Spezia.

In 2012, Italy's antitrust authority, AGCM, fined 15 liner shipping agents and two trade associations a total of more than $5.3 million for fixing prices in the Port of Genoa.

CMA CGM of France attracted the biggest fine of $1.18 million followed by China's Coscon at $965,000 and K-Line of Japan, $575,000.

Other cartel members uncovered included APL, Yang Ming and Zim Integrated Shipping Services, and the two trade associations, Assagenti and Spediporto, which were each fined $108,000.

*Box 4: Price fixing / price following by shipping lines - **Italy***

Shipping liners Maersk Italia and Hapag-Lloyd Italy have blown the whistle on cartels and provided evidence to the authorities of price-fixing behaviour. The evidence showed that a consortium of shipping liner agents in Genoa were setting fixed charges for services such as issuing bills of lading.

The cartel operated from 2004 until 2009, through regular meetings of shipping liners association Assagenti and forwarders association Spediporto.

According to Italy’s Antitrust Authority, AGCM, the trade bodies provided an arena for flagging price recommendations and circulars, which were taken as a reference by agents in other ports in the Mediterranean. These cartel and price fixing activities had a major impact on the marine-transport market.

As a result of information provided by Maersk, AGCM took action. Maersk was not fined, and Hapag-Lloyd, which also cooperated has their fine halved.

Other parties including CMA CGM, Cosco, K Line, Yang Ming, Zim, APL, Mediterranean Shipping Co, Mitsui, China Shipping, Hyundai and United Arab were fined a total of EUR 4m.

Both shipping associations have been fined EUR 80,000 each.

12.4.2 Compulsory collection of container deposit by shipping liners tantamount to disproportionate trading condition

Context. Container deposit is collected by shipping liners as a security to ensure that import containers are returned safely and in a timely manner. Depending on the nature of the cargo and the type of container, container deposit may range from approximately RM500 to RM1,000. Container deposit collection is a contentious trading condition as it puts a strain on logistic players' cashflow due to prolonged deposit retention period and difficulties in securing the return of container deposit in the event that shipping lines have gone out of business.

Container deposit collection is opined by logistic players as an unfair trading condition, evidently in the prohibition of such practice in most countries. Where shipping lines find the need to safeguard their interests especially in relation to non-trustworthy business partners with a history of late return / damaged containers, the alternatives to container deposit collection such as non-cheque deposit ("**NCD**"), container ledger account ("**CLA**"), and iCargo+ would be a proportionate alternative response to safeguard their commercial interest. However, these proportionate alternatives were not honoured by certain shipping lines. Further, container deposit collection puts financial strain on the cashflow of smaller and less well-resourced players, indirectly hindering this group of players from competing on a level playing ground with their more well-resourced competitors.

Industry insights:
Container deposit collection is a disproportionate and unjustifiable practice that should be prohibited to promote competition in downstream market

Some logistics players firmly believe that the collection of container deposit is an unnecessary practice and should be done away. Examples of countries that have legislated against the collection of container deposit include, Sri Lanka, Bangladesh, Hong Kong, China, and Singapore. Some of the oft-cited reasons to prohibit the collection of container deposit includes, the long length for the return of deposit—up to 45 days from the return of containers to depots. This often leads to strain in cashflow and hinders market competitiveness of less well-resourced logistics players, which hampers the market competition as a whole.

Source: In-depth interviews

Harm to competition. Imposition of container deposit collection by shipping lines as a mandatory trading condition (1) amounts to a disproportionate and unjustified trading condition especially where proportionate alternatives are available to shipping liners, and (2) discriminate less well-resourced players by excluding them from competing on a level playing field with larger players. Thus, mandatory container deposit collection harms competition in the downstream market in which other logistic players operate in.

12.4.3 Possible exclusive dealing between shipping lines and depot operators

Context. Shipping lines have an exclusive say over the appointment of depots for the pick-up / return of containers. In practice, shipping lines nominate depot operator based on their rates. In order to secure a relationship with shipping lines, there are depot operators who are known to offer favourable rates with shipping lines. This may suggest that depots with competitive rates are appointed, while the efficiency, infrastructure, and capacity of depots are factors that are given less emphasis. In other instances, there are also shipping lines who own and operate depots (vertically integrated) and would prefer to appoint their own depots instead. Industry feedback also suggested that there was insufficient involvement by the regulating agency in relation to matters pertaining to depots, APAD.

Harm to competition. Contractual relationships with the right incentives can be considered pro-competition, however, these relationships may raise competition concerns if it (1) restrict market players' choice to select a depot operator; and (2) foreclose a significant portion of the market to other equally efficient, non-appointed depot operators, it may merit further investigation into the relationships between shipping lines and depot operators.

Currently, these exclusive contractual relationships are pushing some appointed depots to maximum capacities and are not ready to handle the appointed large container volume. Yet, market players do not have the choice to engage other available depots that have available capacity and well-resourced / equipped to handle the cargo volume.

This practice may be distorting competition among depot operators as the market is foreclosed to the rest of the equally efficient, non-appointed depot operators.

13 Container depot operators

Container depot operators are responsible for the return of empty containers to the principal who appointed them (e.g. shipping lines, shipping agents, NVOCCs). Container depot operators liaise with hauliers for the pickup of empty containers – e.g. in Port Klang, the receiving and delivery of empty containers are carried out via bookings on the booking system, Haulier Depot Booking System.

Some of the services provided by container depot operators include, storage for empty containers, washing, maintenance, and repair of containers, container inspection service (where container depot operators undertake interior checks upon receiving and releasing of empty containers to ensure that no human / contrabands trafficking are carried out), provision of necessary equipment and facilities (e.g. container stacker forklifts).

Further, container depot operators are also required to observe safety (e.g. industrial safety, buildings safety), health, and environment (e.g. waste management and disposal for wastes generated by business activities) requirements set forth in relevant general regulations including Occupational Safety and Health Act 1994, Environmental Quality Act 1974, Fire Services Act 1988 and Uniform Building By Law 1984.

13.1 Number of players

Container depots may be differentiated into two categories– on-dock depots and off-dock depots, with the former facilitating more efficient and economical intermodal container transfers in theory. In Malaysia, there are approximately 59 off-dock depots and more than 30 on-dock depots.[54]

13.2 Fees and charges

The main fees and charges imposed by container depot operators are: (1) Depot gate charge (“DGC”); (2) Chemical washing; (3) PreTrip Inspection (PTI) for Reefer; (4) Maintenance & Repair (M&R).

DGC is collected for each drop off and pick up of empty containers and is charged by depot operators to improve the service level (e.g. shorter turnaround time to pick up / drop off upon haulier gated into depot) at depots. The rationale is such that collection of DGCs would help solve operational congestion by equipping depots financially to invest in better facilities.

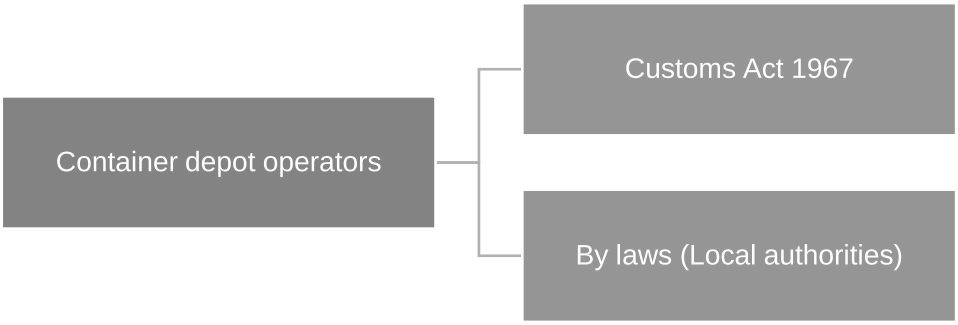
[54] E.g. there are ~21 on-dock depots at Port Klang, Selangor; ~1 on-dock and 8 off-dock depots at Pasir Gudang, Johor.

PTI is charged for the inspection conducted by depot operators prior to the release of an empty reefer container, to ensure that the mechanism including among others, cooling unit, temperature control, and recording devices are functioning properly, in addition to the standard inspection which checks for structural damage and cleanliness of empty containers.

Upon receiving the empty containers, depot operators will ensure that the containers are clean and in good condition to receive cargo prior to the release of containers to hauliers. Where cleaning or maintenance and repair is needed, further charges will be incurred e.g. chemical washing, M&R.

13.3 Regulatory environment

Figure 13-1 Regulatory environment – Container depot operators[55]



Source: Association of Southeast Asian Nations (ASEAN), Ipsos Analysis

13.4 Potential competition issues

13.4.1 Possible cartel-like behaviour and price fixing during the introduction of DGC

Context. In July 2008, Malaysia Container Depot Association ("**MCDA**") issued a letter that stated the commencement of charging DGC at RM5 for every container picked up by a shipper and returned by a consignee, effective 15 July 2008.

The suggested DGC is a charge levied for the usage of the depot facilities during the pickup / drop off operations of empty containers by hauliers. During that period, MCDA was representing ~85% of the depot operators in Malaysia.

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[55] Asean.org. 2015. *ASEAN Member States Domestic Rules And Regulations Relevant To The Logistics And Transport Sectoral Services*. [online] Available at: <https://asean.org/wp-content/uploads/images/2015/february/logistic_services/File%2003-5%20Malaysia%20Relevant%20Laws%20%20Regulations%2017th%20LTSSWGlinks.pdf> [Accessed 1 March 2021].

In the letter, MCDA mentioned that all members are united and firm in the collection of DGC and would not hesitate to deny hauliers' access into their depot facilities should they refuse to pay the DGC.

Harm to competition. A cartel-like behaviour appears to exist when depot operators act together, through the instructions of their association, to agree and fix the price of DGC (RM5) during its introduction.

At the same time, hauliers and shippers have no choice but to accept the implementation or they would not have access to ~85% of the depot facilities in Malaysia.

13.4.2 Possible price following or concerted practices in the form of DGC

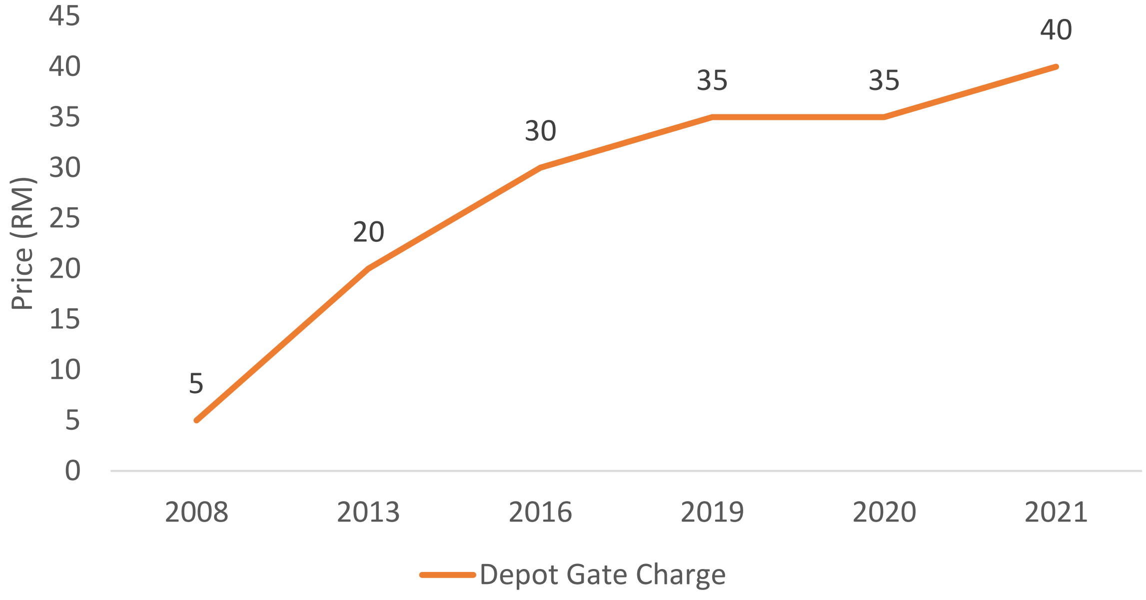
Harm to competition. Since the introduction of DGC, there is a possibility of depot operators following prices in the form of increasing the amount of DGC levied. Despite each depot operating in different geographical locations, different TEU volumes and capacities, it appears that the trend of DGC increments has been similar across multiple depot operators and it was evident in other regions in Malaysia as well.

Considering the significant increment in DGC over the years by depot operators, the growth trend may suggest a collective movement of DGC within the sector, whether concerted or otherwise. In-depth interviews with market players have also raised the possibility of concerted practices between depot operators. In light of the high prices that was set and steadily rising over the years, the collection of DGC could indicate exploitative abuse in the absence of delivery of corresponding service level.

<table>
<tr><th>Region</th><th>Container throughput (TEU) 2019</th><th>Est. number of depot operators</th><th>DGC rate in 2008</th><th>DGC rate in 2014</th><th>DGC rate in 2019</th><th>DGC rate in 2021</th></tr>
<tr><td>Northern (Penang Port)</td><td>1.5 million</td><td>18</td><td>RM 5</td><td></td><td colspan="2">RM 35 – 38</td></tr>
<tr><td>Southern (Port of Tanjung Pelepas)</td><td>9.1 million</td><td>N/A</td><td></td><td>RM 25</td><td></td><td>RM35 – 40</td></tr>
<tr><td>Central (Port Klang)</td><td>12.6 million</td><td>51</td><td>RM 5</td><td>RM15 – RM20</td><td colspan="2">RM 35 – 40</td></tr>
</table>

Source: In-depth interviews, Secondary desk research

Figure 13-2: Depot gate charge (RM), 2008 – 2020



Source: In-depth interviews

*Box 5: Price fixing / concerted practices among container depot operators – **Malaysia***

The Malaysia Competition Commission ("**MyCC**") had investigated container depot operators ("**CDOs**") in Penang Port. Prompt Dynamics Sdn Bhd (Prompt Dynamics) and other parties were alleged for price fixing and having concerted practices, which infringed the prohibition of section 4(1) of the Competition Act 2010 ("**CA**").

The CDOs were operating within the area of Penang Port. Among other facts, they were reportedly:

- Collectively discussing the rising cost of depot operations and depot tariffs.
- Coming to a consensus that depot gate charge ("**DGC**") was too low and there should be an increase
- Increasing their DGC charge from RM5 to RM 25.
- The Managing Director of one of the CDOs cautioning the attendees that CDOs cannot impose the same DGC, to avoid alerting MyCC

MyCC found that the parties had engaged in concerted practices by bringing CDOs together in meetings, disseminating and sharing information about their revised DGCs, coordinating the implementation of the agreed revised DGC as well as the rebate. The effects were also held to be non-trivial.

These practices were held to have the effect of significantly preventing, restricting, or distorting competition in the market for the provision of empty container storage, maintenance and handling services within a 5-15km radius of the Penang Port.

Financial penalties of RM645,774 was imposed against the enterprises. The CDOs were also ordered to cease and desist from implementing the agreed rate for the DGC.

Box 6: Port operators, abuse of dominant position - ***Australia***

The Australian Competition & Consumer Commission (ACCC) has launched proceedings against Tasmanian Ports Corporation Pty Ltd (TasPort) on grounds that it engaged in conduct that had the likely effect of substantially lessening competition in the market for towage and pilotage services.

TasPort had imposed new port access charge on one of its customers, Grange Resources Ltd, after Grange notified TasPort their intention to switch to a new competitor, Engage Marine, providing towage and pilotage services.

The Federal Court held that TasPort had no legal right to impose the new charge, and imposed the charge without conducting assessments of the cost of this imposition. It was declared that TasPort had misused its market power.

TasPort has provided ACCC with an undertaking, requiring it to ensure that Engage Marine has access to the ports on reasonable commercial terms. Under the circumstances, ACCC agreed not to press for penalty order.

“Businesses with substantial market power have a special responsibility when deciding how to respond to competitive threats. If they respond in a competitive way, for example by offering customers better products at better prices, they will not face the risk of enforcement action.” – ACCC, 2021

13.5 Other areas of concerns

13.5.1 [Regulatory concern] Unregulated and unlicensed off-dock depot operators

Description. Unlike the on-dock depots which operate within the premise of a port, off-dock depots appear to not fall under any agency's purview in terms of licensing and operating hours.

It has been claimed that off-dock depot operators have their own freedom to decide when and what time to operate,[56] which is increasing the frustration of industry players and further aggravating port inefficiencies. Off-dock depots are also free to decide where to setup; the driving distance to collect / return containers is not optimized.

It was also alleged by market players that there could potentially be off-dock operators operating without proper licenses, which need to be obtained from their respective local councils.

On the other hand, it was also shared that there are occasions where off-dock depots are more efficient than on-dock depots, especially where there is traffic congestion leading to the terminal gates and long waiting queue getting into the terminal and on-dock depot gates.

[56] Nonetheless, Persatuan Pengusaha Depoh Kontena confirmed that the official operating hours for both on dock and off dock depots are as follow:

- Port Klang: Monday to Saturday: 8:00am to 4:00am; Sunday/Public Holiday: 8:00am to 4:00pm
- Penang: Monday to Saturday 8:00am to 12:00am; Sunday/Public Holiday: Closed
- Johor: Monday to Friday: 24 hours; Saturday: 8:00am to 12:00am; Sunday/Public Holiday: Closed

14 Freight forwarders

Freight forwarders play an integral role in the port logistics supply chain through providing coordination between shippers, shipping lines, hauliers, depot operators, and port operators. Freight forwarders also assist in custom clearance matters, including preparing documentations for customs declaration at port of loading.

To qualify as a freight forwarding agent / custom agent license, it is necessary for freight forwarders to first obtain International Integrated Logistics Services (IILS) status from MIDA prior to acquiring the relevant licenses from Royal Malaysian Customs Department under s. 90 of the Customs Act 1967. Requirements on paid-up capital, equity policy on share capital, management, and employees are among some of the pre-requisites that will have to be met in order to secure the IILS status.

According to market players, it is not uncommon for freight forwarders without custom agent license to outsource / engage the assistance of those with the necessary licenses for custom clearance matters.

14.1 Number of players

In Malaysia, there are more than 3000 companies that are registered as freight forwarders[57] or provide some form of services related to the forwarding of freight. Within that, about ~1200 of them are registered as members of the Federation of Malaysian Freight Forwarders ("**FMFF**").

Based on membership data from FMFF, Selangor has the highest number of freight forwarders at approximately 652 freight forwarders, closely followed by Johor (261 freight forwarders) and Penang (123 freight forwarders).

More than 85% of freight forwarders registered with FMFF are based in Peninsular Malaysia, with only less than 200 freight forwarders hailing from East Malaysia. Within East Malaysia, majority of the freight forwarders are based in Sarawak, with a relatively insignificant number of freight forwarders based in Sabah and Labuan.

[57] By companies' MSIC

Figure 14-1: Heatmap of freight forwarders by states, 2021[58]

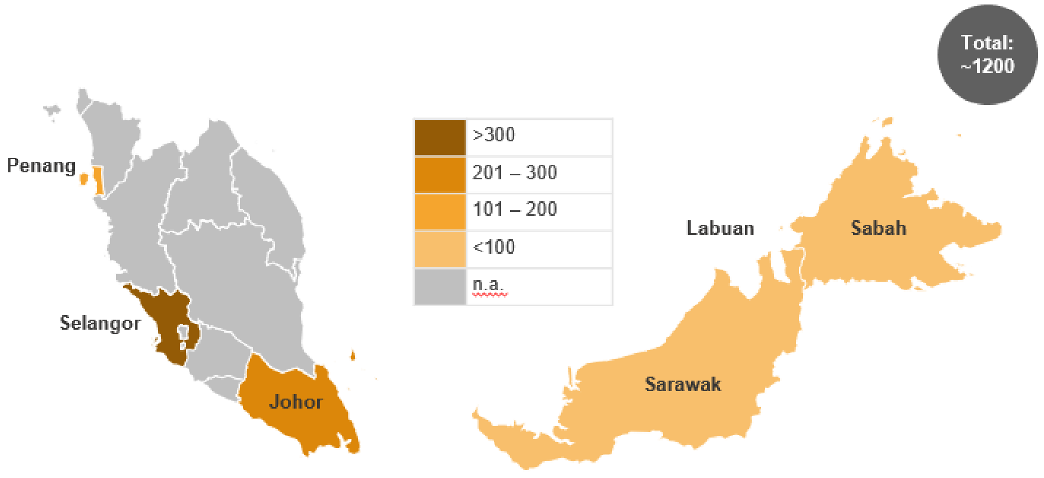


Table 14-1: Comparison of freight forwarders by states, 2021

States	Number of freight forwarders
Selangor	652
Johor	261
Penang	123
Sarawak	100
Sabah	~40
Labuan	~26

Source: FMFF, Secondary desk research

[58] N.a. refers to states with no freight forwarders registered as members with FMFF.

14.2 Freight forwarder and forwarding agent licenses

According to Royal Malaysian Customs Department ("**RMCD**"), a total of 19 freight forwarder licenses and 77 forwarding agent licenses were issued in the period of 2018-2020:

Figure 14-2: Number of freight forwarders licenses issued, 2018 - 2020

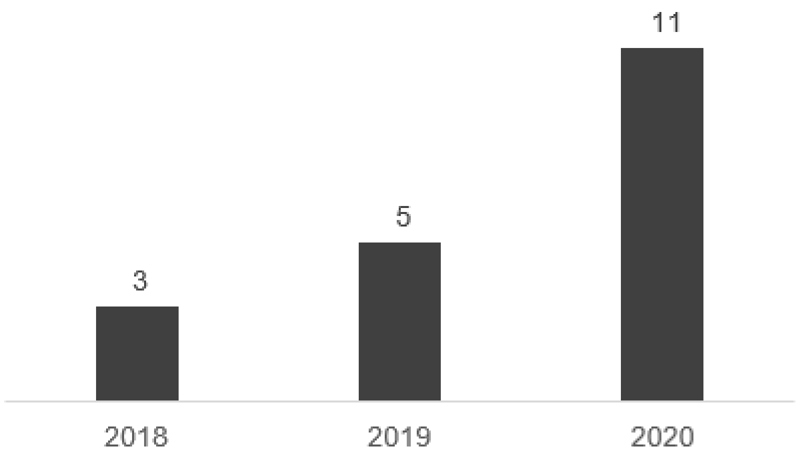
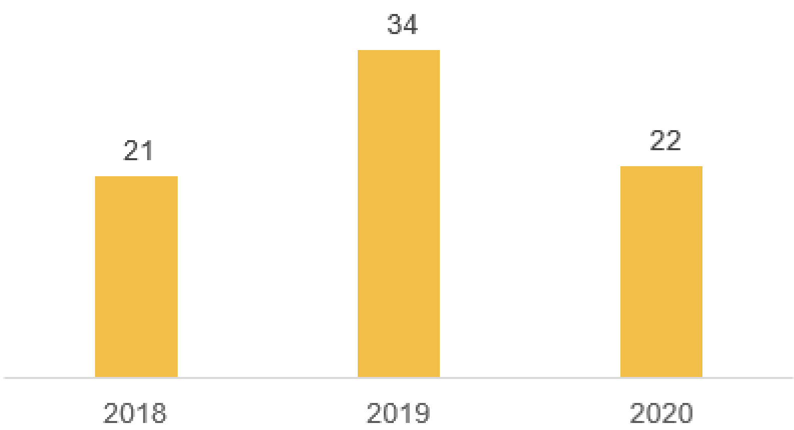


Figure 14-3: Number of forwarding agent licenses issued, 2018 - 2020



Source: RMCD

RMCD is responsible for the issuance of licenses for logistics industry players including forwarding agents, shipping agents, freight forwarders, public bonded warehouse and private bonded warehouses.

14.3 Fees and charges

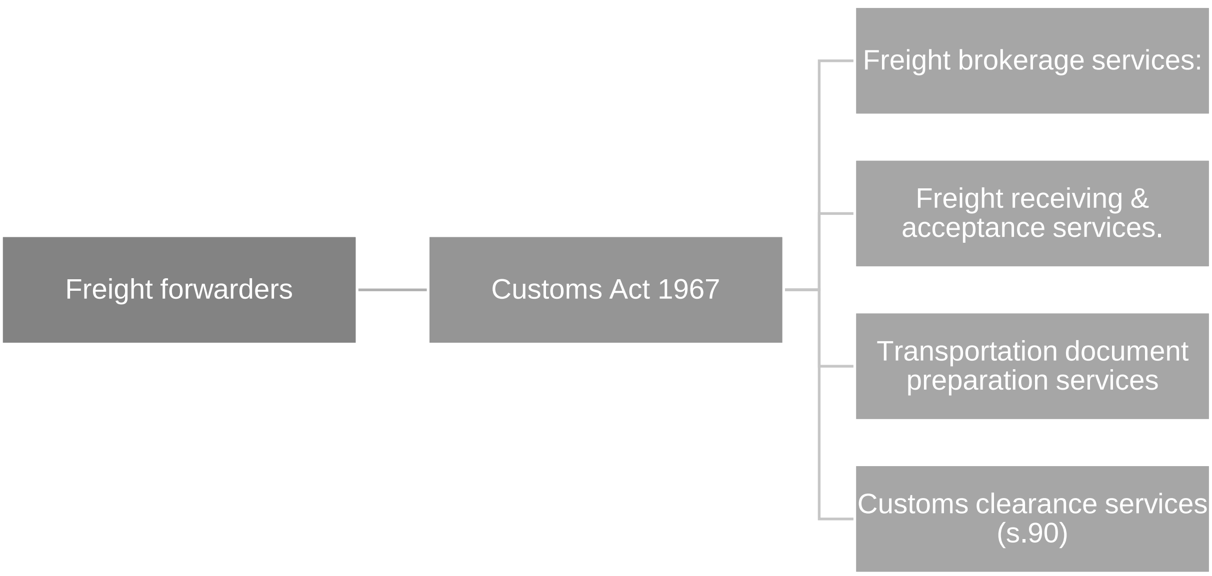
Some of the charges imposed by freight forwarders on shippers are: (1) Forwarding and Handling Fee; (2) Documentation & EDI SMK; and (3) other charges by shipping lines, hauliers, depot operators, and port operators.

Most of the charges collected by freight forwarders are charges by other market players along the supply chain; freight forwarders usually make payment for the charges on behalf of shippers before collecting the sum paid from shippers. Generally, for charges paid on behalf of shippers, freight forwarders do not impose any mark-ups in the sum paid.

Examples of such charges include haulage charges (collected on behalf of hauliers), ocean freight, THC, demurrage and detention charges, and an assortment of other landside charges discussed in detailed in the section titled overview of landside charges (charged by shipping lines), CHC (charged by port operators to shipping lines, who then pass on the cost in the form of THC), and storage, stuffing and un-stuffing charges (charged by warehouse operators).

14.4 Regulatory environment

Figure 14-4 Regulatory environment – Freight forwarders[59]



Source: Association of Southeast Asian Nations (ASEAN), Ipsos Analysis

[59] Asean.org. 2015. *ASEAN Member States Domestic Rules And Regulations Relevant To The Logistics And Transport Sectoral Services*. [online] Available at: <https://asean.org/wp-content/uploads/images/2015/february/logistic_services/File%2003-5%20Malaysia%20Relevant%20Laws%20%20Regulations%2017th%20LTSSWGlinks.pdf> [Accessed 1 March 2021].

14.5 Other areas of concerns

14.5.1 [Regulatory concern] Qualifying requirements for International Integrated Logistics Services status

Description. The International Integrated Logistics Services status ("**IILS status**") from MIDA is a pre-requisite for other licenses, such as Freight Forwarding Agents / Customs Agent Licence. The qualifying criteria for IILS status include minimum infrastructure requirements, such as the management of at least 20 units of commercial vehicles and 5,000 m^2 of warehouse space.

The licensing requirements for IILS may exclude prospective entrants who could not meet the specifications (e.g. infrastructure requirements) from entering the market. Particularly, market players opined that the requirements may effectively hinders market entry for smaller and less well-resourced companies. Further, the Port Klang Authority also opined that the IILS status applications would only be relevant to local small forwarding agents with 20 to 25 years of experience with big paid-up capital, which means that new players will most likely be unable to apply for it.

It is worth noting that the qualifying requirements for IILS status have been opined by some to be necessary in filtering out ingenuine freight forwarding companies. Moreover, MIDA also seek to strike a balance in removing certain restrictions commonly found in other qualifying requirements in imposing qualifying requirements for IILS status, such as the removal of equity requirement.

Implications. Licensing requirements for the IILS status could deter new entrants from entering the market as they struggle to satisfy the minimum infrastructure requirements. This could potentially fuel the ability of incumbent players to act without constraint or with limited constraints.

15 Warehouse operators

A licensed warehouse has been specially designated for storing dutiable goods approved by the JKDM under Section 65 of the Customs Act 1967. However, since 1981, its function has been enhanced for other activities such as break bulking and trading to facilitate commercial activities as well as to make it a distribution hub within the ASEAN region. Its creation also helps to reduce port congestion and for convenience of the importers.

There are several categories of warehouses under the Customs Act 1967, subject to approval, such as public warehouse, private warehouse, PEKEMA (Association of Malay Importers and Traders of Motor Vehicles of Malaysia) warehouse and public agent warehouse. Each category has different criteria and different types of goods to be kept but all of them need to be licensed under Section 65 of the same Act.

In Malaysia, there are currently three types of warehousing licences, depending on the warehousing requirements of the operator. An operator can choose to operate as an (1) ordinary warehouse; (2) a Public Bonded Warehouse; or (3) a Private Bonded Warehouse.

Activities / Functions that can be carried out in these warehouses are as follows:

1. Warehousing;
2. Bulk-breaking;
3. Re-packaging;
4. Re-labelling of imported goods;
5. Consolidation;
6. Entreport; and
7. Devending.

15.1 Licenses

15.1.1 Ordinary warehouse license

A company that wishes to provide ordinary warehousing services must apply for a licence to the relevant Local Authority. The following approvals must be obtained before applying to the Local Authority:

1. Approval from the Department of Environment (DOE) when operators store hazardous goods;
2. Approval from the Fire and Rescue Department and other Technical Agencies to ensure that the premise is equipped with an adequate number of fire extinguishers and safety alarm systems; and
3. Certificate of Completion and Compliance (CCC) from the Local Authority which is an official document to acknowledge that the building is safe for occupation

a. The CCC which was implemented in 2007 replaces the Certificate of Fitness for Occupation (CFO) previously issued by the Local Authority. The CCC is issued by the project's Principal Submitting Person (PSP) who is a Professional Architect, Professional Engineer or a Registered Building Draughtsman.

15.1.2 Public bonded warehouse license

A Public bonded warehouse 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 consumers. Generally speaking, public bonded warehouses that store different categories of goods must comply with the following conditions:

Category of goods	Minimum warehouse space	Minimum paid-up capital	Minimum value of goods warehoused
Critical goods	50,000 sq. ft.	1,000,000	N/A
Non-critical goods	20,000 sq. ft.	250,000	N/A

Source: MIDA

15.1.3 Private bonded warehouse license

A private bonded warehouse is a central storage and distribution centre for bonded goods (i.e. goods on which Customs duties and taxes have not been paid), of the companies and its related subsidiaries / companies. Overall, private bonded warehouses that store different categories of goods must comply with the following conditions:

Category of goods	Minimum warehouse space	Minimum paid-up capital	Minimum value of goods warehoused
Critical goods	N/A	150,000	5,000,000
Non-critical goods	N/A	100,000	2,000,000

Source: MIDA

15.1.4 Equity policy

Ordinary warehouse	No equity condition imposed by the Royal Malaysian Customs Department
Public bonded warehouse	A company must have at least 30% Bumiputera equity (equity condition imposed by Ministry of Finance ("**MOF**")

Private bonded warehouse	No equity condition imposed by the Royal Malaysian Customs Department

Source: MIDA, In-depth interviews

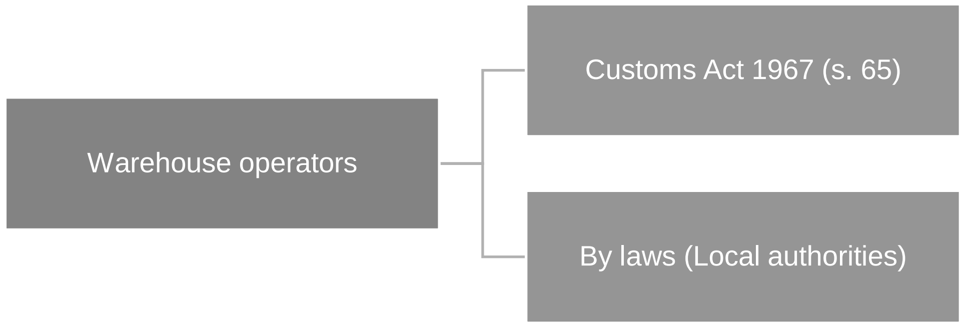
15.1.5 Other licensing and requirements

A public / private bonded warehouse operator that is licensed under Section 65 of the Customs Act 1967 can be given permission to act as an agent for transacting businesses relating to the import or export of goods that are stored in the licensed warehouse. For this purpose, a warehouse operator is required to obtain a Freight Forwarding Agent / Customs Agent Licence and / or Shipping Agent Licence.

Applications for the above licences except for Customs Agent Licence should be submitted directly to the Royal Malaysian Customs Department. Before acquiring a Freight Forwarding Agent/Customs Agent Licence from the Royal Malaysian Customs Department, the company must obtain an International Integrated Logistics Services (IILS) status from MIDA.

15.2 Regulatory environment

Figure 15-1 Regulatory environment – Warehouse operators[60]



Source: Association of Southeast Asian Nations (ASEAN), Ipsos Analysis

[60] Asean.org. 2015. *ASEAN Member States Domestic Rules And Regulations Relevant To The Logistics And Transport Sectoral Services*. [online] Available at: <https://asean.org/wp-content/uploads/images/2015/february/logistic_services/File%2003-5%20Malaysia%20Relevant%20Laws%20%20Regulations%2017th%20LTSSWGlinks.pdf> [Accessed 1 March 2021].

15.3 Other areas of concerns

15.3.1 [Regulatory concern] Licensing requirement in issuing Public Bonded Warehouse Licence may limit the number of new entrants

Description. The Royal Malaysian Customs Department ("**RMCD**") issues three types of warehouse licenses — Ordinary Warehouse, Public Bonded Warehouse and Private Bonded Warehouse. Particularly, for the issuance of Public Bonded Warehouse license, there is an equity pre-requisite which specifies for the company to have at least 30% Bumiputera equity to be eligible for an application of license.

Ordinary warehouse	No equity condition imposed by the Royal Malaysian Customs Department
Public bonded warehouse	A company must have at least 30% Bumiputera equity (equity condition imposed by Ministry of Finance ("**MOF**")
Private bonded warehouse	No equity condition imposed by the Royal Malaysian Customs Department

Implications. The equity requirement appears to be inconsistent because it only applies for Public Bonded Warehouse and may potentially be excluding / making it more difficult for prospective entrants who could not meet the Bumiputera requirements.

This could potentially fuel the ability of incumbent players to act without constraint or with limited constraints. Further, this licensing requirements could also translate into increase in entry costs for potential entrants, limiting the number of suppliers and potentially increase prices for final consumers.

16 Hauliers

Haulage services and trucking transportation form the freight transport by road, which provide local and long-distance trucking, transfer and draying services, whether scheduled or not.

This mode of land transport would usually deliver containers (FCL or empty) and cargoes in and out of port premises / depots. To further distinguish between haulage and trucking services, haulage services would typically transport the entire container (FCL or empty) to or from warehouses / depots / CFS / CY. On the other hand, conventional trucking would entail for LCL deliveries, where cargoes have been unstuffed into smaller packages from the initial container.

Besides that, the types of vehicle used would also vary between these haulage and trucking. Haulage would usually require prime movers, trailers and side-loaders; whereas trucking would comprise of 1T / 3T / 10T trucks. These heavy-duty vehicles have different functions that would cater for various customer needs / their form of cargoes. These vehicles are also usually equipped with GPS systems for the purpose of real-time delivery tracking for operational efficiency.

Hauliers with greater economies of scale would possess more fleets under their names, with more sophisticated tracking systems to handle more delivery volume. These players would also have a more comprehensive land coverage network and could transport containers / cargoes in greater distance and better geographical reach.

16.1 Number of players

In Malaysia, there are approximately ~400 companies that are registered as hauliers or provide some form of haulage and trucking services. Within that, about ~170 of them are registered as members of the Association of Malaysian Hauliers (“**AMH**”).

16.2 License for commercial vehicle and haulage

16.2.1 Transportation service

All companies that intend to provide transportation services to third parties using commercial vehicles are required to obtain Carrier License A; whereas for services for own use, companies are required to obtain Carrier License C. Both licenses must be obtained from APAD (formerly known as SPAD) for operating in Peninsular Malaysia and Commercial Vehicles Licensing Board (CVLB) for operating in Sabah and Sarawak, which are all in accordance to Commercial Vehicles Licensing Board Act, 1987.

16.2.2 General haulage

Commercial vehicles that are used in the transportation of container bulk, bulk liquid and general haulage and freight, must be registered with the Road Transport Department Malaysia (JPJ). To register with JPJ, the following criteria must be met:

1. Registration licence with APAD/CVLB;
2. Inspection and weighing reports from the Computerised Vehicle Inspection Centre (PUSPAKOM); and
3. An Ad Valorem Registration Fee (AVRF) certificate and valuation (for trailers and semi-trailers in Peninsular Malaysia).

16.3 Fees and charges

There are four types of charges that would be imposed by hauliers to shippers, namely (1) haulage tariffs; (2) fuel adjustment factor ("FAF"); (3) toll rates; and (4) depot gate charge ("**DGC**").

Haulage tariffs are a set of rates set forth by AMH that covers the driving distance to key cities / areas in Peninsular Malaysia. These rates are segmented by states, further broken down cities or areas in each state. Additionally, extra surcharge will be applied for each trip, depending on the types of cargoes being hauled:

Refrigerated	+50% from haulage tariff
Dangerous and direct loading / delivery	+50% from haulage tariff
Non-dangerous and direct loading / delivery	+20% from haulage tariff
Overheight	+50% from haulage tariff
Overlength	+50% from haulage tariff
Overweight	+50% from haulage tariff

Source: Secondary desk research

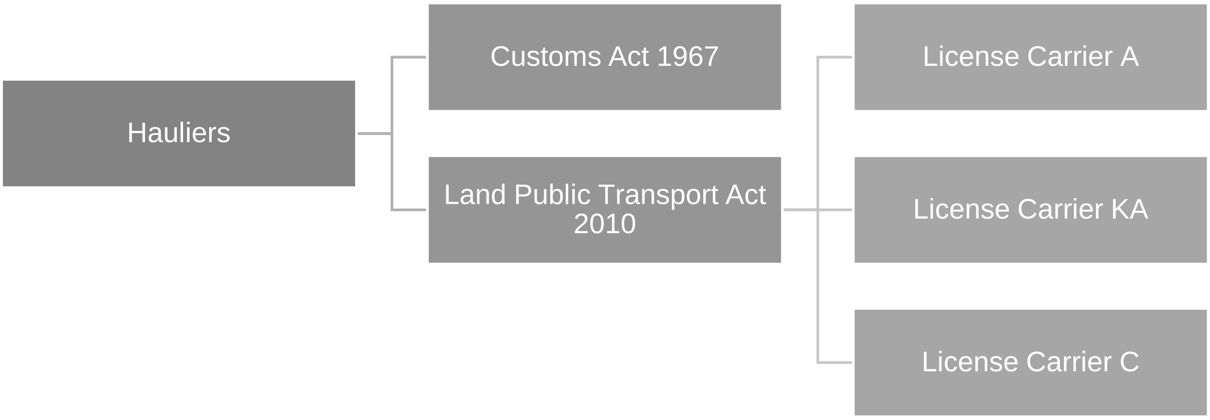
Besides that, there is the inclusion of FAF and toll rates, which is estimated to add ~15 – 20% and ~2 – 5% respectively to the haulage tariffs. The FAF is a new fuel policy, where hauliers have to review and adjust their fuel price changes on a weekly basis. [61]

[61] New fuel price policy may create headwinds (2017). Retrieved 1 March 2021, from https://themalaysianreserve.com/2017/04/03/new-fuel-price-policy-may-create-headwinds/

Lastly, the DGC is the depot gate charge that is paid forward by hauliers to depot operators. Hauliers will in turn charge it back to shippers, who would pay for the total fees based on the summation of all the factors mentioned above.

16.4 Regulatory environment

Figure 16-1 Regulatory environment – Hauliers[62]



Source: Association of Southeast Asian Nations (ASEAN), Ipsos Analysis

16.5 Potential competition issues

16.5.1 Possible price fixing / concerted practices of hauliers through the imposition of Fuel Adjustment Factor charges

Context. In the past, hauliers commonly revise their rates according to the Fuel Adjustment Factor ("**FAF**") guidelines issued by associations such as Association of Malaysia Hauliers ("**AMH**") to manage fluctuations in the cost of fuel. This percentage is calculated weekly and is usually charged as a separate line item in invoices to recover fuel price movements. In practice, the issued guidelines provide for tariff to be charged for specific routes in Malaysia.

Since 2011, in compliance to anti-competition regulations, AMH had ceased to issue FAF guidelines to their members. Individual haulage companies should therefore determine their FAF rates based on market factors that apply. However, if hauliers'

62 Asean.org. 2015. *ASEAN Member States Domestic Rules And Regulations Relevant To The Logistics And Transport Sectoral Services*. [online] Available at: <https://asean.org/wp-content/uploads/images/2015/february/logistic_services/File%2003-5%20Malaysia%20Relevant%20Laws%20%20Regulations%2017th%20LTSSWGlinks.pdf> [Accessed 1 March 2021].

FAF rates are determined using the same formula issued by AMH in the past, it may have the anti-competitive effects of price fixing and concerted practice.

Harm to competition. This issue stems from the agreement or arrangement to indirectly restrict price competition by the recommendation of pricing / price list for specific haulage routes (by cities and regions). If hauliers are found to collectively use the same formulas to determine FAF rates, there are potential anti-competitive issues of horizontal agreements that may indicate concerted practices and price fixing, which can have the effect of substantially restricting competition.

16.5.2 Mergers and acquisitions (M&A) spark concern over collusion and exclusion

Context. A flurry of M&A activities has been observed within the port logistics sector, particularly within the haulage segment. Industry players have expressed concerns over the increasingly aggressive M&A activities within the sector–rapid acquisition of smaller companies by larger companies, whether vertically or horizontally, pose competitive harm as smaller companies' trades are restrained, and lessened mutual competition could lead to higher prices and lesser innovation/improvements.

Particularly, industry players have reported sizeable number of acquisitions of smaller companies by larger companies throughout the Covid-19 pandemic–evidently suggesting the consolidation of increasingly dominant position by larger players who have leverage over smaller players due to their greater access to resources.

Some of the larger M&A deals in recent years are as follow:

Year	Company	M&A target company	Context
2017	JVK International Movers Ltd (subsidiary of JWD Infologistics PCL)	Ocean Air International Company Ltd	Providing services to the existing customers of JWD under the brand name Total Logistics Solution Provider as a integrated logistics solution provider.
2017	TASCO Yusen Gold Cold Sdn Bhd (TYGC), subsidiary of TASCO Berhad	Gold Cold Transport Sdn Bhd MILS Cold Chain Sdn Bhd	Expanded into cold chain sector via multiple acquisitions in 2017 & 2018
2017	Swift Haulage Sdn Bhd	MISC Integrated	Acquired in 2017; MILS is principally involved in the provision of integrated

		Logistics Sdn Bhd (MILS)	logistics services, including transportation activities.
2017	Transocean Holdings Bhd	Taipanco Sdn Bhd.	Transocean proposed a RM140 million acquisition of Taipanco in early-2017. However, the deal fell through in late-2017.
2017	TOKYO-Mitsui O.S.K. Lines Ltd (MOL)	PKT Logistics Group Sdn Bhd (PKT)	MOL acquired a 20.9% stake in PKT, the latter being an end-to-end logistics solution provider in Malaysia.
2017	MMC Corporation Berhad	Sabah Ports Sdn Bhd (subsidiary of Suria Capital Holdings Berhad)	In 2017, MMC sought to purchase a stake in Sabah Ports Sdn Bhd via its subsidiary MMC Port Holdings.
2018	Transocean Holdings Bhd	Swift Haulage Sdn Bhd	With the intention to acquire the entire equity interest in Swift Haulage for not lesser than RM750 million, Transocean has signed a head of agreement (HoA), with certain shareholders of Swift Haulage
2020	CJ Century Logistics Holdings Berhad	EC Services Enterprise Sdn. Bhd	Acquired CJ Korea Express Malaysia Sdn. Bhd in 2020, of which EC Services Enterprise is a subsidiary of.

Source: Secondary research; Ipsos analysis

Harm to competition. Unmonitored or insufficient monitoring and review of M&A deals pose risk of competitive harm, particularly to smaller competitors by restraining their trades. For instance, horizontal integration–relating to the acquisition of a competitor, could lead to a monopolistic or oligopolistic market situation. Lessened competition could lead to higher prices for consumers.

Similarly, vertical integration–relating to the acquisition of upstream/downstream players, such as acquisition of suppliers, could pose competitive harm if supplier's competitors are prevented from having access to the customer, or vice versa–where customer's competitors' access to the supplier is limited.

In short, monitoring and review of M&A deals are imperative to safeguard against the risk of collusion (e.g. setting high prices) and exclusionary practices (e.g. tying or exclusive dealings) following the success of the deals.

16.6 Other areas of concerns

16.6.1 [Regulatory concern] Lengthy and unnecessary process in obtaining heavy vehicle (E-class) competency license

Description. In order to be eligible for the full E-class license, drivers have to firstly obtain the D-class license and complete a 2-year driving experience before being offered a provisional E-class license. The driver will then be required to have a further 2-year driving experience in that class before finally obtaining the full E-class competency license.

Implications. As a result of the lengthy and difficulty in securing an E-class heavy vehicle competency license, market players have reflected that they are facing high cost (training) and manpower concerns due to severe shortage of heavy vehicle drivers.

Market players further claimed that heavy vehicle drivers could be trained in ~6 months compared to the requisite of 4 years. They also mentioned that the cost of training associated with the E-class license is very high and could discourage new entrants into the profession.

Besides that, this could limit the number of prospective entrants, especially those who are less well-resourced and struggle to secure the necessary manpower to enter the haulage market. Further, this may potentially hinder the new entrants / smaller players from competing with incumbent / larger players on a level playing field, subsequently fuelling the ability of incumbent players to act without constraint or with limited constraints.

16.6.2 [Regulatory concern] Other burdensome regulatory requirements

Description. The key issue reported by hauliers was the burdensome regulatory requirements faced in the course of their business. It was opined those certain regulatory requirements and procedural requirement should be simplified to enhance business productivity and minimise disruptions to business operations. The key criticisms include:

- Convoluted regulatory process for the acquisition of new vehicles
- Requirement for yearly renewal of business licenses
- Multiple safety inspectorates leading to duplicity of inspections
- Multiple Permit Issuing Agencies leading to complexity in compliance

Implications. Complex regulatory requirements often hamper the competitiveness of businesses. For instance, the convoluted regulatory process of obtaining approval for the acquisition of new vehicles hinders hauliers from procuring an upgrade, which directly affects their business capacity and efficiency.

In addition, multiple safety inspectorates may lead to duplicity of inspections that will subsequently give rise to delays, road congestion, and rising fuel costs. It was also reported that complex and potentially overlapping permit issuance requirements across multiple Permit Issuing Agencies have led to challenges in compliance. Further, less well-resourced players would also be put at a disadvantage as they had to divert resources to satisfy the requirements. The additional resources incurred to ensure compliance may lead to increase cost of doing business, which could then be passed down by hauliers to businesses, subsequently to end consumers.

17 Benchmarking countries for port logistics

A series of benchmarking exercises have been undertaken to further understand the approach and remedial actions adopt by other countries in addressing the issues faced in the port logistics sector.

The selection of countries to benchmark against for the purpose of this market review is mainly driven by the similarity of issues identified within the corresponding market in the selected countries. Issue-driven selection process will provide a meaningful market comparison, as compared to engaging other high-level indicators (these may include macroeconomics indicators such as GDP, population size, key economic sectors, trade performances, etc.) as selection criteria. As such, the main focus is placed on market conditions for specific markets in line with this market review.

17.1 Anti-competition cases and approaches in other countries

Country / Continent	Anti-competition conducts / areas of concerns	Verdicts / measures to address the concerns
Singapore	- Although Singapore enjoys dominant position as the premier transhipment hub in the region, it's hold on the market appears to be slipping gradually. - Regional competitors such as Malaysia and Indonesia are increasing investments to develop their port capacity. - Other challenges faced include overcapacity, changes in liner alliances and the prolonged period of low oil prices	- The Maritime and Port Authority of Singapore (MPA) reviewed port's due / fee structure, leading to lower port dues. - Port dues are lowered for up to 83 per cent. Shippers can save up to S$22 million a year. - Singapore ports also offer incentives and discounts for ships to become ecologically sustainable, with a S$100 million Maritime Singapore Green Initiative

Country / Continent	Anti-competition conducts / areas of concerns	Verdicts / measures to address the concerns
Indonesia	Indonesia’s logistics costs are among the highest in Asia. High fees at ports, poor facilities and illegal fees kept overall logistics costs high. It was found that over 50% of cost of moving shipping containers are used to pay the high port fees, including stuffing, storage, and terminal handling costs. There were also complaints from local shippers that shipping lines imposed an “illegal” THC rate on Indonesia that was far higher than other countries in the region. The Indonesian National Ship Owners’ Association **(“INSA”)** has the power to approve tariffs on behalf of all shipping lines. For instance, in the case of a newly implemented access channel fee in Tanjung Perak, INSA approved the USD 0.5/ GRT without consulting other shipping lines which led to doubling of port charges.	- The Minister of Transportation released a ruling, which cut THC on 20-foot containers were cut from US$150 to US$90 per box and 40-food containers from US$230 to US$145. - Processing fee of bills of lading were cut from US$30-40 per document to only around US$10. - To lower port fees, the government should assist the local private sector in negotiating with international shipping lines for a significant cut in the THC - It was also suggested that shipping lines include THC as a component in their overall ocean freight rates. Other recommendations to increase autonomy of port authorities include: - Implementing cost-recovery principles and transparency when setting port tariffs will support the government's ability to improve port competitiveness - Enhancing port authorities' capacity to fulfil their mandate

Country / Continent	Anti-competition conducts / areas of concerns	Verdicts / measures to address the concerns
		- Leveraging port tariffs to support the development of non-container sectors.
Thailand	- In 2014, shipping lines have announced increases in THCs, by 62%-74%, depending on container size - The Thai National Shippers Council (TNSC) noted that the THC increases alone will cost Thai exporters almost Bt7.05 million per year - Other fees are increasing such as documentation and administration fees, lift on/ off charges, reefer monitoring fees	-Thai National Shippers' Council (TNSC) and the Importers and Exporters Association, have called on the government to implement the Price of Goods and Services Act to curb the THC hike. - Authorities scheduled to meet with foreign shipping lines to help negotiations against a planned rise in the THC at the country's ports. - Thai officials will seek explanations from foreign shipping lines for the rate adjustments - The Transport Ministry has ordered the Port Authority of Thailand (PAT) to consider reducing service fees and to devise measures to cut its operating costs
Vietnam	- In 2020, Vietnamese shippers struggled due to price hikes of shipping companies of up to 10-fold in sea freight charges. - This was due to an overall lack of transparency and inadequate price management.	- The Vietnamese Maritime Administration (VMA) had requested shipping companies to submit in detail freight fees back to the agency, which must be in line with the law. - A task force was set up, chaired by VMA and comprised of 13 members from relevant ministries.

Country / Continent	Anti-competition conducts / areas of concerns	Verdicts / measures to address the concerns
	- Congestion was also a concern arising from limited trade activities, leading to further hikes of freight charges. - Businesses also struggled to occupy room on ships due to lack of empty containers.	- The task force is responsible for addressing complaints regarding unreasonable surge in container shipping rates, ensuring transparency in the listing of freight prices. - VMA also directed port authorities to speed up the procedures for quicker turnaround time at the ports. Petition has been sent to customs to speed up clearance of backlogged containers.
Sri Lanka	- Since 1991, the impact of shipping surcharges including terminal handling charges (THC) have been severely impacting Sri Lanka's import and export industry - Shipping lines were found to arbitrarily and unilaterally introduce separate charges which was in fact part of the freight - The separation of ocean freight rates from other surcharges including THC have increased the overall shipping charges - The unrealistic and unethical surcharges including THC amounts were mounting up without control, causing importer's business operations to become unpredictable	- The Sri Lankan Government in 2014, made prohibitions made effective through amendments to the Finance Act in 2014 - To prevent monopoly pricing in the shipping trade, shipping lines will not be permitted to levy terminal handling and other charges in addition to freight and specified international charges for container cargo - Incorporate all surcharges to freight establishing an all-inclusive freight rate - Other proposals include setting up a Merchant Shipping Authority by introducing amendments to the Merchant Shipping Act

Country / Continent	Anti-competition conducts / areas of concerns	Verdicts / measures to address the concerns
Australia	- Port access fees (also known as infrastructure charges), which are charged by stevedores at ports have been increasing since 2017, of more than 3,000 per cent - Port access charges have jumped by $87.6 million, or 52 per cent, since 2018-19 to $256.4 million in 2019-20, according to the ACCC - Port congestion surcharge were being charged by shipping lines on top of other fees, including customs clearance, port access and freight charges. - Although revenue collected by stevedores has risen, average labour productivity has been falling, with average truck turnaround times also deteriorating - ACCC noted that the increasing port fees and landside charges were more than offsetting any fall in quayside revenues from shipping lines	The Australian Government had commissioned a review and announced new guidelines to ensure infrastructure price increases are kept to reasonable levels, which include: - Advance notice must be given to governments about price hikes, and provide justification for these changes - Changes will also be limited to once a year - Must issue a final notice of new prices 60 days prior to the date of the proposed increase It was also suggested that Australian government create a new agency similar to the US' Federal Marine Commission. ACCC will monitor new fees closely, and take appropriate action if fees become embedded and borne by importers and exporters
India	- There was an overall lack of transparency. Shipping lines were collecting THC which were different with what the shipping lines have paid as THC to port, sometimes exceeding 70-80% of ocean freight rate	- To bring transparency, increase ease of doing business and reduce logistics costs, shippers having authorised economic operator (AEO) status and availing to direct port delivery (DPD)

Country / Continent	Anti-competition conducts / areas of concerns	Verdicts / measures to address the concerns
	- There were complaints on shipping lines are resorting to "double-dipping" using THC to recover expenses incurred for loading and unloading containers from shippers, passing on trade risk to shippers - After government directive to pay THC directly to terminal operators instead of through shipping lines, shipping lines were also found to increase administrative costs to offset THC cost reduction - These administrative charges were found to be arbitrary, unreasonable and lack merit	facility may pay THC directly to terminal operators instead of through shipping lines - Shipping lines must return any charges that were improperly collected from shippers to offset THC cost reductions - The Indian Government is also considering adopting Sri Lanka's approach to ban terminal handling charges. - Considerations include prohibiting shipping lines from levying THC and other charges in addition to freight charges.

CHAPTER 4: MARKET CONCENTRATION FOR LOGISTICS SHIPMENT ECOSYSTEM IN MALAYSIA

18 Market concentration and capacity / TEU analysis

18.1 Port operators

Port operators refer to those involved in the operation of terminal facilities and provision of port, harbours and piers operation services. Port operation in Malaysia is largely dominated by few key players, especially MMC Corp Bhd, which single-handedly accounted for 66% of the market share. MMC Corp Bhd is one of the 10 largest port operators in the world,[63] and is the port operator for several key ports in Malaysia, via Pelabuhan Tanjung Pelepas Sdn Bhd, Johor Port Berhad, Northport (Malaysia) Bhd, Penang Port Sdn Bhd, and Tanjung Bruas Port Sdn Bhd.

Collectively, the top two players (MMC Corp Bhd and Westports Holdings Bhd) accounted for 91% of the market share, indicating a high level of market concentration. The HHI for market value stood at 5,027, indicating a high level of market concentration as well.

The CR-ratio and HHI for port operators is computed based on available data from the Department of Statistics Malaysia on a broadly defined group of players classified under the operation of terminal facilities and provision of port, harbours and piers operation services (as defined by Malaysia Standard Industrial Classification).

Table below outlines the estimated market share based on revenue in the year 2019/2020 for all the players involved in operation of port, harbours, piers, and terminal facilities, as well as the concentration ratio for the top players and HHI. Please note that the percentages of the estimated market share below may not add up to 100% due to rounding of the numbers.

[63] MMC Annual Report (2019). Retrieved 5 April 2021, from https://www.mmc.com.my/MMC%20ANNUAL%20REPORT%202019%20(150620).pdf

Table 18-1 Market concentration (CR and HHI) of port operators based on revenue, 2019/2020

	Port operators	Estimated market share based on revenue (2019/20)	Concentration ratio %	Herfindahl index (HHI)
1	MMC Corp Bhd	66%	**CR-2: 91%**	4408
2	Westports Holdings Bhd	25%		603
3	Kuantan Port Consortium Sdn Bhd	4%		12
4	Lumut Maritime Terminal Sdn. Bhd.	1%		2
5	TLP Terminal Sdn. Bhd.	1%		1
6	Konsortium Pelabuhan Kemaman Sdn Bhd	1%		1
	Others		2%	1
				5027
			High concentration (CR-2)	**High concentration**

Table 18-2 Capacity (in million TEUs) of key port operators

	Port operators	Capacity (million TEUs)
1	Port of Tanjung Pelepas Sdn Bhd	13
2	Westport Holdings Berhad	11
3	Northport (M) Berhad	6
4	Penang Port Sdn Bhd	2
5	Johor Port Berhad	1

Note: All of the ports above are part of / associated with MMC Group, with the exception of Westport Holdings Berhad.

Notes, assumptions and limitations in the above computation:

1. Revenues used are based on the financial year which ended in 2020 or 2019. Financial year end date differs across different companies, hence, the revenue for each company may not represent the revenue for the full year of 2020 or 2019.
2. Some of the identified companies are not included due to lack of revenue information.

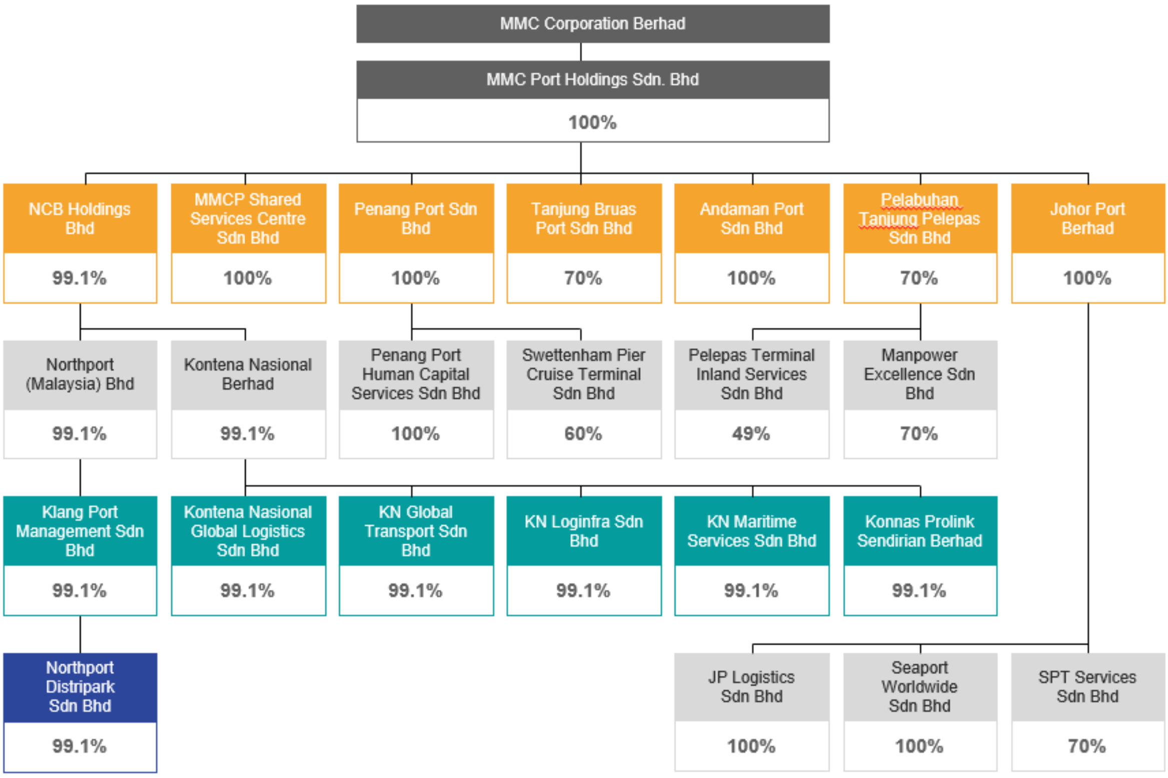
3. The list of companies included in this computation is based on the list of establishments from the Department of Statistics Malaysia (DOSM). There may be other establishment which are not classified under this sector in the CCM, which are not identified for this estimation.
4. The revenue of the companies may include income generated from other form of business activities.

18.1.1 Player profiling

MMC Corporation Bhd is one of the 10 largest port operators in the world, and is the port operator for several key ports in Malaysia, via Pelabuhan Tanjung Pelepas Sdn Bhd, Johor Port Berhad, Northport (Malaysia) Bhd, Penang Port Sdn Bhd, and Tanjung Bruas Port Sdn Bhd.

MMC holds a majority stake in all of the aforementioned entities and is involved in some downstream activities such as recruitment of manpower for prime mover drivers and port lashers (via Manpower Excellence Sdn. Bhd.), and provision of freight forwarding and haulage services (via JP Logistics Sdn. Bhd.; Kontena Nasional Berhad; Kontena Nasional Global Logistics Berhad).

Figure 18-1 Subsidiaries of MMC Corporation Berhad involved in the port logistics sector



Source: MMC Holdings Berhad Annual Report 2020

Some other notable port operators in Malaysia include Westports Holdings Bhd, Kuantan Port Consortium Sdn Bhd, and Konsortium Pelabuhan Kemaman Sdn Bhd.

18.2 Shipping lines

Shipping lines refer to those involved in the transport of freight. The level of market concentration is low, with the seven largest players accounting for only 45% of the market share by revenue. Some of the largest players such as Evergreen Marine Corp. (Malaysia) Sdn. Bhd. and CMA CGM Malaysia Sdn. Bhd. are attached to shipping alliances such as Ocean Alliance. Similarly, the HHI shows a low level of market concentration with an index of 469.

The CR-ratio and HHI for shipping lines is computed based on available data from the Department of Statistics Malaysia on a broadly defined group of players classified under the transport of freight overseas and coastal waters, and via rivers, canals, lakes and other inland waterways (as defined by Malaysia Standard Industrial Classification).

Table below outlines the estimated market share based on revenue in the year 2019/2020 for all the players involved in transport of freight, as well as the concentration ratio for the top players and HHI. Please note that the percentages of the estimated market share below may not add up to 100% due to rounding of the numbers.

Table 18-3 Market concentration (CR and HHI) of shipping lines based on revenue, 2019/2020

	Shipping lines	**Estimated market share based on revenue (2019/20)**	**Concentration ratio %**	**Herfindahl index (HHI)**
1	Shin Yang Shipping Sdn. Bhd.	16%	**CR-7: 45%**	250
2	Malaysia Shipping Corporation Sdn Bhd	8%		63
3	Harbour-Link Lines Sdn. Bhd.	8%		59
4	DSV Air & Sea Sdn. Bhd.	4%		16
5	AML Shipping Sdn Bhd	3%		12
6	Trans East Shipping Sdn. Bhd.	3%		10
7	Evergreen Marine Corp. (Malaysia) Sdn. Bhd.	3%		7
8	Thailine Sdn Bhd	2%		6

9	Shinline Sdn. Bhd.	2%		5
10	Jumewah Shipping Sdn. Bhd.	2%		3
11	CMA CGM Malaysia Sdn. Bhd.	2%		3
	Others (319 shipping lines)	47%		**36**
				469
			Low concentration (CR-7)	**Low concentration**

Notes, assumptions and limitations in the above computation:

1. Revenues used are based on the financial year which ended in 2020 or 2019. Financial year end date differs across different companies, hence, the revenue for each company may not represent the revenue for the full year of 2020 or 2019.
2. Some of the identified companies are not included due to lack of revenue information.
3. The list of companies included in this computation is based on the list of establishments from the Department of Statistics Malaysia (DOSM). There may be other establishment which are not classified under this sector in the CCM, which are not identified for this estimation.
4. The revenue of the companies may include income generated from other form of business activities.

18.3 Container depot operators

Container depot operators refer to those who provide container depot operation services, including both on-dock and off-dock depot operators. The top four players (E.A.E. Freight & Forwarding Sdn. Bhd., Infinity Logistics & Transport Sdn. Bhd., Multimodal Freight Sdn. Bhd., Sea Hawk Global Lines Sdn. Bhd.) by revenue accounted for 62% of the market share, indicating a moderate level of market concentration.

On the other hand, the top five players (Timur Permai Holdings Sdn. Bhd., Jambatan Merah Depot Sdn. Bhd., One Century Logistics Sdn. Bhd., Northern Gateway Depot Sdn Bhd, Tiong Nam Allied Container Depot Services Sdn. Bhd.) by depot capacity accounted for 51% of the market share, indicating a moderate level of market concentration as well.

Meanwhile, the HHI index for revenue stood at 1,298, indicating a low level of market concentration. Similarly, the HHI index for capacity also indicate a low level of market concentration, at an index of 768.

The CR-ratio and HHI for container depot operators is computed based on available data from the Ministry of Transport, which has captured a list of off-dock depots. On-dock depots have also been identified through referencing to official publications of the respective port authorities.

Table below outlines the estimated market share based on revenue and capacity in the year 2019/2020 for all the players involved in provision of container depot operation services, as well as the concentration ratio for the top players and HHI. Please note that the percentages of the estimated market share below may not add up to 100% due to rounding of the numbers. The analysis in the tables below shows moderate concentration, suggesting a oligopolistic market structure.

Table 18-4 Market concentration (CR and HHI) of container depot operators based on capacity (acres), 2019/2020

	Container depot operators	Estimated market share based on capacity (2019/20)	Concentration ratio %	Herfindahl index (HHI)
1	Timur Permai Holdings Sdn. Bhd.	14%	**CR-5: 51%**	190
2	Jambatan Merah Depot Sdn. Bhd.[64]	12%		154
3	One Century Logistics Sdn. Bhd.	10%		93
4	Northern Gateway Depot Sdn Bhd[65]	8%		68
5	Tiong Nam Allied Container Depot Services Sdn. Bhd.	7%		47
6	Infinity Logistics & Transport Sdn. Bhd.[66]	6%		38
7	ICS Depot Services Sdn Bhd	6%		33
8	Multimodal Freight Sdn. Bhd.	5%		23
9	KP Depot Services Sdn. Bhd.	5%		23

[64] A subsidiary of Taipanco Sdn Bhd
[65] A subsidiary of Swift Haulage Sdn Bhd
[66] A subsidiary of Infinity Logistics And Transport Ventures Limited

10	Cogent Container Depot (M) Sdn. Bhd.[67]	5%		22
11	E.A.E. Freight & Forwarding Sdn. Bhd.[68]	4%		17
	Others (7 depot operators)	**19%**		**59**
				768
			Moderate concentration (CR-5)	**Low concentration**

Notes, assumptions and limitations in the above computation:

1. The data on container depot capacity used are based on official data shared by Ministry of Transport.
2. Some of the identified companies are not included due to lack of officially available capacity information.
3. The list of companies included in this computation is based on the list of off-dock depot from Ministry of Transport as well as published list of on-dock depots by port authorities. There may be other establishment which are not included in these publications, which are not identified for this estimation.

Table 18-5 Market concentration (CR and HHI) of container depot operators based on revenue, 2019/2020

	Container depot operators	Estimated market share based on revenue (2019/20)	Concentration ratio %	Herfindahl index (HHI)
1	E.A.E. Freight & Forwarding Sdn. Bhd.	24%	**CR4: 62%**	599
2	Infinity Logistics & Transport Sdn. Bhd.	21%		447
3	Multimodal Freight Sdn. Bhd.	11%		118
4	Sea Hawk Global Lines Sdn. Bhd.	6%		34
5	JP Logistics Sdn. Bhd.[69]	5%		28
6	ICS Depot Services Sdn Bhd	5%		22
7	Medlog Malaysia Sdn. Bhd.	3%		12

[67] A subsidiary of COSCO
[68] A subsidiary under the Kerry Logistics network of companies
[69] A subsidiary of MMC Port Holdings Sdn. Bhd.via Johor Port Berhad

8	SH Cogent Logistics Sdn. Bhd.	3%		8
9	**Others (19 depots)**	**21%**		**31**
				1,298
			Moderate concentration (CR-4)	**Low concentration**

Notes, assumptions and limitations in the above computation:

1. Revenues used are based on the financial year which ended in 2020 or 2019. Financial year end date differs across different companies, hence, the revenue for each company may not represent the revenue for the full year of 2020 or 2019.
2. Some of the identified companies are not included due to lack of revenue information.
3. The list of companies included in this computation is based on the list of off-dock depot from Ministry of Transport as well as published list of on-dock depots by port authorities. There may be other establishment which are not included in these publications, which are not identified for this estimation.
4. The revenue of the companies may include income generated from other form of business activities.

18.3.1 Player profiling

18.3.1.1 Infinity Logistics & Transport Sdn. Bhd.

Infinity Logistics & Transport Sdn Bhd is a subsidiary of Infinity Logistics and Transport Ventures Limited, which is a logistics service provider involved in the provision of:

i. Flexitank Solution and Related Services
ii. Integrated Freight Forwarding Services
iii. Railroad Transportation services
iv. Logistics Centre and related services

Infinity Logistics & Transport offers container depot services, including storage of empty containers, washing and repair and maintenance of freight containers.

Key items	Capacity
Depot capacity (acres)	9
Average container handling (Unit / Month) - In	2,452
Average container handling (Unit / Month) – Out	2,584
Average container handling (Unit / Month) - Total	5,036
Paid-Up Capital (RM)	4,940,001

Source: Secondary research

18.3.1.2 Northern Gateway Depot Sdn Bhd

Northern Gateway Depot Sdn Bhd is the depot operation arm of Swift Haulage Sdn Bhd, held via Container Connections (M) Sdn Bhd, which is also involved in the provision of depot operation services.

Key items	Capacity
Depot capacity (acres)	12
Average container handling (Unit / Month) - In	6,194
Average container handling (Unit / Month) – Out	6,195
Average container handling (Unit / Month) - Total	12,389
Paid-Up Capital (RM)	100,000

Source: Secondary research

18.3.1.3 Sea Hawk Global Lines Sdn. Bhd.

Sea Hawk Global Lines Sdn. Bhd. was founded in 2003, with its headquarters located at Klang, Selangor.

Key items	Capacity
Depot capacity (acres)	0.22
Average container handling (Unit / Month) - In	100
Average container handling (Unit / Month) – Out	100
Average container handling (Unit / Month) - Total	200
Paid-Up Capital (RM)	1,500,000

Source: Secondary research

18.3.1.4 Timur Permai Holdings Sdn. Bhd.

Timur Permai Holdings Sdn. Bhd. is a part of the Timur Permai Group. Timur Permai has been in the provision of container handling services since 1988, with service offerings including provision of professional renting premises for storage of containers, transportation of containers and repair and maintenance of containers.

Key items	Capacity
Depot capacity (acres)	20
Average container handling (Unit / Month) - In	7,406
Average container handling (Unit / Month) – Out	8,129
Average container handling (Unit / Month) - Total	15,535
Paid-Up Capital (RM)	4,000,000

Source: Secondary research

18.3.1.5 Jambatan Merah Depot Sdn. Bhd.

Jabatan Merah Depot Sdn Bhd is the container depot operation arm of haulage company, Taipanco Sdn Bhd. Jambatan Merah Depot operates two container depots in Westport and Northport, at which services such as storage, cleaning, and repairs of empty containers, as well as pre-trip inspections are provided.

Key items	Capacity
Depot capacity (acres)	18
Average container handling (Unit / Month) - In	6,300
Average container handling (Unit / Month) – Out	6,190
Average container handling (Unit / Month) - Total	12,490
Paid-Up Capital (RM)	1,000

Source: Secondary research

18.3.1.6 E.A.E. Freight & Forwarding Sdn. Bhd.

E.A.E. Freight & Forwarding Sdn. Bhd. is part of the Kerry Logistics Network. E.A.E provides container handling services.

Key items	Capacity
Depot capacity (acres)	6
Average container handling (Unit / Month) - In	2,600
Average container handling (Unit / Month) – Out	2,400
Average container handling (Unit / Month) - Total	5,000
Paid-Up Capital (RM)	500,000

Source: Secondary research

18.4 Freight forwarders

Freight forwarders refer to those involved in the forwarding of freight. Freight forwarding in Malaysia is ran by a large numbers of freight forwarders, with more than 3,000 freight forwarders involved in this supply chain level, ranging from small to large establishments. The largest 6 players by revenue accounted for a mere 13% of the total market share, indicating a low level of market concentration. Further, the HHI index stood at 55, suggesting a highly competitive market structure.

The CR-ratio and HHI for freight forwarders is computed based on available data from the Department of Statistics Malaysia on a broadly defined group of players classified under the forwarding of freight (as defined by Malaysia Standard Industrial Classification).

Table below outlines the estimated market share based on revenue in the year 2019/2020 for all the players involved in forwarding of freight, as well as the concentration ratio for the top players and HHI. Please note that the percentages of the estimated market share below may not add up to 100% due to rounding of the numbers.

Table 18-6 Market concentration (CR and HHI) of freight forwarders based on revenue, 2019/2020

	Freight forwarders	Estimated market share based on revenue (2019/20)	Concentration ratio %	Herfindahl index (HHI)
1	Schenker Logistics (Malaysia) Sdn. Bhd.	3%	CR-6: 13%	9
2	DHL Global Forwarding (Malaysia) Sdn. Bhd.	3%		6
3	PKT Consolidation Services (M) Sdn. Bhd.	2%		5
4	Kuehne + Nagel Sdn. Bhd.	2%		4
5	Nippon Express (Malaysia) Sdn. Bhd.	2%		3
6	Expeditors (Malaysia) Sdn. Bhd.	1%		2
7	Agility Logistics Sdn. Bhd.	1%		1
8	Samsung Sds Malaysia Sdn. Bhd.	1%		1
9	FM Global Logistics (M) Sdn. Bhd.	1%		1
10	CJ Century Logistics Sdn Bhd	1%		1
	Others (3149 freight forwarders)	83%		**20**
				55
			Low concentration (CR-7)	**Low concentration**

Notes, assumptions and limitations in the above computation:

1. Revenues used are based on the financial year which ended in 2020 or 2019. Financial year end date differs across different companies, hence, the revenue for each company may not represent the revenue for the full year of 2020 or 2019.
2. Some of the identified companies are not included due to lack of revenue information.
3. The list of companies included in this computation is based on the list of establishments from the Department of Statistics Malaysia (DOSM). There may be other establishment which are not classified under this sector in the CCM, which are not identified for this estimation.

4. The revenue of the companies may include income generated from other form of business activities.

18.4.1 Player profiling

18.4.1.1 Schenker Logistics (Malaysia) Sdn. Bhd.

Schenker Logistics is a part of the DB Schenker Group, which offers services ranging from:

i. Land transport
ii. Air freight
iii. Ocean freight
iv. Contract Logistics
v. Lead logistics
vi. Special product

Through its ocean freight, DB Schenker ships more than 5000 containers daily.

18.4.1.2 DHL Global Forwarding (Malaysia) Sdn. Bhd.

DHL Global Forwarding is part of the DHL Network, which has 5 key categories of services offerings, including DHL eCommerce, DHL Global Forwarding, DHL Freight, DHL Supply Chain, and DHL Express.

DHL Global Forwarding provides ocean freight and custom brokerage and consultancy services. DHL Global Forwarding's portfolio of custom services are as follow:

i. Import and Export Declaration Filing
ii. Security Filing
iii. Duties & Taxes Advancement
iv. Other Government Agency Services
v. In-Transit Movement
vi. Permits and Licensing Application Services

18.4.1.3 PKT Consolidation Services (M) Sdn. Bhd.

PKT Consolidation Services (M) Sdn. Bhd. is a part of the PKT Group which provides custom brokerage services (via PKT Consolidation Services), haulage and transportation, and warehouse management services. PKT Consolidation Services offer a comprehensive range of custom clearance services for both import and export consignments, including:

i. Custom clearance services
ii. Export and import clearance
iii. Documentation
iv. Customs regulations

v. Cargo tracking
vi. Logistics

18.4.1.4 Kuehne + Nagel Sdn. Bhd.

Kuehne + Nagel has sector expertise in pharmaceuticals and healthcare logistics, industrial, perishables, consumer, and automotive. Kuehne + Nagel offers an integrated logistics solution, including freight services (full container shipping and LCL shipments, project logistics, oversized transport, and reefer cargo), custom clearances (prepare and process declarations, calculate duties and taxes, and organise inspections, and others), as well as end-to-end supply chain solutions for aerospace, automotive, consumer, high-tech, industrial, and pharma & healthcare industries.

18.4.1.5 FM Global Logistics (M) Sdn. Bhd.

FM Global Logistics is part of the FM Group, which has over 32 years of experience operating in the logistics industry in Malaysia. The group provides haulage, sea freight forwarding (~140,000 annually), air freight forwarding, as well as 3PL, e-fulfilment and customized warehousing solutions.

18.5 Warehouse operators

Warehouse operators refer to those providing warehousing and storage services. The largest six players by revenue accounted for a mere 16% of the total market share, which suggest that the market structure is competitive with a low level of market concentration. Similarly, the HHI indicates a low level of market concentration as well, at a mere index of 124.

The CR-ratio and HHI for warehouse operators is computed based on available data from the Department of Statistics Malaysia on a broadly defined group of players classified under the warehousing and storage services (as defined by Malaysia Standard Industrial Classification).

Table below outlines the estimated market share based on revenue in the year 2019/2020 for all the players involved in the provision of warehousing and storage services, as well as the concentration ratio for the top players and HHI. Please note that the percentages of the estimated market share below may not add up to 100% due to rounding of the numbers.

Table 18-7 Market concentration (CR and HHI) of warehouse operators based on revenue, 2019/2020

	Warehouse operators	Estimated market share based on revenue (2019/20)	Concentration ratio %	Herfindahl index (HHI)
1	Tiong Nam Logistics Solutions Sdn. Bhd.	5%	**CR-6: 24%**	21
2	Bollore Logistics Malaysia Sdn. Bhd.	3%		10
3	Sankyu (Malaysia) Sdn. Bhd.	3%		7
4	Ms Supply Chain Solutions (Malaysia) Sdn. Bhd.	2%		5
5	Havi Logistics (M) Sdn. Bhd.	2%		3
6	LF Logistics Services (M) Sdn. Bhd.	2%		3
7	OTL Asia Sdn. Bhd.	1%		2
8	G-Force Logistics Solutions Sdn. Bhd.	1%		1
9	Future Supply Chain Sdn. Bhd.	1%		1
10	Kp Asia Auto Logistics Sdn. Bhd.	1%		1
11	Shui Xing Ventures Sdn. Bhd.	1%		1
	Others (1179 warehouse operators)			21
				137
			Low concentration (CR-6)	**Low concentration**

Notes, assumptions and limitations in the above computation:

1. Revenues used are based on the financial year which ended in 2020 or 2019. Financial year end date differs across different companies, hence, the revenue for each company may not represent the revenue for the full year of 2020 or 2019.
2. Some of the identified companies are not included due to lack of revenue information.

3. The list of companies included in this computation is based on the list of establishments from the Department of Statistics Malaysia (DOSM). There may be other establishment which are not classified under this sector in the CCM, which are not identified for this estimation.
4. The revenue of the companies may include income generated from other form of business activities.

18.5.1 Player profiling

18.5.1.1 Tiong Nam Logistics Solutions Sdn. Bhd.

Tiong Nam Logistics Solutions is part of the Tiong Nam Group, which is one of the largest total logistics service providers in APAC with service offerings ranging from warehousing, customs brokerage, cold room facilities, express delivery as well as crane and heavy transport services.

Tiong Nam Logistics Solutions' warehouses are fully integrated with Tiong Nam Group's delivery services. The warehouses are also equipped with CCTV facilities to enable remote monitoring, as well as all necessary equipment.

Key items	Capacity
Warehouse capacity (acres)	>5.6 million sq. ft.

Source: Secondary research

18.5.1.2 Bollore Logistics Malaysia Sdn. Bhd.

Bollore Logistics Malaysia Sdn Bhd was incorporated in April 1994, as a part of the joint venture efforts between Bolloré Logistics S.E. Asia Pte Ltd and Sunship Agencies Sdn Bhd. Bollore Logistics Malaysia is staffed with ~300 employees across 7 local offices in Malaysia, and provides warehousing services via 3 of its warehouses.

18.5.1.3 Sankyu (Malaysia) Sdn. Bhd.

Sankyu Malaysia offers warehousing services (including sevices for bonded and non-bonded wareshouse, distribution center, cold room facilities, packing services and other add-on value service) through its 4 branches located at Petaling Jaya, Port Klang, Penang, and Johor Bahru. Sankyu's warehouses are equipped to handle a wide array of products including raw material for manufacturing, finished products, and consumer goods by customer needs.

18.5.1.4 Ms Supply Chain Solutions (Malaysia) Sdn. Bhd.

With more than 20 years of experience in the industry, Ms Supply Chain offers a comprehensive range of one stop logistics solutions, including in-house factory logistics solutions, warehouse solutions, transportation solutions, and international logistics solutions. The company is a subsidiary of MITSUI-SOKO Supply Chain Solutions, Inc. MS Supply Chain is also equipped with warehouse space of approximately 200,000 sq. ft.

Key items	Capacity
Warehouse capacity (acres)	>200,000 sq. ft.

Source: Secondary research

18.5.1.5 Havi Logistics (M) Sdn. Bhd.

With more than 45 years of experience in the industry, Havi logistics has wide global footprint with presence at over 45 countries. Havi logistics is known for their supply chain solutions for businesses that spans across different industries including food, pharmaceuticals, and retail. Havi logistics provides a wide array of services, primarily focusing on distribution and warehousing services, along with other services including freight management, supply chain analytics and insights, and other value-adding capacities.

18.5.1.6 LF Logistics Services (M) Sdn. Bhd.

LF Logistics offers reliable and cost-effective logistics solutions across a wide range of industries, including Fast-Moving Consumer Goods (FMCG), food & beverage, and retail. The company is part of a global network with presence across Greater China, ASEAN, Japan, Korea, the Middle East, and Indian subcontinent, managing warehouse capacity of over 26 million sq. ft.. LF Logistics employ analytics tools and best-in-class IT systems in delivering supply chain solutions to their customers.

Key items	Capacity
Warehouse capacity (acres)	>26 million sq. ft. (global)

Source: Secondary research

18.5.1.7 OTL Asia Sdn. Bhd.

Headquartered in Bukit Kayu Hitam and incorporated in 2001, OTL provides integrated logistics services including forwarding, transportation, cargo handling and warehousing. Warehousing services offered by OTL Asia includes bonded & non-bonded facilities, ICD & BLP, LOLO & RORO handling services, indoor overhead crane, overhead gantry crane.

18.5.1.8 G-Force Logistics Solutions Sdn. Bhd.

G-Force logistics solutions is involved in the transportation and distribution of commercial goods, with services ranging from freight and customs forwarding, warehousing, as well as cross-docking facilities. G-Force's warehousing capacities include bonded warehouse, general warehouse, storage facilities, cold room services, cross-docking and distribution services, as well as third party warehouse management.

18.6 Hauliers

Hauliers refer to those providing freight transportation services by road. The market structure at this level seems to be of low to moderate level of competition, with the top players accounting for 51% of market share by revenue, and 25% of market share by TEUs. Similarly, the HHI index indicates that a low level of market concentration at an index of 772 and 231 for revenue and TEUs respectively.

The CR-ratio and HHI for hauliers is computed based on available data from the Department of Statistics Malaysia on a broadly defined group of players classified under the freight transport by road (as defined by Malaysia Standard Industrial Classification).

Table below outlines the estimated market share based on revenue in the year 2019/2020 for all the players involved transportation of freight by road, as well as the concentration ratio for the top players and HHI. Please note that the percentages of the estimated market share below may not add up to 100% due to rounding of the numbers.

Table 18-8 Market concentration (CR and HHI) of hauliers based on TEUs, 2019/2020

	Hauliers	**Estimated market share based on TEUs (2020)**	**Concentration ratio %**	**Herfindahl index (HHI)**
1	Swift Haulage Sdn. Bhd.	9%	**CR-5: 25%**	85
2	Taipanco Sdn Bhd	6%		36
3	Syarikat Logistik Petikemas Sdn Bhd	4%		16
4	Interway Transport Sdn. Bhd.	3%		10
5	Ideal Gemilang Resources Sdn. Bhd.	3%		7
6	Viva Haulage Sdn. Bhd.	2%		4
7	Tasco Berhad	2%		4
8	Perceptive Logistics Sdn. Bhd.	2%		4
9	Vertex Mission Sdn. Bhd.	2%		3
10	Multimodal Freight Sdn Bhd.	2%		3

	Others (139 hauliers)	65%		58
				231
			Low concentration (CR-5)	**Low concentration**

Table 18-9 Market concentration (CR and HHI) of hauliers based on revenue, 2019/2020

	Hauliers	Estimated market share based on revenue (2019/20)	Concentration ratio %	Herfindahl index (HHI)
1	Tasco Berhad	17%	**CR-4: 51%**	284
2	CJ Century Logistics Holdings Berhad	15%		211
3	Swift Haulage Sdn. Bhd.[70]	14%		195
4	PKT Logistics Group Sdn Bhd	5%		28
5	Biforst Logistics Sdn. Bhd.	2%		5
6	Interway Transport Sdn. Bhd.	2%		5
7	Taipanco Sdn Bhd	2%		5
8	Syarikat Logistik Petikemas Sdn Bhd	2%		5
9	Tanjong Express (M) Sdn. Bhd.[71]	2%		5
10	Eng Heng Marketing Sdn Bhd	2%		4
	Others (139 hauliers)	36%		26
				772
			Moderate concentration (CR-4)	**Low concentration**

Notes, assumptions and limitations in the above computation:

1. Revenues used are based on the financial year which ended in 2020 or 2019. Financial year end date differs across different companies, hence, the revenue for each company may not represent the revenue for the full year of 2020 or 2019.
2. Some of the identified companies are not included due to lack of revenue information.

[70] Acquired Tanjong Express (M) Sdn Bhd in 2018.
[71] As above.

3. The revenue of the companies may include income generated from other form of business activities.
4. The list of companies included in this computation is based on the list of establishments from the Association of Malaysian Hauliers.

Data on TEUs are based on the data collected by Association of Malaysian Hauliers in 2020.

18.6.1 **Player profiling**

18.6.1.1 Swift Haulage Sdn Bhd

Swift Haulage provides a comprehensive range of logistics solutions, encompassing freight forwarding, shipping, warehousing, haulage, inland distribution, container depot operation, inland transportation as well as sales, services and spare parts.

Swift Haulage has strengthened its presence in the logistics sector through a series of acquisition transactions both vertically and horizontally. In 2020, Swift Haulage acquired Sentiasa Hebat along with 5 others subsidiaries. Notably, the company has acquired Tanjong Express (M) Sdn Bhd and Komunajaya Sdn Bhd in 2018, which helped strengthened its haulage and trucking capacity.

Key items	Capacity
Prime movers	1400
Trailers and tankers	5975
Side loaders	76
Warehouses	2.5 million sq. ft.
Container depots	1.5 million sq. ft.
Number of employees	> 3,200 people
Haulage TEUs in 2020	273,271

Source: Swift Haulage, AMH

18.6.1.2 Taipanco Sdn Bhd

Founded in 2003, Taipanco is primarily involved in the container haulage businesses. The company has grown from a fleet size of 10 prime movers to 188 prime movers and more than 500 units of trailers.

In seeking to expand its logistics solutions offerings, Taipanco have acquired acquired Shallas Sdn Bhd, Jambatan Merah Depot Sdn Bhd, and Vector Logistics Sdn Bhd. The subsidiaries are involved in container haulage and workshop, container yard operation, and freight forwarding respectively.

Key items	Capacity
Prime movers	188
Trailers and tankers	> 500
Side loaders	32
Warehouses	n.a

Container depots	>500,000 sq. ft.
Haulage TEUs in 2020	177,131

Source: Taipanco, AMH

18.6.1.3 Tasco Berhad

Founded in 1974, Tasco Bhd operates as a total logistics solutions provider, with subsidiaries involving across the supply chain level including in the business of truck rental, in-house truck repair and maintenance, insurance agency services, warehouse rental, and freight forwarding.

Tasco has structured its business operations into five core divisions:

i. Contract Logistics Division
ii. Air Freight Forwarding Division
iii. Trucking Division
iv. Ocean Freight Forwarding Division
v. Origin Cargo Order & Vendor Management Division

Key items	Capacity
Prime movers	>500
Trailers and tankers	>500
Warehouses	> 2.7 million sq. ft.
Number of employees	2,200
Haulage TEUs in 2020	61,209

Source: Tasco Bhd, AMH

18.6.1.4 CJ Century Logistics Holdings Berhad

CJ Century is involved in the provision of integrated logistics solutions, oil logistics, procurement logistics, data management solutions, and courier services. Within its integrated logistics solutions business segment, CJ Century offers freight forwarding, contract logistics (for storage and distribution), and transportation (for Less Than Truck Load (LTL), Full Truck Load (FTL), distribution and consolidation, cross border transportation, and container haulage services).

Key items	Capacity
Prime movers, Haulage & Trucks	6,327
Warehouses	>3million sq. ft.
Haulage TEUs in 2020	44,895

Source: CJ Century, AMH

18.6.1.5 Interway Transport Sdn. Bhd.

Interway Transport, a subsidiary of the Sing Chuan Aik Group of Companies, has been offering logistics services in Malaysia for more than 40 years. The company strive to be a one-stop logistics service centre through diversifying its service offerings, which currently includes transporting of goods in container, freight forwarding, warehousing, crane facilities, and shifting and positioning of machinery and industrial equipment.

Key items	Capacity
Prime movers	150
Trailers and tankers	>700
Side loaders	10
Warehouses	>800,000 sq. ft.
Haulage TEUs in 2020	95,567

Source: Interway, AMH

19 Vertical integration (M&A) analysis

In recent years, the port logistics market has seen a flurry of aggressive mergers and acquisitions transactions, primarily driven by market players' business ambition to become a one-stop logistics solutions provider by acquiring smaller players / players with niche expertise that can help them consolidate their position across the supply chain.

Some notable M&A deals are:

- SH Cogent Logistics Pte Ltd is the parent company to a series of subsidiaries including Cogent Container Depot (M) Sdn. Bhd., SH Cogent Logistics Sdn. Bhd., Guper Integrated Logistics Sdn. Bhd., Gems Logistics Sdn. Bhd., Dolphin Shipping Agency Sdn. Bhd., and East West Freight Services Sdn. Bhd.[72] The latter four subsidiaries were acquired by COSCO from Complete Logistics Services Berhad in 2020, via a series of aggressive acquisition transactions valued at approximately RM88 million to expand COSCO's end-to-end logistics service offerings in Malaysia.
- CJ Century completed its acquisition of 100% equity interest in CJ Korea Express Malaysia Sdn. Bhd. and its subsidiaries (similarly, CJ Korea Express Malaysia is also involved in total logistics services, including freight forwarding, warehousing, distribution, and transportation), as well as CJ Logistics Express Malaysia Sdn. Bhd. (formerly known as Evergreen Sunlight Sdn. Bhd.). The acquisition helped CJ Century strengthened its foothold in the Northern region and East Coast of Peninsula Malaysia through the sharing of key logistics hub and networks.
- Tasco Bhd has strengthened its position in the cold chain segment through acquiring the leading cold chain logistics provider Malaysia companies, Gold Cold Transport Sdn Bhd and MILS Cold Chain Sdn Bhd (currently known as Gold Cold Integrated Logistics Sdn Bhd). The latter operate chilled and frozen warehouses spanning across 7,000 m^2 near Westport of Port Klang.

The table below illustrates the degree of vertical integration enjoys by selected market players across the supply chain level. Generally, their presence in a particular supply chain level is strengthened through the business activities of their subsidiaries. In some instances, some companies will leverage on industry affiliations with other companies to expand on their service offerings into other supply chain level.

[72] COSCO Group 's business activities in Malaysia is provided mainly through its wholly-owned subsidiary, COSCO SHIPPING Lines (Malaysia) Sdn. Bhd. (held by COSCO SHIPPING Lines Co., Ltd.) for shipping activities. Meanwhile for other related activities in Malaysia such as warehousing and container depot businesses, these are mainly provided under SH Cogent Logistics Pte Ltd (via Cogent Holdings Pte Ltd, a wholly-owned subsidiary of COSCO Shipping International (Singapore) Co. Ltd.)

Table 19-1 Degree of vertical integration by selected companies

Selected market players	Port operator	Shipping lines	Container depot operators	Freight forwarder	Warehouse operators	Hauliers
Tasco Bhd - Held by Yusen Logistics Co., Ltd. (YLK), a wholly-owned subsidiary of NYK		Nippon Yusen Kabushiki Kaisha (NYK) - Holding company of Tasco Bhd	Meriah Selalu Sdn Bhd	Trans-Asia Shipping Pte Ltd Omega Saujana Sdn Bhd (51%) Piala Kristal (M) Sdn Bhd (51%)	Precious Fortunes Sdn Bhd Titian Pelangi Sdn Bhd	Baik Sepakat Sdn Bhd Tunas Cergas Logistik Sdn Bhd Emulsi Teknik Sdn Bhd **via Tasco Yusen Gold Cold Sdn Bhd (70%)** - Gold Cold Transport Sdn Bhd - Gold Cold Integrated Logistics Sdn Bhd (Previously known as MILS Cold Chain Sdn Bhd)

Selected market players	Port operator	Shipping lines	Container depot operators	Freight forwarder	Warehouse operators	Hauliers
						- GC Logistics Sdn Bhd - Gold Cold Solutions Sdn Bhd - Hypercold Logistic Sdn Bhd (HLSB) (50%)
Swift Haulage Sdn Bhd			Container Connections (M) Sdn Bhd Northern Gateway Depot Sdn Bhd (subsidiary of Container Connections) Swift Depot Prai	Swift Integrated Logistics Sdn Bhd (SILSB) Earth Move International Sdn Bhd (subsidiary of SILSB) Agensi Tanjung Bruas (subsidiary of SILSB)	Swift Consolidators Sdn Bhd Global Vision Logistics Sdn Bhd	**Via Tanjong Express (M) Sdn Bhd** - Tanjong Express Logistics (M) Sdn Bhd - Tasek Express Sdn Bhd - Suria Kontraktor Sdn Bhd - Panwise Corporation Sdn Bhd - Media Desa Sdn Bhd

Selected market players	Port operator	Shipping lines	Container depot operators	Freight forwarder	Warehouse operators	Hauliers
						Komunajaya Sdn Bhd **Via Delta Express (M) Sdn Bhd** - Swift Logistics TA Sdn Bhd **Via Swift Integrated Logistics Sdn Bhd** - MILS Cold Hub Sdn Bhd - Swift Haulage Services Sdn Bhd - Swift Trucking & Warehousing Services Sdn Bhd - Swift Logistics Sdn Bhd

Selected market players	Port operator	Shipping lines	Container depot operators	Freight forwarder	Warehouse operators	Hauliers
						- Mekar Canggih Sdn Bhd - Roda Warna Sdn Bhd - BLG Swift Logistics Sdn Bhd - Swift Mega Carriers Sdn Bhd - Sentiasa Hebat (Penang) Sdn Bhd - Sentiasa Hebat Sdn Bhd Agenda Wira Sdn Bhd
COSCO		COSCO SHIPPING Lines (Malaysia) Sdn. Bhd. - Held by COSCO SHIPPING	Cogent Container Depot (M) Sdn. Bhd. SH Cogent Logistics Sdn. Bhd.	East West Freight Services Sdn. Bhd	SH Cogent Logistics Sdn. Bhd. Guper Integrated Logistics Sdn. Bhd	

Selected market players	Port operator	Shipping lines	Container depot operators	Freight forwarder	Warehouse operators	Hauliers
		Lines Co., Ltd. Freightworld(M) Sdn Bhd Dolphin Shipping Agency Sdn. Bhd.	Guper Integrated Logistics Sdn. Bhd		GEMS Logistics Sdn. Bhd	
Kerry Logistics			E.A.E. Freight & Forwarding Sdn. Bhd			
MTT Group (Malaysia Trade & Transport Co. Sdn Bhd)		MTT Shipping Sdn. Bhd. Sea Navigator Sdn. Bhd. (a subsidiary of MTT Shipping Sdn. Bhd.)	MTT Shipping Logistics Centre Sdn. Bhd. (a subsidiary of MTT Shipping Sdn. Bhd.)	Priority Synergy Sdn Bhd	Priority Bonded Warehouse Sdn. Bhd. Priority Cargo Sdn Bhd	Priority Haulage & Distribution Sdn Bhd
Complete Logistics Services Berhad		Malsuria Tanker Services Sdn Bhd		Complete Logistic Specialists Sdn Bhd		Pengangkutan Sekata Sdn Bhd Dian Pahlawan Sdn Bhd

Selected market players	Port operator	Shipping lines	Container depot operators	Freight forwarder	Warehouse operators	Hauliers
		Malsuria Logistics Sdn Bhd Malsuria (M) Sdn Bhd Complete Marine Services Sdn Bhd Sierra Jaya Sdn Bhd				Sin Hiap Hoe Trading & Transport Sdn Berhad
Infinity Logistics and Transport Ventures Limited		Infinity Lines Sdn. Bhd.	Supply Stream Management Sdn. Bhd. Infinity Logistics & Transport Sdn Bhd	Supply Stream Management Sdn. Bhd.	Supply Stream Management Sdn. Bhd.	
MMC Port Holdings Sdn. Bhd. (a subsidiary of MMC	Pelabuhan Tanjung Pelepas Sdn Bhd Johor Port Berhad		Pelepas Terminal Inland	Kontena Nasional Berhad (a subsidiary of NCB Holdings Bhd)	Kontena Nasional Berhad (a subsidiary of NCB Holdings Bhd)	Kontena Nasional Berhad (a subsidiary of NCB Holdings Bhd)

Selected market players	Port operator	Shipping lines	Container depot operators	Freight forwarder	Warehouse operators	Hauliers
Corporation Bhd)	Northport (Malaysia) Bhd Penang Port Sdn Bhd - Swettenham Pier Cruise Terminal Sdn. Bhd. Tanjung Bruas Port Sdn Bhd Andaman Port Sdn. Bhd.		Services Sdn. Bhd[73]	Kontena Nasional Global Logistics Sdn. Bhd. (a subsidiary of NCB Holdings Bhd) JP Logistics Sdn. Bhd. (a subsidiary of Johor Port Berhad)	JP Logistics Sdn. Bhd. (a subsidiary of Johor Port Berhad)	JP Logistics Sdn. Bhd. (a subsidiary of Johor Port Berhad)
Nova Group (Nova Logistics Sdn Bhd)					Nova Warehouse Sdn Bhd	Nova Haulage Services Sdn Bhd
Transocean Holdings Bhd				Transocean Logistics Sdn Bhd	Transocean Distribution Hub Sdn. Bhd. Globonus Sdn. Bhd.	Transocean Logistics Sdn Bhd Transocean Haulage Services Sdn Bhd (a

[73] Repair, prepare and trade of containers, as well as dealing in all kinds and descriptions of containers and containerisation systems

Selected market players	Port operator	Shipping lines	Container depot operators	Freight forwarder	Warehouse operators	Hauliers
						subsidiary of Transocean Freight Express Sdn Bhd)
Taipanco Sdn Bhd			Jambatan Merah Depot Sdn Bhd	Vector Logistics Sdn Bhd	Fedship Warehousing & Transport Sdn Bhd[74]	Taipanco Sdn Bhd Shallas Sdn Bhd
CJ Century Logistics Holdings Berhad				CJ Korea Express Malaysia Sdn Bhd CJ Korea Express Forwarding Malaysia Sdn. Bhd. (a subsidiary of CJ Korea Express Malaysia Sdn Bhd)	Storewell (M) Sdn. Bhd EC Distribution Sdn. Bhd. Tad Raya OffShore Sdn. Bhd.	EC Services Enterprise Sdn. Bhd.

[74] An affliated company of Taipanco. Taipanco provide warehousing services through its affliated companies.

CHAPTER 5: RECOMMENDATIONS & CONCLUSIONS

Pertaining to recommendations set out within this chapter– All recommendations will be assessed and reviewed to provide further details on scope, extent, stakeholders involved, and implementation mechanism upon the conclusion of public consultation sessions, at the Final Report stage.

20 Recommendations and conclusion for port logistics ecosystem

20.1 Key recommendations and conclusion for port logistics ecosystem

Issue 1. [Competition issue] Concessionaires exercising rights under concession agreements in a manner that may potentially result in adverse effect on the competition

The manner in which concession agreement is implemented by port operators may give rise to competition issues which prevent, restrict, or distort competition across the supply chain level within the port logistics sector, specifically when port operators partake in downstream activities.

Please refer to 10.4.1 for further elaboration on the issue and possible harm to competition.

Recommendation 1.1

<u>Policy shift in concession agreement</u>

Concession agreements currently in place spans across a significant period of time. For example, the concession agreement for Penang Port is due for review / renewal in 2035 after being in force for more than 30 years.

There needs to be a perspective shift in approaching concession agreements within the port logistics industry, especially with the consideration of maintaining a healthy level of competition in mind.

1. **Length of concession period** should be reasonable. Given the frequent rate at which market landscape evolves, concession period should be sufficiently long to ensure meaningful private sector participation in infrastructure development, while not excessively long in order to avoid too much market dominance being afforded to said market player to the point that market competition and innovation is undermine, staggering sector growth altogether.

2. **Regular review of concession terms** over the concession period will ensure that the terms contained remain relevant to the market dynamics and landscape throughout the concession period. This also serves as a measure to keep concessionaires in check in addition to the boundaries (e.g. concession terms) set forth in the concession agreements.

Recommendation 1.2

<u>Exertion of the competition element in the concession agreement of the port operator</u>

Apart from distinguishing the role of port operator in managing the port operations, there is a need for exertion of the competition element in the concession agreement of the port operator. This is imperative to limit the scope of the port operator from venturing into downstream activities which are not being clearly stipulated under the scope of the concession agreement. The role of port operator in the downstream market may be limited by way of clear stipulation in agreement for port operator to not indulge in downstream market. Reduction of likelihood of monopoly would help to promote competition in downstream market. Further, an open tendering and transparent procurement system will be the best option for the industry stakeholders to participate in the downstream market.

Recommendation 1.3

<u>Empowerment of existing body as an independent governing authority to oversee market development</u>

An independent governing authority for the port ecosystem should be assigned to oversee the market developments, playing the role similar to MAVCOM within the aviation industry. The proposed scope of power includes among others:

- Regulating all economic matters pertaining to the port ecosystem;
- Acting as an independent authority to advise the Ministry of Transport on all economic matters pertaining to port logistics ecosystem;
- To oversee the activities of market players across the supply chain, ranging from ensuring efficient operation of port operators to the fair collection of charges by shipping lines and depot operators

In this context, the governing authority would be overseeing the role, activities, and performance of port operators. The independent governing authority may provide guidance to port operators in fulfilling their roles in accordance to the concession agreement.

To reduce redundancies and streamline the existing governing structure, it is proposed that an existing body e.g. agencies / authority should be empowered with greater power and responsibilities as an governing authority to oversee market development.

Some suggestions on the governing authority to be empowered are port authority or maritime division of logistics department sitting under the Ministry of Transport.

The governing authority would also then help to serve as a check and balance in monitoring the business activities of port operators. This could help ensure a healthy level of market competition. For instance, port operators have ventured in downstream activities either directly or through their subsidiaries, including the provision of warehousing services, haulage services, and depot services. The independent governing authority may serve as a watchdog in this instance, ensuring that port operators do not abuse the exclusivity granted under the concession agreement to gain unfair advantage in downstream activities.

Alternatively, drawing inspiration from our neighbouring port, Port of Singapore, the Maritime and Port Authority of Singapore (MPA) is the governing authority behind Singapore's port and maritime development.

Box 7: Role and functions of MPA in Singapore

The MPA plays the roles of port authority, port regulator, port planner, international maritime centre (IMC) champion, and national maritime representative. As the central authority, MPA works collaboratively with other agencies and industry players to develop various aspect of the port, including safety and security, port operations, port growth, expansion of ancillary services, promotion of maritime research and development efforts, as well as facilitation of manpower development.

Further, MPA also practices an open tender process for port development and maintenance activities via Singapore Government's one-stop e-procurement portal. These may range from civil engineering services such as the repair of buildings to professional services such as the consultancy for smart facilities management services on port premises, as well as provision of manpower services. Open tender process would help ensure transparency in port development, in turn spurring competition across the port logistics ecosystem.

The establishment of a governance and implementation monitoring body to support the port logistics sector is also in line with the approach taken in Malaysia Shipping Masterplan 2017-2022, which streamlined shipping governance in Malaysia through positioning MNSC as the central figure.

The governing body should be responsible for ensuring competitive and efficient ocean transportation services. Some examples include:

- Reviewing and monitoring agreements among shipping lines and port operators to ensure they do not cause substantial increases in transportation costs.
- Investigating and ruling on complaints regarding rates, charges, and practices of shipping lines.

- Ensuring transparency between market players through regulation of charges and imposition of new charges, ensuring all tariff rates and charges are published in systems electronically available to the public.
- Providing a forum for shippers and other members of the industry to obtain relief from shipping liner practices or disputes
- Taking action to address unfavourable conditions caused by foreign business practices.

Recommendation 1.4

To require approval from relevant Ministry for port operator's expansion in downstream activities

Port operators' involvement in downstream activities could potentially undermine competition in the market where unfair advantages are obtained by leveraging on their exclusive rights granted under the concession.

Mandatory requirement to obtain approval from the relevant Ministry prior to port operators' ventures in downstream activities will ensure that market realities, especially in connection to impact of such ventures on the degree of market competition will be given sufficient consideration and evaluation prior to the execution of such ventures. In turn, a healthy level of competition in the market would be maintained.

As an alternative, functions of port authorities can be strengthened and expended through related legislation (Port Authority Act 1963 and Port Privatization Act 1990) in governing port related charges and monitoring the port performances.

The port authorities shall have an ultimate power to governing all the port related chargers either in on dock or off dock port locations. All of the charges shall be approved and gazette through related legislation by the port authorities.

Issue 2. [Competition issue] Possible concerted practice in introducing selected landside charges and in increasing the charges

There is indicative evidence that may suggest shipping lines might be behaving in a concerted manner during the introduction / implementation of selected landside charges. It has been observed that there are collective movements of price revisions within a short time period as well (i.e. 7 shipping lines revised their DO fees to RM 150 within 3 months).

Please refer to 12.4.1 for further elaboration on the issue and possible harm to competition.

Recommendation 2.1

<u>To initiate further inquiry into anti-competitive behaviour such as concerted practices</u>

While the introduction of charges might have taken place prior to the establishment of the regulator overseeing competition matters (e.g. MyCC), the regulator should be exercising their powers to review any subsequent anti-competitive behaviour such as price following.

In determining whether there is anti-competitive behaviour such as concerted practices in the collection of charges, a further thorough inquiry by the regulator, MyCC under the Competition Act 2010 into competition concerns may shed light on this matter.

However, to initiate a full inquiry with the limited resources would not be the best solutions at the moment. Knowing the prevalent practices of the industry players engaging with the potential anticompetitive behaviours, the Commission may also consider to focus effort on competition advocacy and policy to the shipping lines to educate them about anti-competitive behaviours.

Recommendation 2.2

<u>Empower a regulatory body, such as local port authorities to oversee development of port charges, including the power to review and introduce new tariffs.</u>

To grant port authority to more power to standardise charges and review incidental charges – similar to the on-going practice championed by Port Klang Authority in conducting consultation with relevant market players to review and standardise port charges.

Additionally, to define a list of add-on charges that may collected on a pay-as-you-use basis (e.g. container washing etc). By clearly standardising and defining the type of charges that can be collected, while leaving up to market forces to decide on the quantum of charges, this will foster a competitive business environment while eliminating the grievances brought by collection of arbitrary landside charges. It is to be noted that the standardisation exercise should be limited to the list or items of charges, whereas the quantum of charges would be best left up to the determination of market forces.

One of the other possible implementation mechanisms proposed by industry players would be to have an all-inclusive-freight charges, whereby associated charges such as the Terminal Handling Charges and other surcharges are integrated into the freight charge. This would facilitate transparent pricing and competitive freight charges as shippers would be able to negotiate for lower freight rates inclusive of landside charges.

Issue 3. [Competition issue] Compulsory collection of container deposit by shipping liners tantamount to disproportionate trading condition

Container deposit is collected by shipping liners as a security to ensure that import containers are returned safely and in a timely manner, and is opined by logistic players as an unfair trading condition, evidently in the prohibition of such practice in most countries. Alternatives to container deposit collection such as non-cheque deposit ("**NCD**"), container ledger account ("**CLA**"), and iCargo+ are proportionate alternative response available to shipping lines to safeguard their commercial interest. However, these proportionate alternatives were not honoured by certain shipping lines.

Please refer to 12.4.2 for further elaboration on the issue and possible harm to competition.

Recommendation 3.1

<u>To enforce, gazette, and have a blanket imposition of the alternatives to container deposit</u>

To strike a balance between the business interests of shipping liner (e.g. to safeguard themselves against non-trustworthy business partners with a history of late return / damaged containers) and other market players, proportionate alternatives such as the non-cheque deposit ("**NCD**"), container ledger account ("**CLA**"), and **iCargo+** may be enforced / gazetted.

The practice of container deposit collection should be discouraged, in line with the regional development in other ASEAN countries.

These alternative schemes may be enforced through a blanket imposition subsequent to the gazetting of said schemes.

Countries	Collection of container deposit
Malaysia	Yes, since 1990s and largely still in practice to date. Container deposit is currently charged at RM1,000 per container. Major customers may be exempted from this practice.
Singapore	Collection of container deposit does not apply.
Vietnam	Collection of container deposit does not apply.
Hong Kong SAR	Collection of container deposit does not apply.
Indonesia	Yes, container deposit for 20 is ~US$1,000 and ~US$2,000 for 40'.
Thailand	Yes, container deposit for 20 is ~US$60 and ~US$120 for 40'.

Myanmar	Collection of container deposit does not apply for Yangoon area. Container deposit may be collected in some instances, outside of Yangoon area, commonly in cash (~US$1000).
Cambodia	Yes, container deposit of ~US$100 (for 20') to US$400 (for 40') is collected. Container deposit is deductible for cleaning, damage, demurrage, and detention.
Bangladesh	Collection of container deposit does not apply. Letter of indemnity (~US$5) on government stamp for container release generally required by shipping liner, in which the container value (complete damage) or repair cost payment (for repairable damage) is stipulated.

Source: Secondary Research, UNESCAP, PKA, FMFF

Recommendation 3.2

To extend the alternatives to container deposit to all geographical regions in Malaysia

Currently, there are three main alternatives to container deposits within the port logistics sector, namely the non-cheque deposit ("**NCD**"), container ledger account ("**CLA**"), and **iCargo+**.

These alternatives are largely confined to Port Klang, and while there have been gradual uptakes in ports in other region, these alternatives should be rolled out and made available to shippers in other regions.

Issue 4. [Competition issue] Possible exclusive dealing between shipping lines and depot operators

Shipping lines have an exclusive say over the appointment of depots for the pick-up / return of containers. This practice may be distorting competition among depot operators as the market is foreclosed to the rest of the equally efficient, non-appointed depot operators.

Please refer to 12.4.3 for further elaboration on the issue and possible harm to competition.

Recommendation 4.1

To undertake a market inquiry to uncover the degree of control exerted by shipping lines over depot operators

Given that preliminary evidence seems to suggest some form of relationship between shipping lines and depot operators, it would merit an inquiry to look into the intricacies of the relationship.

The degree of control and influence exerted by shipping lines over depot operators should be examined carefully, especially to seek clarity on the economic impact of such arrangement, as well as to identify whether they are harmful to market competition.

However, to initiate a full market inquiry with the limited resources may not be the best solutions at the moment. Knowing the prevalent practices of the industry players engaging with the potential anticompetitive behaviors, it would be the best for the Commission to work more on the competition advocacy and policy to the shipping lines to educate them about the anticompetitive behaviors.

Recommendation 4.2

To establish a set of standards for depot operators to observe

Imposition of standards for services offered by depots, including LOLO, damage repair, and cleaning etc. will help raise efficiencies as all depots will have to operate above the minimum service level / standard stipulated.

Further, it may be sound for shipping lines to consider the arrangement of having a panel of a mixture of on-dock and off-dock depots, whereby a set of standards will have to be met by these panel depots.

Recommendation 4.3

Shipping lines to consider appointing panel depots from which other industry players may make selection from

To facilitate a healthy level of competition amongst depot operators, it is proposed for shipping lines to maintain relationship with a list of depots as their panel depots whereby other industry players may decide on containers pick up or return arrangement based on the efficiency, capacity, and service-level. In eliminating inefficiencies resulting to long turnaround time at depots, at the same time this would also allow equally efficient depot operators to compete with the existing appointed depot operators.

Issue 5. [Competition issue] Possible price following, concerted practices, or price fixing in relation to DGC

In light of the trend of DGC increments that has been similar across multiple depot operators across different geographical regions, the growth trend of DGC seems to suggest a collective movement of DGC.

Please refer to 13.4.1 and 13.4.2 for further elaboration on the issues and possible harm to competition.

Recommendation 5.1

To launch a market inquiry into anti-competitive behaviour such as price-following / concerted practice

While the introduction of charges might have taken place prior to the establishment of the regulator overseeing competition matters (e.g. MyCC), the regulator should be exercising their powers to review any subsequent anti-competitive behaviour such as concerted practice.

Further inquiry is necessary to discover potential anticompetitive behaviours for the potential exclusive dealing between shipping lines and depot operators and its impact towards the competition environment in the ecosystem.

In determining whether there is anti-competitive behaviour such as concerted practice in the collection of DGC, a further thorough review and investigation by the regulator, MyCC may shed light on this matter.

However, to initiate full market inquiry with the limited resources may not be the best solutions at the moment. Knowing the prevalent practices of the industry players engaging with the potential anticompetitive behaviors, it would be the best for the Commission to work more on the competition advocacy and policy to the shipping lines to educate them about the anticompetitive behaviors.

Issue 6. [Regulatory concern] Unregulated and unlicensed off-dock depot operators

Lack of optimisation in business operations of off-dock depots including unstandardized operating hours, unoptimized location for container collection and return, and lack of proper licensing, have led to port inefficiencies.

Please refer to 13.5.1 for further elaboration on the issue and possible harm to competition.

Recommendation 6.1

Integration of the on-dock and off-dock port facilities to increase the port efficiency and optimize the cost-effective value chain of the port

The integration and optimum utilizations of the port facilities are important to enhance its connectivity to better serve its importers and exporters, and to satisfy the needs of regionally integrated production facilities for reliable just-in-time delivery of inputs and outputs. This is also vital to encourage an efficient logistics to play a significant role in increasing a country's economic development by facilitating international trade and improving its competitiveness.

Recommendation 6.2

To strengthen regulatory and licensing framework for off-dock depot operators

To standardise certain aspect of operations of off-dock depots, including operating hours, set up location, etc.

This is in line with the Logistics and Trade facilitation masterplan, which seeks to strengthen the institutional and regulatory framework for the port logistics sector by regulating and monitoring warehouse and off-dock developments.

Recommendation 6.3

To standardize and synchronize the licensing requirement for off-dock and on-dock depot

Standardization and synchronization of the licensing requirement for off-dock and on-dock depot are important to synergize and integrate the utilization of the depot operators for the purpose of the efficiency in the port operations.

Issue 7. [Competition issue] Mergers and acquisitions (M&A) spark concern over collusion and exclusion

Please refer to 16.5.2 for further elaboration on the issue and possible harm to competition.

Recommendation 7.1

Empower competition commission to closely monitor M&A transactions

To ensure that M&A transactions do not erode market competition, relevant regulator needs to be empowered to keep a close watch over proposed M&A transactions in the market. The regulator needs to be empowered to carry out the following functions:

1. **Monitor:** There should be a mandatory notification criterion where companies have a mandatory obligation to notify relevant regulator overseeing competition-related matters (e.g. MyCC) in relation to planned M&A transaction. In the US, the Hart-Scott-Rodino (HSR) Antitrust Improvements Act of 1976 instituted a pre-merger notification system, whereby companies must submit a mandatory notification to alert the regulator of proposed M&A transaction. This subsequently leads to the review of the transaction.

2. **Review:** Review of M&A transactions prior to its consummation is imperative to protect market competition. To put in place a mechanism to ensure sufficient monitoring and reviewing of prospective M&A transactions are carried out by relevant regulator (e.g. MyCC) prior to the actual event of M&A. This echoes the global practice where regulators (e.g. Federal Trade Commission / Department of Justice in the US) assess planned M&A deals to determine if the consummation would give rise to competition issues (i.e. substantially lessen competition).

   Review of prospective M&A deals prior to its consummation would help preserve competition and protect consumer interest by ensuring that the transaction will not lead to anti-competitive conduct. Regulators should be afforded the ability to compel for documents submission to ease the investigation process – for example, regulators in the US are empowered to compel for documents submission from parties involved in the proposed M&A transactions during the merger investigation.

3. **Intervene:** Empowering regulators to block planned M&A transactions that will harm competition or to resolve competition concerns through remedies – For the review and monitoring of M&A transactions to be meaningful, regulators should be empowered to block M&A transactions that will significantly lessen competition.

Simultaneously, regulators should also be empowered to resolve competition concerns (where possible), through remedies. On a global scale, it is common for regulators to allow for M&A transactions to close by resolving competition concerns and protecting competition by way of structural and behavioural remedies. The former generally involve the regulator requiring the acquiring company to divest business units/components, whereas the latter may involve the regulator compelling companies to maintain existing business relationships with selected customers.

To maintain a healthy level of competition amidst the flurry of M&A deals, it is imperative for the country's competition commission to keep a close watch over these activities.

Issue 8. [Competition issue] Possible price fixing / concerted practices of hauliers through the imposition of Fuel Adjustment Factor charges

Potential agreement or arrangement to indirectly restrict price competition by the recommendation of pricing / price list for specific haulage routes (by cities and regions) may suggest presence of competition issues, especially in instances where the same formulas to determine FAF rates were used.

Please refer to 16.5.1 for further elaboration on the issue and possible harm to competition.

Recommendation 8.1

<u>To initiate further inquiry for possible price fixing and concerted practices of hauliers through the imposition of the Fuel Adjustment Factor ("**FAF**") charges.</u>

Further inquiry is necessary to discover potential anti-competitive behaviour for the potential price fixing and concerted practices for the imposition of fuel adjustment factors in the ecosystem.

Recommendation 8.2

<u>Advocate Competition Act 2010 and related competition policies to hauliers</u>

To initiate full a market inquiry with the limited resources would not be the best solutions at the moment. Knowing the prevalent practices of the industry players engaging with the potential anticompetitive behaviours, it would be the best for the Commission to work more on the competition advocacy and policy to the container hauliers to educate them about the anticompetitive behaviours and its impact towards the whole ecosystem.

Issue 9. [Market concern] Variances in custom clearance practices

Variances in custom clearance practices may contribute to port delays and congestions, subsequently rising cost of doing business. These variances include:

- Varying custom clearance procedures within the same port;
- Issuance of new custom orders;
- Introducing changes to custom procedures;
- Carrying out additional / surprise exit-inspections; and
- Variances in the interpretation of custom orders.

Please refer to 11.2.2 for further elaboration on the issue and possible harm to competition.

Recommendation 9.1

To eliminate disconnect in custom clearance standard operating procedures and on the ground implementation

Foster transparency by standardising custom clearance practices during implementation. This will ensure that all logistics service providers are aware about the practices and eliminate confusion. While on a high level, there is standardize guidelines and practices standard prepared by the RMCD, industry feedback shows that there could be a disconnect between high level directives/guidelines/procedures and actual on-the-ground implementation by individual officers.

A published set of clear guidelines and transparent practice standard that can be easily referred to by market players (e.g. may consider the inclusion of a salient set of commonly asked questions and answers) will definitely offers efficiencies at the port operations as (i) market players will be sufficiently informed and prepared to accommodate custom procedures; and (ii) ensure that custom officers now have the same knowledge level so as to eliminate varied custom clearance procedures at port. This would help to provide a certainty and clarity to the industry and related stakeholder to expedite the movement of goods and services particularly at the port operations and to avoid the port congestions.

Issue 10. [Market concern] Poor infrastructure connectivity and road condition safety

Inefficiencies in infrastructure such as poor road conditions often pose as a challenge to market players' business operations and eventually translate into additional costs of doing business. Poor infrastructure often led to port congestion, which translate into additional charges cascading down to shippers.

Please refer to 10.5.1 for further elaboration on the issue and possible harm to competition.

Recommendation 10.1

To conduct an assessment to identify infrastructure deficiencies, subsequently, to develop and modernise infrastructure to support the growth of port logistics sector

Modernisation effort can begin with an examination of the current landscape of existing infrastructure– to assess whether there is sufficient and adequate port infrastructure to support the development of an efficient and competitive port ecosystem. For instance, to speed up clearance process, there should be a sufficient number of customs scanners in operation. Insufficient infrastructure could create bottlenecks that lead to port inefficiencies.

Based on the initial assessment of existing infrastructure landscape, mediating efforts are required to overcome the deficiencies in existing infrastructure. This could range from upgrading of existing road infrastructure, to development of strategic hubs, specific measures to address particular bottleneck identified through the assessment, and others. By eliminating infrastructure deficiencies, market players will not be able to take advantage of poor infrastructure to collect multitudes of charges, particularly those associated with delays. This would in turn foster a more efficient ecosystem.

Development and modernisation of infrastructure is in line with the strategic direction in Logistics and Trade facilitation masterplan, which prioritise the development of infrastructure and freight demand through:

i. Addressing bottlenecks in Padang Besar
ii. Improving last mile connectivity to Port Klang
iii. Enhancing road freight transport productivity
iv. Creating an integrated hub and spoke model
v. Developing freight hubs at strategic locations

Similarly, the National transport policy 2019-2030 also prioritise the following:

i. Modernising integrated logistics by developing strategic freight villages
ii. Enhance efficient movement of containers by putting in place a monitoring system for containers and trailers
iii. Reinforcing maintenance regime of transport infrastructure such as implementing preventive maintenance and rehabilitation, and adopting best practices for maintenances by using high grade and low maintenance materials
iv. Upgrading hinterland connectivity to ports to enable port expansion and logistics services.

Issue 11. [Regulatory concern] Fatigue regulatory requirements limit business expansion opportunities

Port operators have faced situations whereby business opportunities are lost as a result of convoluted regulatory requirements posed in relation to the execution of proposed business plans. Stringent regulatory constrains may lead to reconsideration and cancellation of proposed business plans by potential investors and business partners, subsequently hampering the development of ports in Malaysia.

Please refer to 11.2.3 for further elaboration on the issue and possible harm to competition.

Recommendation 11.1

<u>Frequently review the exercise of regulatory control on the import and export of control goods by collaborative partnership between relevant ministries and agencies</u>

Frequently review the existing laws and regulations are important for the industries to reduce regulatory burden, increasing efficiency for smoother and faster import and export process. A full-scale review of regulatory controls should be performed to ensure all unnecessary and inconsistent regulatory controls are removed, such as a product being accepted in Port Klang but is not accepted in Penang Port due to inconsistent interpretation of regulations. Key industries which are selected as potential growth industries or high-volume industries such as agri-food or electrical and electronics sector may be focused first.

Additionally, electronic end-to-end trade regulation solutions will be a major proponent to improve efficiency of import export process, therefore its development and implementation should be facilitated by all stakeholders.

20.2 Other recommendations pertaining to licensing requirements across port logistics ecosystem

Issue 12. [Regulatory concern] Licensing requirement in issuing Customs Brokerage Licence (CBL) may limit the number of new entrants and potentially restrict and distort competition

Licensing requirement may deter new entrants to enter the market as they struggle to satisfy such requirements. This could potentially allow for existing incumbent players to act without constraints and act anti-competitively.

Please refer to 11.2.1 for further elaboration on the issue and possible harm to competition.

Recommendation 12.1

Conduct a study specifically on the removal / relaxation of the licensing requirement in issuing the Customs Brokerage License (CBL).

A study on licensing requirement is necessary to understand the impact of licensing requirement on efficiency, innovation, and competition. Subsequently, based on the findings on the study, relaxation of the licensing requirements for the customs brokerage license may be considered. Where necessary, a follow-up study may be conducted to abolish any licensing requirement found to be harmful to efficiency and competition. Through the study, the best strategy to relax or abolish the licensing requirement may be identified.

Issue 13. [Regulatory concern] Qualifying requirements for International Integrated Logistics Services status

Licensing requirements for the IILS status could deter new entrants from entering the market as they struggle to satisfy the minimum infrastructure requirements. This could potentially fuel the ability of incumbent players to act without constraint or with limited constraints.

Please refer to 14.5.1 for further elaboration on the issue and possible harm to competition.

Recommendations 13.1

Relaxing qualifying requirements

Instead of imposing infrastructure requirements, consider relaxing these requirements to enable smaller players to break into industry. Alternatives such as bank guarantees or insurance contracts (where applicable) can be considered.

Issue 14. [Regulatory concern] Licensing requirement in issuing Public Bonded Warehouse License may limit the number of new entrants

The licensing requirement may potentially be excluding / making it more difficult for prospective entrants to enter the market. This could potentially fuel the ability of incumbent players to act without constraint or with limited constraints. Further, this licensing requirements could also translate into increase in entry costs for potential entrants, limiting the number of suppliers and potentially increase prices for final consumers.

Please refer to 15.3.1 for further elaboration on the issue and possible harm to competition.

Recommendation 14.1

Conduct a study specifically on the removal / relaxation of the licensing requirement in issuing the Public Bonded Warehouse License

A study for the removal of the licensing requirement is necessary to seek an implication of the removal of the licensing requirement of the public bonded warehouse license and to identify what would be the best strategy to reduce or abolish the licensing requirement.

Issue 15. [Regulatory concern] Lengthy and unnecessary process in obtaining heavy vehicle (E-class) competency license & other burdensome regulatory requirements

Market players face manpower concerns due to shortage of heavy vehicle drivers as a result of the lengthy process to obtain the relevant license.

Please refer to 16.6.1 for further elaboration on the issue and possible harm to competition.

Recommendation 15.1

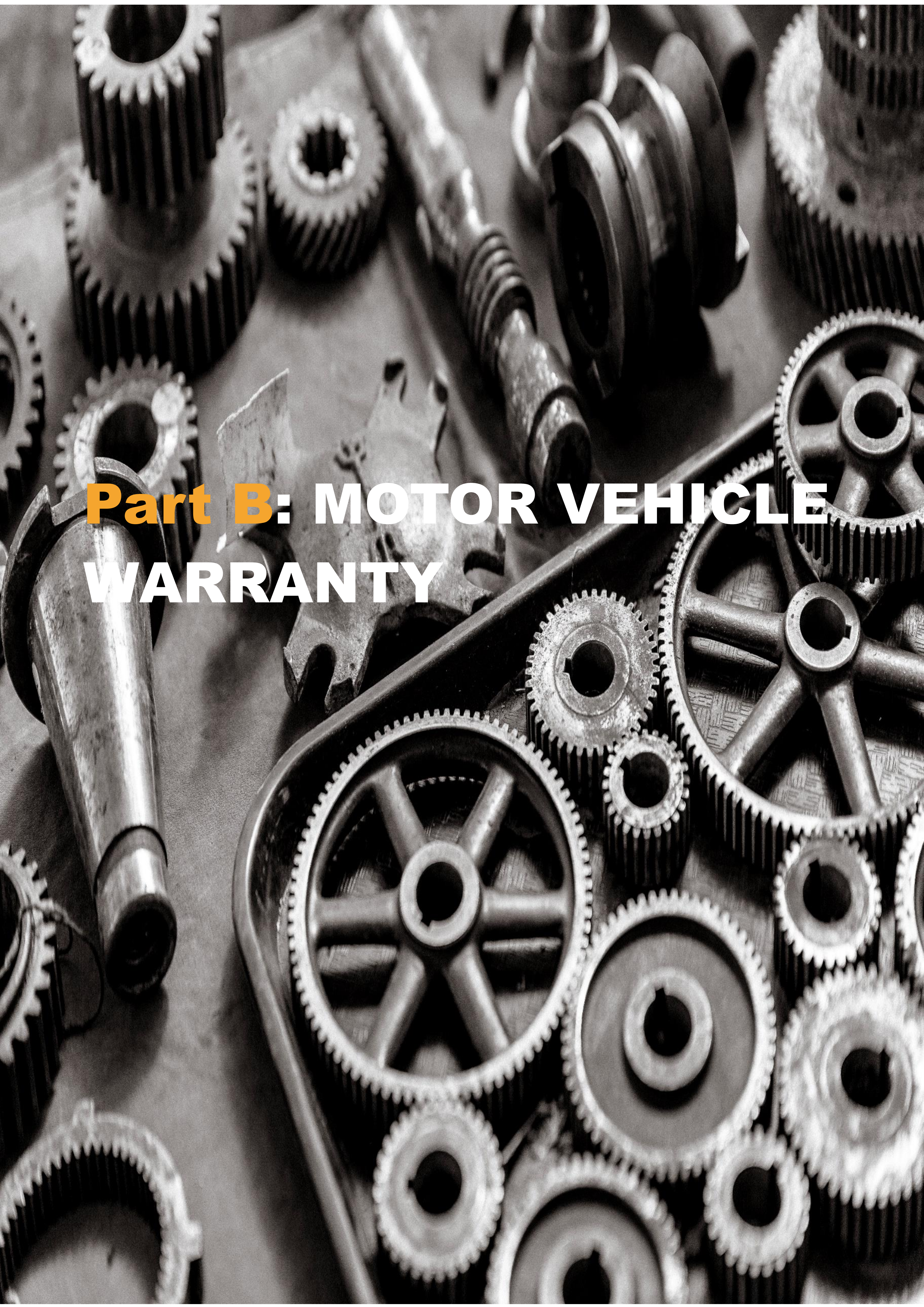
Streamline regulatory framework

- Make all licences and permits required for hauliers' business operations available through a single application to a single agency. Streamline regulatory framework by eliminating other processes to obtain port-related activity permits.
- Relax requirement in heavy vehicle competency license.

Digitalization

Introduce digitalization for all application procedures for logistics-related authorization and enable online applications.

Part B: MOTOR VEHICLE WARRANTY



CHAPTER 6: INDUSTRY OVERVIEW OF MOTOR VEHICLES

21 Industry overview of motor vehicles

21.1 Total industry volume (TIV)

The total industry volume ("**TIV**") of new vehicles registered (sales volume) in 2020 was registered at 529,434 units, compared with 604,287 units in the previous year. This was equivalent to an annual decline of -12.4% compared to 2019.[75]

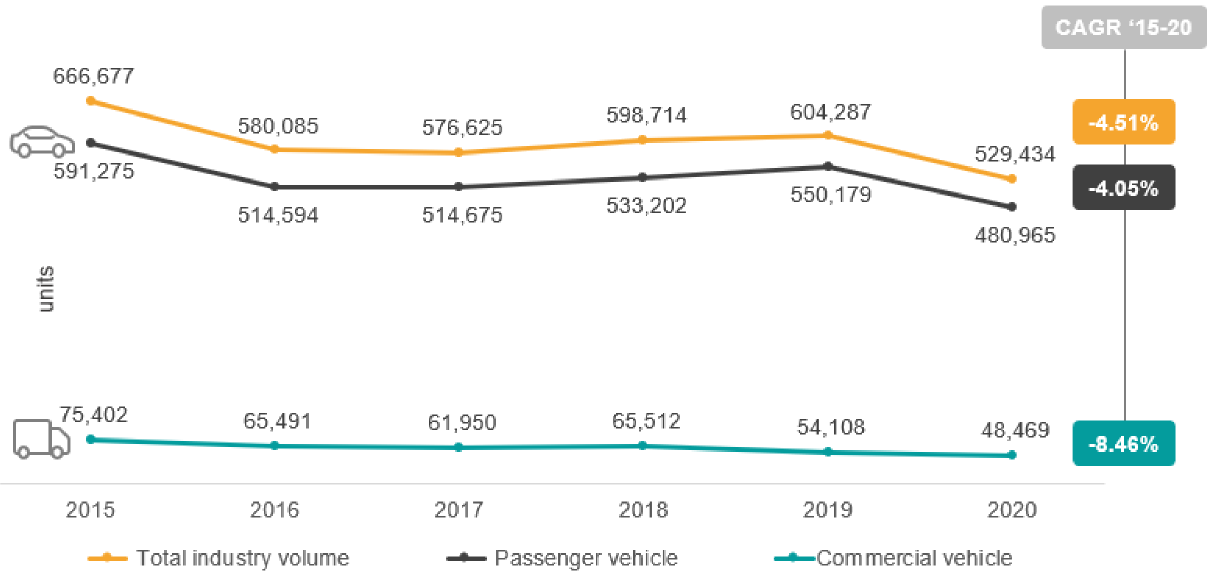
The double-digit drop in TIV in 2020 was largely contributed by the economic uncertainties as a result of the country's lockdown due to the Covid-19 pandemic. As the nationwide lockdown eases and economies begin to recover, the government announced PENJANA, a short-term economic recovery plan aimed at introducing a host of stimulus measures to propel businesses and aid the economy following the Covid-19 outbreak.

In the automotive space, the stimulus package included a 100% sales tax exemption on locally-assembled (CKD) models and 50% on fully-imported (CBU) models from June 15 2020, and has been extended to June 30 2021, and has been extended again to December 2021.[76]

As a whole, the total industry volume of motor vehicles experienced a drop of -4.51% in sales since 2015. This could be primarily attributed to the implementation of Goods and Services Tax ("**GST**") back in 2015, which created uncertainties in the motor vehicles market and caused Malaysians to frontload purchase.[77] That said, the abolishment of GST in 2018 was met with signs of increased purchase activities in motor vehicles. This was largely attributed to the 'tax holiday' window, where Malaysians enjoyed tax free on all goods and services. The 'tax holiday' was a brief 2-months period, where the GST was abolished and the Sales and Service Tax ("**SST**") was not implemented yet. Since the post-GST era (post 2018), TIV has been increasing year-on-year.

[75] Maa.org.my. (2020). Retrieved 17 March 2021, from http://www.maa.org.my/pdf/Market_Review_2020.pdf.
[76] Vehicle sales tax exemption extended until June 2021 — MOF. (2020) Retrieved 18 March 2021, from https://www.theedgemarkets.com/article/100-sales-tax-exemption-ckd-vehicles-and-50-exemption-cbu-vehicles-will-be-extended-till
[77] Bnm.gov.my. (2015). Retrieved 7 October 2020, from https://www.bnm.gov.my/files/publication/ar/en/2015/cp01.pdf.

Figure 21-1: Total industry volume in Malaysia

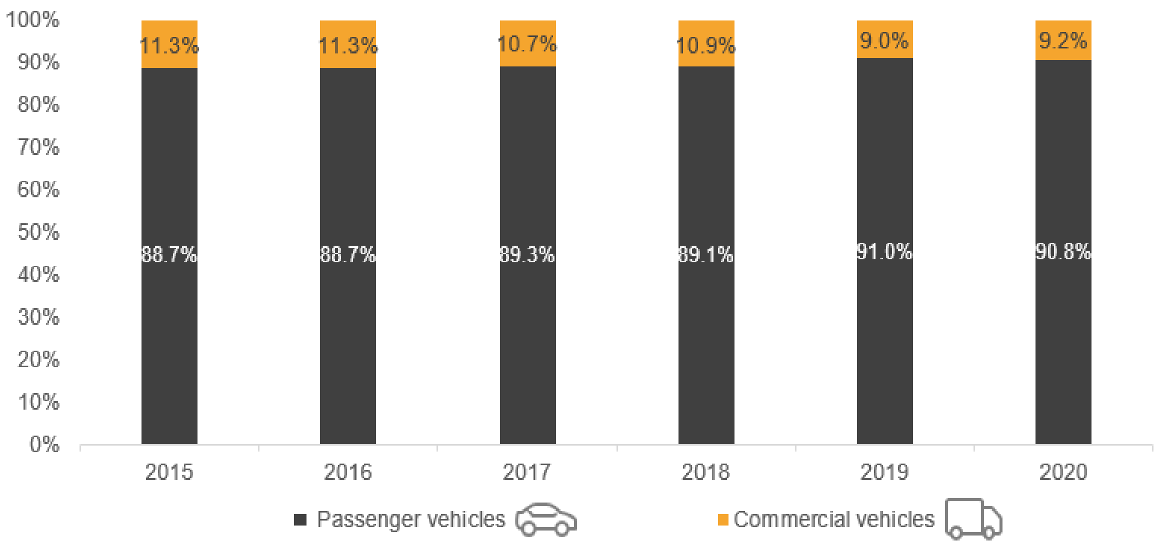


Source: Malaysia Automotive Association (MAA)

21.1.1 **Segment performance**

Historically, the share of passenger vehicles has been dominating the share of TIV in Malaysia. The share of passenger vehicles to the total TIV decreased slightly to 90.8% in 2020, from 91.0% in 2019, while commercial vehicles experienced a slight increase in share to account for 9.2% share compared to the previous year (2019: 9.0%).

Figure 21-2: Passenger and commercial vehicle share



Source: Malaysia Automotive Association (MAA)

21.1.2 Share of passenger vehicles

According to MAA[78], the passenger vehicles include:

1. Passenger cars;
2. Four-wheel drive / SUVs;
3. MPVs; and
4. Window vans.

In 2020, the total sales volume of passenger vehicles decreased to 480,965 units, a -12.6% year-on-year decrease from 2019 (550,179 units). Within the passenger vehicles, passenger cars remained as the biggest segment with 73.5% share. This was followed by 4WD / SUV with a share of 19.4%, MPVs (6.9%) and window vans (0.2%).

The share of MPVs has decreased from 7.4% in 2019 to 6.9% in 2020, while 4WD / SUV share also saw a drop from 22.6% to 19.4% in 2020.

Figure 21-3: Share of passenger vehicles in 2020 and 2019

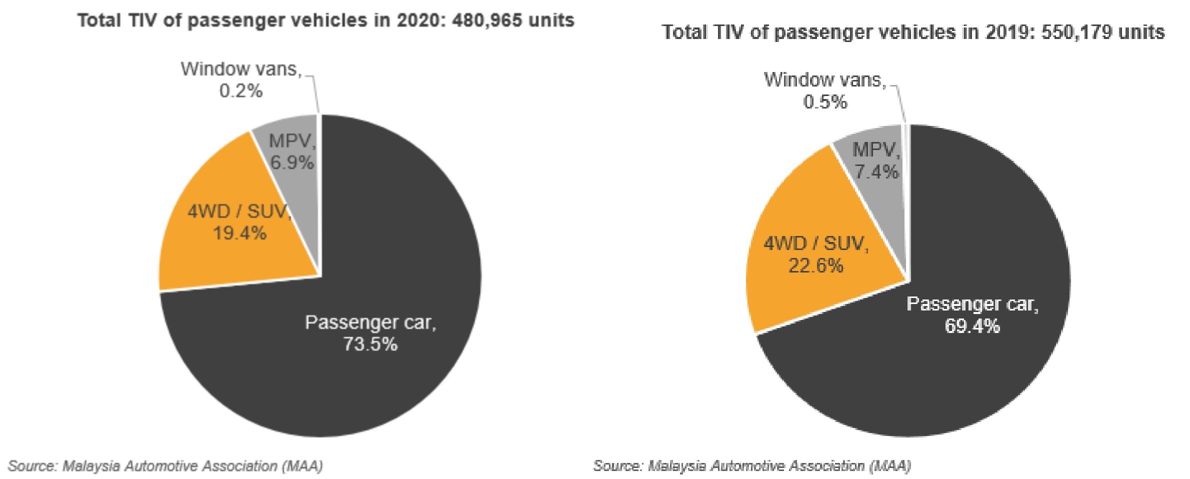


Table 21-1: Breakdown of passenger vehicle share in 2020 and 2019

PV share	2019	2020	Variance	
			Units	%
Passenger cars	380,785	353,312	-27,473	-7.2%
4WD / SUV	125,792	93,364	-32,428	-25.8%
MPVs	40,601	33,275	-7,326	-18.0%
Window vans	2,999	1,014	-1,985	-66.2%

78 Maa.org.my. (2019). Retrieved 7 October 2020, from http://www.maa.org.my/pdf/Market_Review_2019.pdf.

21.1.3 Share of commercial vehicles

A total of 48,469 units of new commercial vehicles were registered in 2020 compared to 54,104 units in 2019. This translated to a decline of 5635 units, or -10.4% growth year-on-year.

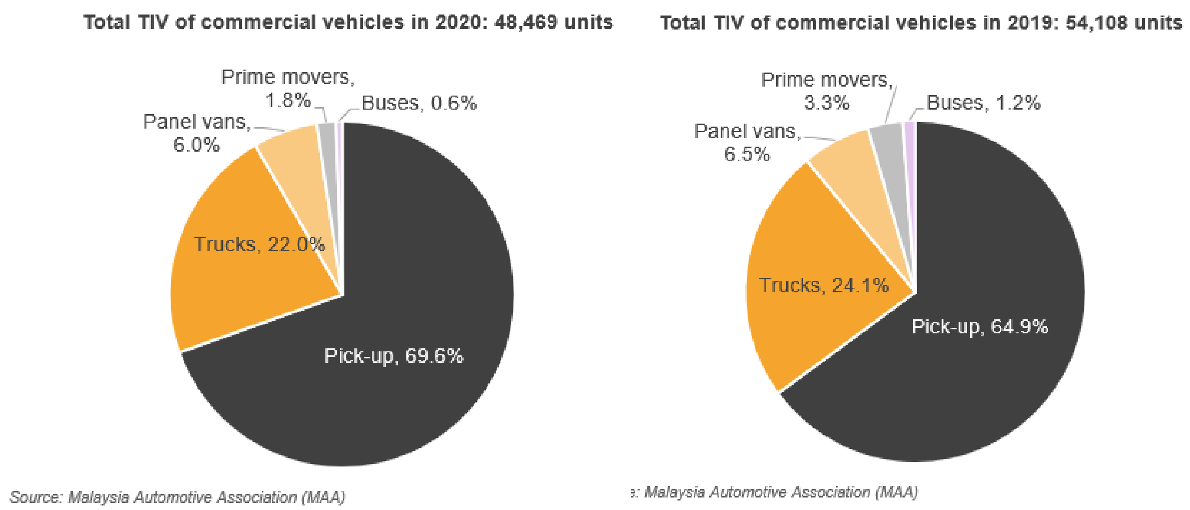
According to MAA[79], the commercial vehicles entail:

1. Pick-up;
2. Trucks;
3. Prime movers;
4. Panel vans; and
5. Buses

Across the board, all commercial vehicles experienced a dip in sales compared to 2019. Prime movers recorded the biggest dip in sales (-50.6%) but remained as the biggest share in the commercial vehicles segment.

Referring to the graphs and table below, pick-up continued to form the largest sales share in 2020, with 69.6%. This was followed by trucks with 22.0%, panel vans (6.0%), prime movers (1.8%) and buses (0.6%).[80]

Figure 21-4: Share of commercial vehicles in 2020 and 2019



[79] Maa.org.my. (2020). Retrieved 17 March 2021, from http://www.maa.org.my/pdf/Market_Review_2020.pdf.
[80] Maa.org.my. (2020). Retrieved 17 March 2021, from http://www.maa.org.my/pdf/Market_Review_2020.pdf.

Table 21-2:Breakdown of commercial vehicle share in 2020 and 2019

CV share	2019	2020	Variance	
			Units	%
Pick-up	35,121	33,730	-1,391	-4.0%
Trucks	13,068	10,665	-2,403	-18.4%
Panel vans	3,500	2,924	-576	-16.6%
Prime movers	1,770	875	-895	-50.6%
Buses	645	275	-370	-57.4%

21.2 Total production volume

Production of new motor vehicles in 2020 shrunk by 86,446 units (or -15.1%) to reach a total of 485,186 units, compared to 571,632 units in 2019. The growth in production volume was a positive correlation with the significant decline in TIV in 2019.[81]

Table 21-3: Total production of motor vehicles in 2020 and 2019

Production numbers	2019	2020	Variance	
			Units	%
Passenger vehicles	534,115	457,755	-76,360	-14.3%
Commercial vehicles	37,517	27,431	-10,086	-26.9%
Total vehicles	571,632	485,186	-86,446	-15.1%

21.2.1 Share of passenger vehicles

In 2020, the production share of new passenger vehicle recorded a decrease of -12.5% to reach 485,186 units, as compared to 571,632 units in 2019. The contraction in production was largely attributed by the significant decrease in window vans (-65.7%), followed by 4WD / SUVs (-20.6%).

81 Maa.org.my. (2020). Retrieved 17 March 2021, from http://www.maa.org.my/pdf/Market_Review_2020.pdf.

Table 21-4: Breakdown of passenger vehicle share in 2020 and 2019

PV share	2019	2020	Variance	
			Units	%
Passenger cars	390,980	342,300	-48,680	-12.5%
4WD / SUV	110,480	87,674	-22,806	-20.6%
MPVs	30,441	27,021	-3,420	-11.2%
Window vans	2,214	760	-1,454	-65.7%
Total PV	571,632	485,186	-86,446	-15.1%

21.2.2 Share of commercial vehicles

Production of new commercial vehicles for 2020 declined by 16.5% to 27,431 units, compared to 37,517 units in 2019. In 2020, all other commercial vehicles registered lower production volume compared to 2019.

Table 21-5: Breakdown of commercial vehicle share in 2020 and 2019

CV share	2019	2020	Variance	
			Units	%
Pick-up	18,903	15,785	-3,118	-16.5%
Trucks	13,789	8,575	-5,214	-37.8%
Panel vans	3,188	2,184	-1,004	-31.5%
Prime movers	933	669	-264	-28.3%
Buses	704	218	-486	-69.0%
Total CV	37,517	27,431	-10,086	-26.9%

21.3 Breakdown of registration share (sales share) by OEMs

In 2019, the total sales volume of passenger vehicles increased to 550,179 units, a 3.2% year-on-year growth from 2018 (533,202 units). A further detailed breakdown of sales share by OEMs in 2019 is depicted in the table below.

The sales of passenger vehicles are led by both our national car brands, namely Perodua and Proton, of which the latter brand experienced a resurgence since the acquisition from Zhejiang Geely (China) in 2017.[82] Together with Honda, these three brands cornered the market with a combined sales share of 77.4% in 2019.

Table 21-6: Breakdown of sales units and share by OEMs in 2019

OEMs	Sales units	Market share %
Perodua	240,341	43.7%
Proton	100,183	18.2%
Honda	85,418	15.5%
Toyota	52,515	9.5%
Nissan	16,178	2.9%
Mazda	11,543	2.1%
Mercedes Benz	10,021	1.8%
BMW	9,300	1.7%
Volkswagen	5,559	1.0%
KIA	3,432	0.6%
Subaru	2,864	0.5%
Hyundai / Inokom	2,217	0.4%
Peugeot	1,897	0.3%
Volvo	1,883	0.3%
Renault	1,218	0.2%
MINI	1,142	0.2%

[82] Geely acquires Proton stake for RM460mil. (2017). Retrieved 25 January 2021, from https://www.thestar.com.my/news/nation/2017/06/24/geely-acquires-stake-for-rm460mil-strategic-partnership-with-china-firm-will-turn-proton-around-says/

MINI	1,142	0.2%
Lexus	918	0.2%
CAM	499	0.1%
Porsche	367	0.1%
Others*	336	0.1%
Total	550,179	100%

Source: MAA (Malaysia Automotive Association)

21.4 Profiling of selected key OEMs

21.4.1 Perodua

Established in 1993, Perusahaan Otomobil Kedua Sdn Bhd ("**Perodua**") was formed as a result of the joint venture companies between Malaysian and Japanese partners. The shareholders of Perodua include:

UMW Corporation Sdn Bhd	38%
MBM Resources Berhad	20%
Daihatsu Motor Co. Ltd	20%
PNB Equity Resource Corporation Sdn Berhad	10%
Daihatsu (Malaysia) Sdn Bhd	5%
Mitsui & Co. Ltd	4.2%
Mitsui & Co. (Asia Pacific) Pte Ltd	2.8%

Perodua has a market share of 43.7%, with a total sale of 240,341 units. Perodua has a nationwide presence of 225 dealers in Malaysia.

Perodua is Malaysia's pioneer and largest Energy-Efficient Vehicle (EEV) manufacturer. Perodua aims to provide reliable products and services at an affordable price. Perodua upkeeps its quality of products and services by engaging periodical technical training and technology transfers with Daihatsu. [83]

[83] Welcome to the Official Perodua Website. Retrieved 4 March 2021, from https://www.perodua.com.my/corporate-overview.html

21.4.2 Proton Holdings Berhad

Incorporated since May 1983, Proton Holdings Berhad ("**Proton**") was established as a national car project, at the behest of the Malaysian government, to spur Malaysia from an agriculture nation into an industrial nation. The roll out of Proton Saga on July 1985 with Japan Mitsubishi Motors generated revenue growth, new job opportunities and international trade. It was later reverted to a semi-private ownership under DRB-HICOM.

In May 2017, Zhejiang Geely Holding Group and DRB-Hicom signed a deal that will see Zhejiang Geely Holding Group buy a 49.9% stake in Proton cars.[84] Currently, the shareholders of Proton include:

DRB-HICOM	50.1%
Zhejiang Geely Holding Group Co	49.9%

In 2019, Proton has a market share of 18.2%, with a total sale of 100,183 units. Proton has a nationwide presence of 140 dealers.[85]

Proton's export in 2020 recorded 8.8% higher than 2019 where most of the automotive brands were experiencing a downfall.[86] Proton aims to be the third best-selling automotive brand in ASEAN by 2027, and is now working on expanding their customer base and exporting countries.

21.4.3 Honda Malaysia

Honda Motor Company, Ltd., is the headquarter of Honda in Japan. Honda first made its way to Malaysia in 1960 by establishing Kah Motor Sdn Bhd as its distributor. Kah Motor Co Sdn Bhd is a wholly owned subsidiary of Oriental Holdings Berhad. Honda then set up its production plant in Malacca, Malaysia in 2003, to meet the for the expanding domestic market demand.

84 Zhejiang Geely Holding Group – About Us. Retrieved 7 March 2021, from http://zgh.com/our-brands/proton-cars/?lang=en
85 Proton Edar remains distributor of national car (2021) From https://themalaysianreserve.com/2021/01/11/proton-edar-remains-distributor-of-national-car/
86 PROTON - Proton records even higher sales in 2020. (2021) - from https://www.proton.com/en/press-release/2021/january/proton-records-even-higher-sales-in-2020

The shareholders of Honda Malaysia include[87]:

Honda Motor Co. Ltd.	51%
DRB-HICOM Berhad	34%
Oriental Holdings Berhad	15%

In 2019, Honda has a market share of 15.5%, with a total sale of 85,418 units.[88] Honda has a total of 134 dealers nationwide.

Honda has been leading the non-national segment, positioned ahead of its Japanese counterpart, Toyota. Realising Honda's long-term goal of becoming a major brand in the ASEAN region, Honda is committed to produce reliable and conducive products and services, while focusing on eco-friendliness, quality and cost competitiveness.

21.4.4 Toyota Malaysia

Toyota's history in Malaysia dates back to 1968, when the first model was assembled in Assembly Services Sdn Bhd (ASSB), which is a wholly owned subsidiary of UMW Toyota Motor Sdn Bhd. UMW Toyota Motor Sdn Bhd (UMWT) is the appointed Toyota distributor, assembler and exporter of Toyota vehicles in Malaysia.

The shareholders of Toyota Malaysia are:

United Motor Works (UMW)	51%
Toyota Motor Corporation	39%
Toyota Tsusho Corporation	10%

In 2019, Toyota has a market share of 9.5%, with total sale of 85,418 units.[89] There are 98 Toyota dealers in Malaysia.

Toyota has been awarded multiple recognition for its best-in-class safety technologies, one of the most recent one was "The Most 5-Star Brand" award for 2019 and 2020. Toyota now aims to reclaim the top spot of non-national segment from Honda.[90]

[87] Honda Malaysia ups BR-V sales target (2017). Retrieved 7 March 2021, from https://www.theedgemarkets.com/article/honda-malaysia-ups-brv-sales-target
[88] Maa.org.my. (2019). Retrieved 7 March 2021, from http://www.maa.org.my/pdf/Market_Review_2019.pdf.
[89] Maa.org.my. (2019). Retrieved 7 March 2021, from http://www.maa.org.my/pdf/Market_Review_2019.pdf.
[90] Tan, D. (2021). Toyota aims to overtake Honda in 2021 sales, reclaim place as Malaysia's No.1 non-national auto brand - paultan.org. Retrieved 5 March 2021, from https://paultan.org/2021/02/16/toyota-aims-to-overtake-honda-in-2021-sales-reclaim-place-as-malaysias-no-1-non-national-auto-brand/

21.4.5 Nissan Malaysia

Nissan planted its root in Malaysia in 1957, penetrated the local market through its sole distributor, Tan Chong Motors. With historical value as old as Malaysia, Nissan is the first Japanese car sold in the Malaysian market through its distribution channel, Tan Chong Motors. Nissan Malaysia's shareholders include[91]:

Tan Chong Consolidated Sdn Bhd	39.30%
Employees Provident Fund (EPF)	6.25%
Nissan Motor Co., Ltd.	5.56%
Permodalan National Berhad	5.00%
Tan Chong Motor Holdings Berhad	2.95%
Others	40.94%

Nissan has a market share of 2.9%, with total sale of 21,239 units.[92] Nissan has 98 dealers nationwide, supported by 91 after-sales service centres.

Currently, Tan Chong Motors is positioned as one of the top five automotive brands in Malaysia, it accounts 13% market share in the car sales of non-national segment, largely attributed to its major flagship brand, Nissan.[93]

21.4.6 Mazda Malaysia

Mazda vehicles first reached Malaysian shores in 2008, through Bermaz Motor Berhad as distributor of Mazda Vehicles, spare parts, accessories and tools. In 2013, Mazda Malaysia Sdn Bhd was established, which is responsible for both manufacturing and increasing localisation activities for Mazda sales.

Mazda Malaysia's shareholders include[94]:

Bermaz Auto Sdn Bhd	30%
Mazda Japan	70%

[91] Market Screener – TAN CHONG MOTOR HOLDINGS. Retrieved 7 March 2021, from https://www.marketscreener.com/quote/stock/TAN-CHONG-MOTOR-HOLDINGS-6491142/company/
[92] Maa.org.my. (2019). Retrieved 7 March 2021, from http://www.maa.org.my/pdf/Market_Review_2019.pdf.
[93] Nissan Malaysia - About Us - Nissan & Tan Chong Motor. Retrieved 5 March 2021, from https://www.nissan.com.my/aboutus
[94] Value Invest Asia – Is Bermaz Auto Berhad Ready to Race Ahead. Retrieved 3 April 2021, from https://valueinvestasia.com/is-bermaz-auto-berhad-ready-to-race-ahead/

Mazda has a market share of 2.1%, with sales of 11,543 units. [95] Mazda has a nationwide presence with 72 dealer centres. [96]

Mazda aims to continue to consolidate its dealership network to further strengthen its brand position in Malaysia, while exploring new range of products to further grow their presence in the country.

21.4.7 Mercedes-Benz Malaysia

Mercedes-Benz history in Malaysia begun in 1951 with awarding Cycle & Carriage the Mercedes-Benz franchise (later Cycle & Carriage Bintang Berhad). In 2003, Cycle & Carriage Bintang Berhad and Daimler AG formed a joint venture, incorporating Mercedes-Benz Malaysia Sdn Bhd, which focuses on development, production, import and wholesale distribution of Mercedes vehicles and services. In 2018, Daimler AG acquired full control of Mercedes-Benz Malaysia by purchasing the remaining stake.

Mercedes Malaysia’s shareholding include:

Daimler AG	100%

Mercedes-Benz has a market share of 1.8%, with total sales of 10,535 units[97]. Mercedes-Benz has a large dealer network of 35 dealership and 32 service centres nationwide.

Mercedes-Benz looks to further enhance its position in the “luxury and performance segment” in Malaysia, by reinforcing its local digital footprint, through the launch of e-commerce platforms and virtual showrooms. [98]

[95] Maa.org.my. (2019). Retrieved 7 March 2021, from https://www.bauto.com.my/2020/BAuto%20AR%202020_FULL.pdf
[96] Bermaz Auto Berhad – Annual Report 2020. Retrieved 3 April 2021, from https://valueinvestasia.com/is-bermaz-auto-berhad-ready-to-race-ahead/
[97] Maa.org.my. (2019). Retrieved 7 March 2021, from http://www.maa.org.my/pdf/Market_Review_2019.pdf.
[98] Digital News Asia – Mercedes-Benz Malaysia drives into 2021 with accelerated digital footprint - paultan.org. Retrieved 3 April 2021, from https://www.digitalnewsasia.com/business/mercedes-benz-malaysia-drives-2021-accelerated-digital-footprint

21.4.8 BMW Malaysia

BMW first entered Malaysia in 1987 through Sime Darby Berhad as a partner in the sales business and the operation of local assembly plant for BMW automobiles. In 2003, BMW Group formed a joint venture with Sime Darby Berhad, forming BMW Group Malaysia (BMW Malaysia Sdn Bhd) to take over the wholesale functions of BMW vehicles, spare parts, and accessories in Malaysia.

BMW Group Malaysia's shareholders include[99]:

BMW Group	51%
Sime Darby Berhad	49%

BMW has a market share of 1.7%, with total sale of 9,300 units.[100] BMW's dealership network covers 39 outlets in various cities in Malaysia.

In 2020, BMW Group Malaysia announced that BMW sales performance had secured the "number one position in automotive premium segment". The company looks to further drive the adoption of electromobility in the coming years. [101]

21.5 Overview of number of dealerships by selected key OEMs

Similarly, the number of service centres / franchise dealers are currently led by both Perodua and Proton, followed closely with Honda. Overall, most OEMs are looking to convert their existing dealers to become a 3S / 4S centre, while continuing to expand their geographical footprints.

[99] The Edge Markets – Sime Darby firms up takeover of Sapura Auto. Retrieved 3 April 2021, from https://www.theedgemarkets.com/article/sime-darby-firms-takeover-sapura-auto

[100] Maa.org.my. (2019). Retrieved 7 March 2021, from http://www.maa.org.my/pdf/Market_Review_2019.pdf.

[101] New Straits Times – New apps for BMW, Mini owners. Retrieved 3 April 2021, from https://www.nst.com.my/cbt/2021/04/678801/new-apps-bmw-mini-owners

Table 21-7: Overview of dealerships by key OEMs

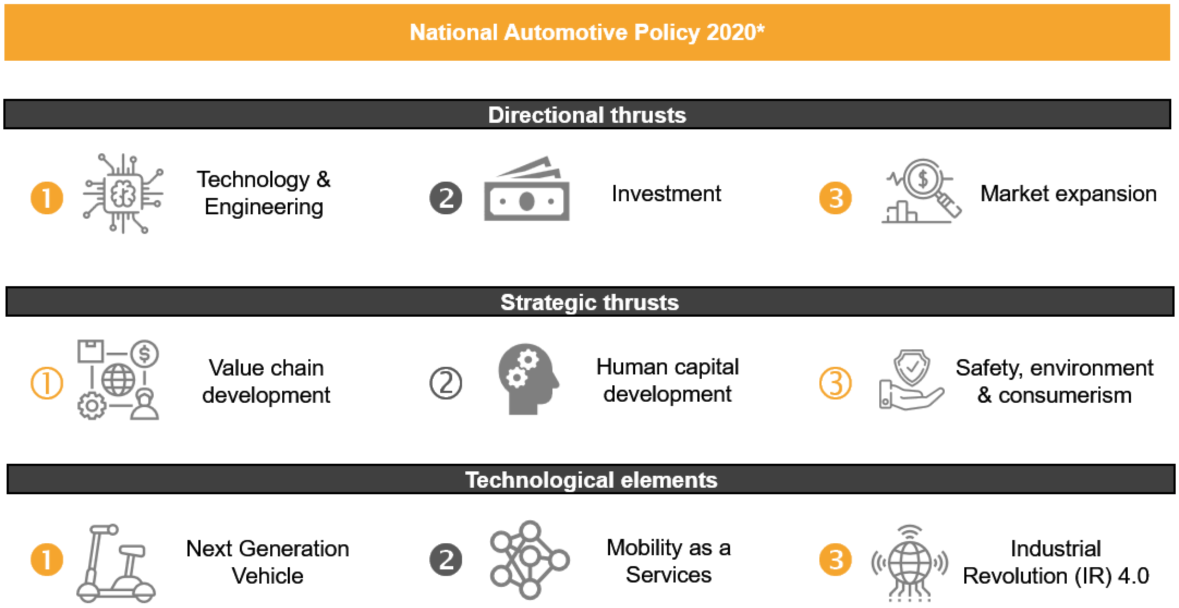
Selected key OEMs	Estimated number of service centres / dealers
Perodua	225
Proton	140
Honda	134
Toyota	98
Nissan	91
Mazda	43
Mercedes Benz	43
KIA	28
BMW	22
Volkswagen	16

Source: Secondary desk research

21.6 National policies on the automotive sector in Malaysia

21.6.1 National Automotive Policy 2020 ("NAP 2020")

The NAP 2020 aims to position Malaysia as the regional leader in the automotive sector, with the policy framework largely mirroring its predecessor, the National Automotive Policy 2014. The NAP 2020 is supported by three directional thrusts and three strategies, which features three new technological elements— Next Generation Vehicle (NxGV), Mobility as a Services (MaaS), and Industrial Revolution 4.0 (IR 4.0).



** - Non-exhaustive*
Source: National Automotive Policy 2020; Ipsos analysis

The highlights of the NAP 2020 directional thrusts include the expansion of technological aspects (in relation to the three technological elements) of the automotive sector, introduction of strategic initiatives to attract investment, and to promote market expansion, specifically the aftersales and service sector within the automotive industry. Meanwhile, the strategic thrusts of the NAP 2020 highlights the importance of enhancing the competitiveness of supply chain to help meet customer needs and vehicle manufacturer' standards. Further, human capital development efforts in relation to automotive technology have also been emphasised. The environmentally friendly technologies, vehicle safety, and consumer rights protections are also given adequate focus under the third thrusts of the NAP 2020.

Among the three new technological elements, the IR 4.0 agenda seeks to position Malaysia more competitively in the global markets. Simultaneously, the NxGV agenda aims to promote energy efficient powertrains and connected vehicles by promoting the market penetration of NxGV vehicles, while MaaS signifies a new ecosystem that strengthen the automotive industry in the country.

21.7 Acts and regulations on automotive

No	Relevant Acts	Remarks
1	Road Transport Act 1987 [Act 333]	• Regulates motor vehicles, road traffic, and other matters pertaining to road and vehicles • Provides for the protection of third parties against the risks arising out of motor vehicles usage, as well as the construction and adaptation of motor vehicles. • Prescribed for the classification, registration and licensing of motor vehicles and drivers, as well as the periodic inspection of motor vehicles. • The Act also provided for third party risks arising out of the use of motor vehicles
2	Land Public Transport Act 2010 [Act 715]	• Provide for and regulate matters related to land public transport. • Amended in 2018 by the Land Public Transport. (Amendment) Act 2018, which devolved the functions, powers, rights, duties, liabilities, and obligations of the Land Public Transport Commission to the Director General (DG) of Land Public Transport or the DG of Road Transport, subsequent to the dissolution of the Land Public Transport Commission
3	Commercial Vehicles Licensing Board Act 1987 [Act 334]	• Provides for all matters relating to the licensing and regulating of commercial vehicles, with the exclusion of commercial vehicles subjected to law relating to tourism or tourism industry. • Licensing of commercial vehicles are carried out based on their classes and categories.
4	Malaysian Institute of Road Safety Research Act 2012 [Act 748]	• Provided for the establishment of Malaysian Institute of Road Safety Research ("MIROS"), who develops national policies to facilitate the development and administration of road safety.

21.7.1 Road Transport Act 1987 [Act 333]

The Road Transport Act 1987 regulates motor vehicles, road traffic, and other matters pertaining to road and vehicles. Particularly, the Act also provided for the protection of third parties against the risks arising out of motor vehicles usage, as well as the construction and adaptation of motor vehicles.

As such, the Act is relevant to all road users and prescribed for the classification, registration and licensing of motor vehicles and drivers, as well as the periodic inspection of motor vehicles. The Act also provided for third party risks arising out of the use of motor vehicles.

A series of approximately 50 rules related to the road transport sector have also been enacted under the Road Transport Act 1987. These rules are amended periodically based on the policy initiates at the time of amendment.

21.7.2 Land Public Transport Act 2010 [Act 715]

Land Public Transport Act 2010 provide for and regulate matters related to land public transport. The 2010 Act was amended in 2018 by the Land Public Transport. (Amendment) Act 2018. The key amendments pertain to the repeal of the Suruhanjaya Pengangkutan Awam Darat Act 2010 as well as the dissolution of the Land Public Transport Commission. The amendment Act devolved the functions, powers, rights, duties, liabilities, and obligations of the Land Public Transport Commission to the Director General (DG) of Land Public Transport or the DG of Road Transport, subsequent to the dissolution of the Land Public Transport Commission. In short, the DG of Land Public Transport or the DG of Road Transport will now be overseeing areas that were previously overseen by the Land Public Transport Commission.

21.7.3 Commercial Vehicles Licensing Board Act 1987 [Act 334]

The Commercial Vehicles Licensing Board Act 1987 provides for all matters relating to the licensing and regulating of commercial vehicles, with the exclusion of commercial vehicles subjected to law relating to tourism or tourism industry. The licensing of commercial vehicles is carried out based on their classes and categories.

Under the Act, public service vehicles form one of the classes of commercial vehicles, and are classified into (a) stage buses; (b) charter buses; (c) express buses; (d) mini buses; (e) employee's buses; (f) feeder buses; (g) school buses; (h) hire cars; (i) hire and drive cars; (j) taxi cabs; (k) airport taxi cabs; and (l) limousine taxi cabs. On the other hand, goods vehicles have been divided into: (a) carrier's licence 'A'; and (b) carrier's licence 'C' under the Act.

21.7.4 Malaysian Institute of Road Safety Research Act 2012 [Act 748]

The Malaysian Institute of Road Safety Research Act 2012 is one of the two key parents Acts pertaining to road transport. The Act provided for the establishment of Malaysian Institute of Road Safety Research ("MIROS"), who plays the role of developing national policies to facilitate the development and administration of road safety, through conducting extensive research on road safety.

CHAPTER 7: MARKET ASSESSMENT FOR MOTOR VEHICLES WARRANTY CLAIMS

22 Process flow of service and warranty claims for motor vehicles

Typically, a motor vehicle owner has three main options when it comes to servicing / maintaining their vehicles. They would usually either:

1. Send their vehicles to an authorised workshop / 3S or 4S;
2. Send their vehicles to an independent workshop (usually found around neighbourhoods); or
3. Service / Maintain the vehicles themselves.

According to preliminary in-depth interviews, new vehicle owners are obligated to send their vehicles to authorised workshops / 3S or 4S due to warranty restriction claims by original equipment manufacturers (OEMs). Besides that, vehicle owners that acquire special insurance with extended warranties are also bound to have their vehicles serviced at OEMs' authorised workshops / 3S or 4S.

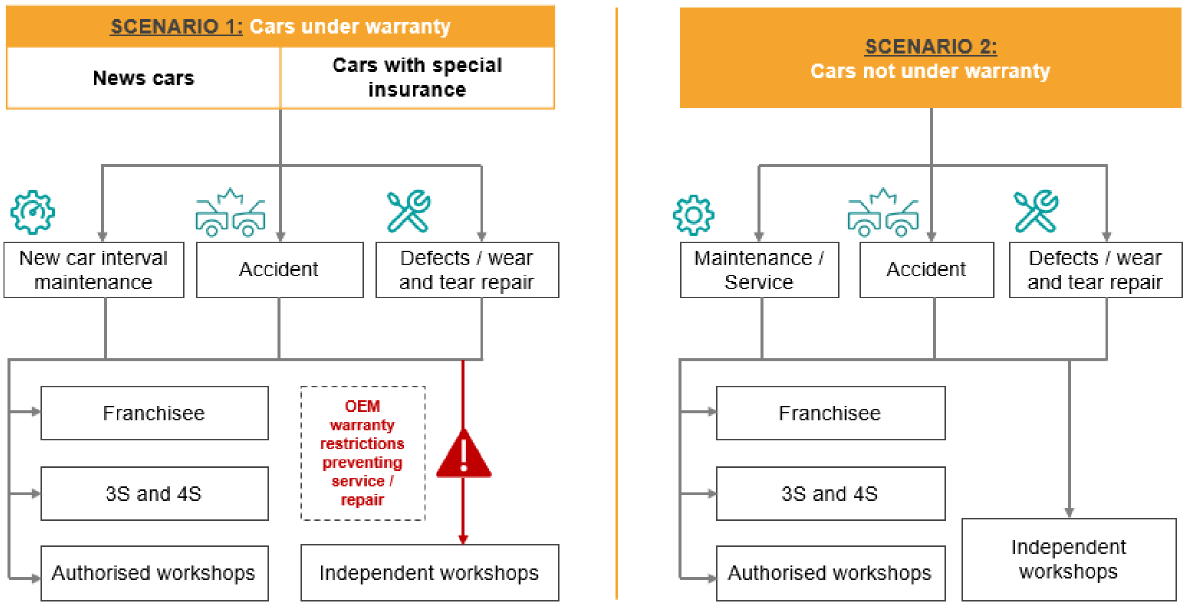
Based on industry feedback, the degree of warranty restrictions was observed to become stricter / more severe through the years, and has resulted in independent workshops not able to service / repair new vehicles due to the newly enforced warranty restriction claims.

Referring to the figure below, it depicts the channel flow that new vehicle owners / vehicles with special insurance (extended warranty) do not have the freedom to service or repair their vehicles at independent workshops compared to vehicles not under warranty.

The only exception here is that for accident repairs, OEMs would allow car owners to send their vehicles to PIAM Approved Repairers Scheme ("**PARS**"), which are workshops appointed by PIAM. The repair works are strictly meant for accident repairs only, and not service repairs.

Otherwise, regardless of circumstances, i.e. defects repair, service / maintenance, new vehicle owners are obligated to send their vehicles back to OEMs' authorised workshops / 3S or 4S.

Figure 22-1: Process flow of service or repair of motor vehicles



Source: Ipsos analysis

22.1 Factors that could void a vehicle warranty

22.1.1 Tires and wheels modification

Once vehicle owners make any installation or modification to the tires, wheels or rims, it will render the warranty void. For example, if owners change the size of the tires or modify the rim size, these unauthorized modifications of the vehicle or parts (modifications outside of OEM's specifications)' will result in the warranty void.

22.1.2 Performance modifications

Alteration to the engine performance, or any enhancements to improve a car's engine output, i.e. installation of Electronic Management Unit (ECU Management Unit), will automatically result in a warranty void.

22.1.3 Unauthorised service dealers carrying out scheduled maintenance

New vehicle owners are strictly not allowed to send their vehicles to unauthorised / independent workshops for service during the warranty period. New vehicle owners are obligated to send their new vehicles to franchise workshops / 3S or 4S due to warranty restriction claims by original equipment manufacturers (OEMs).

22.1.4 Use of improper fluids specified by OEMs

In the event when improper fluids (not specified / recommended by OEMs) were used and caused engine failures, any damages incurred is not covered under the warranty.

22.1.5 Environmental damage

If a vehicle were damaged in a fire, flood, earthquake or any other environmental disaster, OEMs will not honour the vehicle warranty.

22.1.6 Misuse of vehicle

In the event the vehicle was misused as a taxi, rental unit, racing / competition of any type, any damages incurred will not be covered under the warranty.

23 Potential competition issues

23.1 Warranty restrictions imposed by car manufacturers may possibly prevent or restrict competition in the car repair and service industry

Context: New vehicle warranty involves car manufacturers imposing restrictions on new car owners, requiring that their cars be only serviced by franchise (3S / 4S) or authorised workshops approved by car manufacturers.[102] The new car warranty is a contract between car owners and car manufacturer, which contains clauses that do not allow for customer freedom in terms of choosing where to send their vehicles for repair. In effect, new car owners will send their vehicles to authorised workshops, preventing competition from independent workshops.

In recent years, new vehicles are under warranty for longer periods of time, especially where extended warranties are involved. In effect, consumers will be bound by the warranty terms to have them repaired at franchise workshops for longer. The table below illustrates this[103]:

Car manufacturer	2007	2021
Perodua	3 years	5 years
Proton	3 years	5 years
Honda	3 years	5 – 8 years
Toyota	3 years	5 years
Nissan	3 years	5 – 7 years
Mazda	3 years	5 – 9 years
Mercedes Benz	4 years	5 – 6 years
BMW	4 years	5 – 8 years
Volkswagen	3 years	5 years
KIA	3 years	5 – 7 years

Harm to competition: Due to the warranty restrictions, independent repairers are likely to face barriers preventing them from servicing / repairing new cars that are still under warranty. The exclusionary clauses in the warranty could potentially lead to the market being foreclosed only to franchise workshops within the car manufacturers' network. On top of having the effect of restricting consumer's freedom to choose, in absence of competition, incumbents could potentially act in an exploitative manner such as raising price of labour services or prices of car parts.

[102] Minimum warranty periods, aftermarket service and spare parts, and other related standards have been developed and are being continuously improvised by Standards Malaysia and MARii.
[103] The figures in this table includes extended warranty periods of car parts, which may extend the warranty for additional years.

23.2 Agreements between car manufacturers and insurance companies causing foreclosure of the car accident repair market

Context: In the event of a car accident, the car owners have the option to decide whether to send their vehicles to a PARS workshop or a franchise (3S / 4S) workshop.

Workshops have to meet criteria such as standard of service, quality, professionalism, competency and skill that typically have considerable capital investment, before qualifying for PARS certificate.

Given that PARS workshops should be on par with franchise workshops in terms of skill, competency and equipment levels, customers should be free to choose between these workshops. However, this is not the case in practice.

Car manufacturers and insurance companies have entered into agreements and partnerships, that usually stipulate a set of KPIs that insurance companies need to adhere to by directing certain number of insured new cars to franchise workshops.

Below are some examples of partnerships between car manufacturers and insurance companies[104]:

Car manufacturer	Insurance Partners
Honda	- Allianz General Insurance - Etiqa - Zurich Takaful - MSIG - Tokio Marine Insurance - Berjaya Sompo - Liberty Insurance - AIG Malaysia
Toyota	- Allianz - Etiqa - MSIG - Tokio Marine Insurance
Proton	- Allianz - Etiqa - Zurich Takaful - Am General Insurance - Liberty Insurance
Perodua	- Allianz - Etiqa - Zurich
Nissan	- Allianz - Etiqa - MSIG
Mazda	- Berjaya Sompo

[104] This list is not exhaustive

Harm to competition: To meet the KPIs of the agreement, insurance companies will expend efforts to encourage consumers to engage the services of franchise workshops. In many cases where consumers still choose to send their new cars to PARS / independent workshops, insurance companies would issue indemnity letters to be signed by consumers that states that their entire car warranty would be voided.

These agreements between car manufacturers and insurance companies may have the effect of exclusion or foreclosure of PARS workshop in the market for repairing cars under warranty. With lesser competition, franchise workshops can potentially charge higher prices for services and car parts. Insurers would have to pay for higher prices for vehicle repair and this translates to inflated insurance premium costs to consumers down the line.

24 Other areas of concerns

24.1 [Market concern] Unethical misconducts by 3S/4S workshops

Description. New motor vehicles are bound by warranty restrictions, with OEM's pretext that their franchise workshops' (authorised, 3S/4S) service and repair levels are better than independent workshops. It was also proclaimed that independent workshops do not possess the skills and competencies to repair / install new parts for new vehicles.

Allegedly during peak periods or when franchise workshops are understaffed, franchise workshops would send vehicles to independent workshops for repair to fulfil their turnaround time for new vehicle owners.

Industry insights:
Franchise workshops send vehicles to independent workshops to be repaired

Independent workshops have claimed that when franchise workshops do not have capacities, they would send vehicles to independent workshops without the knowledge of consumers (or even the OEMs).

Even with the above practice, consumers would still be paying for the service charges imposed at franchise workshop level.

Implications. Motor vehicle owners are faced with higher servicing costs by sending their motor vehicles for servicing at franchise workshop, while the service level (e.g. skills, competencies, parts) that they receive would be the same with what they would have gotten if they had sent their motor vehicles to repair at non-franchise workshops. This translates into additional costs for the motor vehicle owners with no apparent benefits other than not having their warranty voided. This also foster an inefficient market that lacks competitiveness due to the lack of fair competition between independent workshops and franchise workshops.

24.2 [Market concern] A possible lack of transparency in relation to fine prints in warranty terms and conditions

Description. Consumers are often not provided with sufficient information about the manufacturer's warranty for their newly bought vehicles and this leads to misunderstanding or confusion. Survey results indicate that there was limited or no direct communication about the warranty at the point of sale, such as what voids the warranty, to get their new car serviced and repaired, and what spare parts they may use.

There is currently no protocol or procedure to ensure that the consumers are well informed about the details of the warranty apart from handing them the warranty booklet. Although the information is provided in warranty booklets, it was found that on top of explicit directions to use authorised dealerships for repair and maintenance work, it is not clear on the implications of the warranty if a consumer chooses to use of non-OE parts or independent workshops (ie if it will void the entire warranty or not). There is a real risk that warranty claims may be refused without a clear link being established between the defect and the use of independent workshops or spare part.

Implications. Unclear or inadequate information can result in consumers being misinformed about their warranties and are compelled to always send their vehicles to authorised networks in fear of voiding the entire warranty with any missteps. A lack of standardisation on how consumers should be informed and how this should be stipulated in warranty booklets can have the indirect effect of the market being foreclosed to the authorised workshops. Additionally, lack of standardisation creates fragmentation in the market, making the task of improving the industry more difficult.

25 Benchmarking countries for motor vehicles

A series of benchmarking exercises have been undertaken to further understand the approach and remedial actions adopt by other countries in addressing the issues faced in the motor vehicle warranty sector.

The selection of countries to benchmark against for the purpose of this market review is mainly driven by the similarity of issues identified within the corresponding market in the selected countries. Issue-driven selection process will provide a meaningful market comparison, as compared to engaging other high-level indicators (these may include macroeconomics indicators such as GDP, population size, key economic sectors, trade performances, etc.) as selection criteria. As such, the main focus is placed on market conditions for specific markets in line with this market review.

25.1 Anti-competition cases and approaches in other countries

Country / Continent	Case	Anti-competition conducts / areas of concerns	Verdicts / measures to address the concerns
Singapore	**Market Inquiry on Car Parts in Singapore (2017)**	- Customers were required by car dealers to service or repair their cars exclusively at the respective dealers' authorised workshops to ensure that the car warranty remains valid. - These restrictions give car dealers the right to void car warranties or reject warranty claims if the car has been serviced and/or repaired at an independent workshop, regardless of whether the damage or defect to be claimed under the warranty is in fact caused by the independent workshop. - This was found to restrict the ability of independent workshops to compete effectively with authorised workshops. - Resale price maintenance and requirement by car manufacturers on the use of Original Equipment ("OE") parts by authorised workshops - impact	- To address concerns on Warranty Restrictions, Competition Commission of Singapore's (CCS) worked with car dealers to remove the warranty restrictions from their car warranties and related documents. - The changes to warranty terms for existing warranties in force and new warranties are expected to be retrospectively implemented by 31 December 2017. - Car dealers may void car warranties or reject claims only if they establish that the damage or defect to be claimed under the warranty is in fact caused by independent workshops. - All other car dealers were encouraged to review their warranty terms and practices to ensure compliance with the Competition Act.

Country / Continent	Case	Anti-competition conducts / areas of concerns	Verdicts / measures to address the concerns
		on competition isn't substantial. Importation and wholesale distribution of car parts are generally competitive. Car parts can be obtained from a large number of suppliers located in Singapore and overseas, the commission said.	- For the supply of diagnostic tools and information to independent workshops, CCS found that the impact on competition to not be substantial, as the technical information, equipment and diagnostic tools are generally available.
Europe	**International Regulatory and Industry Frameworks for Accessing Repair and Service Information (2017)**	- There was misuse of warranties, where car manufacturers refused to honour a warranty claim if the car was repaired at an independent car workshop. - Obstacles to access to repair networks - limiting numbers of authorised repairers through direct or indirect quantitative selection - Limiting distributors' or repairers' ability to buy spare parts from third parties - limits the ability of authorised repairers and distributors to source original or matching quality spare parts from third	- The European Commission entered into force a new legislative framework for motor vehicle distribution and servicing agreements. - The new rules ensure that independent repairers operate on a level playing field with the car company-authorised networks. - Independent repairers must be able to access all of the technical information they need to repair today's complex vehicles. - Any information communicated to members of authorised networks should

Country / Continent	Case	Anti-competition conducts / areas of concerns	Verdicts / measures to address the concerns
		parties is likely to be viewed as anticompetitive - Refusal to supply information to independent operators - the information that must be made available that will ultimately be used for the repair and maintenance of motor vehicles and which is necessary to allow independent operators to exert an effective competitive constraint on the market. - Refusal to supply tools and training to independent operators - availability to independent operators of tools and training, such as electronic diagnostic and other repair tools, together with related software, including periodic updates thereof, and after-sales services for such tools.	be made available to independent operators. Technical information must be made available in a way that is proportionate to independent repairers' needs. - Information/tools/training for independent access must be provided in a non-discriminatory manner and at a fair price and in useable form. - Vehicle manufacturers may not make the warranties conditional on the repair and servicing of a vehicle within their network, or on the use of their own branded spare parts. - consumers have the right to use any repair shop for non-warranty work, during both the statutory period (two years in most EU member states) and any extended warranty period. - statutory liability requires that anyone who damages a vehicle as a result of negligent work or use of defective parts is liable for it.

Country / Continent	Case	Anti-competition conducts / areas of concerns	Verdicts / measures to address the concerns
			- All information provided to authorised repairers must also be made available to independent repairers on a non-discriminatory basis.
South Africa	**Guidelines for Competition in the South African Automotive Aftermarket (2020)**	- Warranty restrictions in South Africa caused most owners of new cars to be locked into using a vehicle manufacturer's service centres, repair shops and parts in 'embedded' motor and service plans. - Vehicle manufacturers will void the warranty of car owners if they decide to use an independent service or repair provider of their own choice. - In effect, this has locked out independent workshops and service centres, thereby limiting small-to-medium-sized enterprises' abilities to transform and grow the sector.	- The Competition Commission South Africa developed guidelines which state that vehicle manufacturers and approved dealers must allow consumers to fit non-original parts where a specific part's warranty has expired, without voiding the balance of the motor vehicles warranty. - Original Equipment Manufacturers can no longer 'obstruct consumers' from seeking the maintenance service of their choice. - There will be unbundling of maintenance plans and service plans from the purchase price of the motor vehicle. Allowing customers to choose maintenance or service plan from their

Country / Continent	Case	Anti-competition conducts / areas of concerns	Verdicts / measures to address the concerns
			dealership or from an independent provider. - Dealerships will also not be able to refuse to service or repair vehicles if they have non-original, matching quality parts such as windscreens or tyres fitted. The warranty is severable and remains enforceable. - Spare parts must be made available for purchasers outside the authorised network.
Australia	**Australian Consumer Law Review (2016)**	- Ambiguous wording of warranty statements and warranty restrictions found to cause fear of warranty claim rejection - Customers routinely report that dealers state the warranty requires dealership servicing and fitment of 'genuine parts' - There are competing claims in the market about independent repairers' access to technical information.	- Consumers have the right to have vehicle serviced by an independent repairer without voiding warranty. - The work must be done using appropriate quality parts, trained technicians and according to the timings outlined in the vehicle's service schedule (found in the vehicle's service logbook) - Clear definition of differences between consumer guarantee and express

Country / Continent	Case	Anti-competition conducts / areas of concerns	Verdicts / measures to address the concerns
		- Only certain car manufacturers appeared to be providing access to a significant proportion of the types of technical information independent repairers need to repair and service new cars. - Repairer needs to make a declaration that they are an authorised repairer and only used genuine parts. - The price differential between the OEM parts and the aftermarket parts is not widely known, and consumers are not aware that they are paying a premium.	warrantees to ensure consistency and clarity in terminologies used. - Repairs that are covered under the warranty should be done by authorised dealers for the warrantable repairs to be carried out at the manufacturer's expense. - If the dealer refuses to make the repairs within a reasonable period of time or not at all, the vehicle owner can have the repairs done elsewhere and, provided it was a repair covered under the warranty, they can seek to recover 'reasonable costs' from the dealer. - Technical information must be shared with independent repairers on 'commercially fair and reasonable terms'. This should include real-time access and appropriate safeguards to enable the sharing of environmental, safety and security-related technical information.

Country / Continent	Case	Anti-competition conducts / areas of concerns	Verdicts / measures to address the concerns
			- These recommendations are in the final report for the consideration of consumer affairs ministers.

CHAPTER 8: MARKET CONCENTRATION FOR MOTOR VEHICLES WARRANTY CLAIMS

26 Market concentration analysis

26.1 Passenger motor vehicle manufacturers

The top four passenger motor vehicle manufacturers, Perodua Manufacturing Sdn. Bhd., Assembly Services Sdn. Bhd. (UMW), Isuzu Hicom Malaysia Sdn. Bhd., and Daihatsu Perodua Engine Manufacturing Sdn. Bhd., accounted for 97% of the market share by revenue. Similarly, the HHI index stood at 4,159, indicating a high level of market concentration as well. High level of market concentration could signify oligopolistic to monopolistic market characteristics.

The CR-ratio and HHI for passenger motor vehicle manufacturers is computed based on available data from the Department of Statistics Malaysia on a broadly defined group of players classified under the manufacture of passenger cars (as defined by Malaysia Standard Industrial Classification).

Table below outlines the estimated market share based on revenue in the year 2019/2020 for all the players involved in production of passenger motor vehicle, as well as the concentration ratio for the top players and HHI. Please note that the percentages of the estimated production share below may not add up to 100% due to rounding of the numbers.

Table 26-1 Market concentration (CR and HHI) of passenger motor vehicle manufacturers based on revenue, 2019/2020

	Manufacturers	Estimated production share based on revenue (2019/20)	Concentration ratio %	Herfindahl index (HHI)
1	Perodua Manufacturing Sdn. Bhd.	59%	**CR-4: 97%**	3488
2	Assembly Services Sdn. Bhd. (UMW)	24%		568
3	Isuzu Hicom Malaysia Sdn. Bhd.	8%		61
4	Daihatsu Perodua Engine Manufacturing Sdn. Bhd.	6%		39

5	Naza Automotive Manufacturing Sdn. Bhd.	1%		2
6	Kawasaki Motors (Malaysia) Sdn. Bhd.	1%		1
	Others (19 manufacturers)	1%		0
				4,159
			High concentration (CR-4)	**High concentration**

Notes, assumptions and limitations in the above computation:

1. Revenues used are based on the financial year which ended in 2020 or 2019. Financial year end date differs across different companies, hence, the revenue for each company may not represent the revenue for the full year of 2020 or 2019.
2. Some of the identified companies are not included due to lack of revenue information.
3. The list of companies included in this computation is based on the list of establishments from the Department of Statistics Malaysia (DOSM). There may be other establishment which are not classified under this sector in the CCM, which are not identified for this estimation.
4. The revenue of the companies may include income generated from other form of business activities.

26.2 Commercial motor vehicle manufacturers

The top four commercial motor vehicle manufacturers, Edaran Otomobil Nasional Bhd., Hs Hohan Commercial Vehicles Sdn. Bhd., Tc Trucks Sales Sdn. Bhd., and Volkswagen Aktiengesellschaft, accounted for a whooping 72% of market share by revenue collectively. Similarly, the HHI index stood at 2,826, indicating a high level of market concentration as well. High level of market concentration could signify oligopolistic to monopolistic market characteristics. `

The CR-ratio and HHI for commercial motor vehicle manufacturers is computed based on available data from the Department of Statistics Malaysia on a broadly defined group of players classified under the manufacture of commercial vehicles and bodies for motor vehicles (as defined by Malaysia Standard Industrial Classification).

Table below outlines the estimated market share based on revenue in the year 2019/2020 for all the players involved in production of commercial motor vehicle, as well as the concentration ratio for the top players and HHI. Please note that the percentages of the estimated production share below may not add up to 100% due to rounding of the numbers.

Table 26-2 Market concentration (CR and HHI) of commercial motor vehicle manufacturers based on revenue, 2019/2020

	Manufacturers	**Estimated production share based on revenue (2019/20)**	**Concentration ratio %**	**Herfindahl index (HHI)**
1	Edaran Otomobil Nasional Bhd.	51%	**CR-4: 72%**	2,615
2	Hs Hohan Commercial Vehicles Sdn. Bhd.	10%		94
3	Tc Trucks Sales Sdn. Bhd.	5%		30
4	Volkswagen Aktiengesellschaft	5%		29
5	Berjaya China Motor Sdn. Bhd.	4%		14
6	Mini-Mix Sdn. Bhd.	3%		12
	Others (67 manufacturers)	21%		33
				2,826
			High concentration (CR-4)	**High concentration**

Notes, assumptions and limitations in the above computation:

1. Revenues used are based on the financial year which ended in 2020 or 2019. Financial year end date differs across different companies, hence, the revenue for each company may not represent the revenue for the full year of 2020 or 2019.
2. Some of the identified companies are not included due to lack of revenue information.
3. The list of companies included in this computation is based on the list of establishments from the Department of Statistics Malaysia (DOSM). There may be other establishment which are not classified under this sector in the CCM, which are not identified for this estimation.
4. The revenue of the companies may include income generated from other form of business activities.

CHAPTER 9: RECOMMENDATIONS & CONCLUSIONS

Pertaining to recommendations set out within this chapter– All recommendations will be assessed and reviewed to provide further details on scope, extent, stakeholders involved, and implementation mechanism upon the conclusion of public consultation sessions, at the Final Report stage.

27 Recommendations and conclusion

27.1 Key recommendations and conclusion for motor vehicle warranty

Issue 16. [Competition issue] Warranty restrictions imposed by car manufacturers may possibly prevent or restrict competition in the car repair and service industry

New vehicle warranty involves car manufacturers imposing restrictions on new car owners, requiring that their cars be only serviced by franchise (3S / 4S) or authorised workshops approved by car manufacturers. In effect, new car owners will send their vehicles to authorised workshops, preventing competition from independent workshops.

Please refer to 23.1 for further elaboration on the issue and possible harm to competition.

Recommendation 16.1

<u>Encourage vehicle manufacturers to remove warranty clauses that restrict customer freedom</u>

A major exercise to revise and amend warranty terms shall be implemented immediately after the publication of the market review, to liberalise warranty restrictions.

Relevant stakeholders to engage with car manufacturers to encourage them to remove restrictive warranty clauses. In effect, car manufacturers should first be given the opportunity to self-regulate. The following should be communicated to car manufacturers:

- Vehicle manufacturers may not make warranties conditional on the repair and servicing of a vehicle within their network

- Vehicle manufacturers should not obstruct a consumer's choice to seek service, maintenance, and mechanical repair work for their cars at a service provider of their choice, regardless of whether that service provider is an authorised dealer or independent workshop
- Vehicle manufacturers should make available to independent service providers / workshops the technical information relating to its cars, to the same degree as they are made available to authorised dealers / workshops within their network
- Vehicle manufacturers and/or authorised dealers to provide training to employees of independent workshops who request training, at a reasonable cost
- Official manufacturer's technical handbook can be made available for purchase by independent workshops to deliver the same level of service competency

To ensure a smooth transition in the market, the liberalisation of warranty can be done on a phased basis. For example, service of vehicles can be liberalised and no longer void a consumer's warranty simply by having service done outside of car manufacturers' network. Industry response can be gauged and noted down to transition into the next phase of simple repairs, then to more complex repairs.

With the revision and amendment of the warranty terms, car manufacturers may void car warranties or reject claims only if they establish that the damage or defect to be claimed under the warranty is in fact caused by independent workshops.

Box 8: Examples of warranty booklets and service manuals

In the course of this market review, warranty booklets and service manuals of several car manufacturers were reviewed. It was found:

1. Explicit statements were used that car owners must send their cars to authorised workshops or dealers to carry out services and repairs.
2. Statements that strongly recommending authorised workshops for maintenance and repair work, for example based on expertise or in accordance with warranty requirements. Only a limited number of these statements explicitly disclaimed that though dealers were recommended, it was not required.
3. References to authorised dealers (instead of repairers generally) in the context of information about servicing and repairs.
4. Statements linking servicing at a dealer to better reliability and performance of the car.
5. Statements recommending against the use of "non-genuine" parts or result in voiding of the manufacturer's warranty.

Some examples include:

"(What will nullify your warranty): If the vehicle is repaired and/or adjusted or if any parts and accessories are equipped, installed or fitted to the vehicle by any third party other than the XYZ[105] Service Centre;"
"(Warranty termination): If the vehicle shall be repaired/adjusted/serviced/transported or if any parts and accessories are installed to the vehicle by any person or company other than the Company or its authorised dealers."
"To protect your new car warranty, it is recommended that you send your vehicle to XYZ Servis centres for collision repair."
"An Authorised XYZ Dealer will make necessary repairs, using new or remanufactured parts, to correct any defect covered by this warranty…"
"Where the vehicle is repaired, disassembled, or tampered with at workshops other than at a XYZ Authorised Dealer's outlet, or where the identification numbers or marks of the items have been defaced, no claim can be made under this warranty…"

Recommendation 16.2

Develop standards or procedures to ensure transparency and that consumers are properly informed about their rights

Develop industry standards and procedures that ensure customers are properly informed about their consumer rights and details on manufacturer's warranty, especially when warranty terms are revised and amended.

Close attention should be paid on how information is disseminated through key sources of information such as post-sales briefing, warranty booklets, logbooks and service manuals, to ensure clarity and consistency. While developing these procedures, relevant agencies may take into consideration:

- Consumers should be briefed in detail about their warranty and consumer rights at the point of sale
- Any updates in relation to consumer's vehicle should be done through channels such as email or SMS, not merely posting a notice on website homepage or dealership premises
- Key information such warranty terms should be highlighted in the index or made more prominent, instead of buried within warranty booklets
- Implicit or explicit statements in manufacturer-prepared documents that lead consumers to form the impression that they must use OE parts or authorised workshops for repairs or service during the manufacturer's warranty should no longer be allowed

As far as possible, car manufacturing companies should standardise the terminologies used when describing the terms of warranty, to be in line with developed guidelines, ensuring consistency across the industry.

[105] Car manufacturer names are replaced by XYZ in these instances for them to remain anonymous.

Recommendation 16.3

Unbundling of maintenance and service plans at the point of sale of motor vehicle

At the point of sale, manufacturers, dealers and finances must disclose to customers the price and the value-added products separately, which includes any extended warranty, maintenance and service plans. Consumers must be able to exercise choice regarding whether to purchase the maintenance or service plan, making servicing a more affordable option for Malaysians.

Car manufacturers and independent providers of value-added products must adopt measures to promote competition and consumer choice in their offerings. This can include plans that vary in duration, for example service plans for terms of 3 years, 5 years or more should be options for consumers to select from. To promote transparency and allow for product comparisons at the point of sale of vehicles, the following are important:

- Dealers provide consumers with complete disclosure of purchase price of motor vehicle and purchase prices of service and maintenance plans and other products
- Disclosure of all information regarding the maintenance and repair
- Where appropriate, provide consumer with details such as average price for each service interval and average price of parts covered by the maintenance and service
- Complete disclosure of dealer commissions and other commissions that may arise from commercial arrangements between the car manufacturers, dealers and other third parties, to the extent that it does not compromise commercially sensitive information

In effect, prices of motor vehicles can be reduced as value added products are now separated from the sale of the vehicle. Consumers will also have broader options in terms of warranty duration and service plans.

Recommendation 16.4

Recall actions, free servicing and warranty work

Within the warranty period, any defect originating from the car manufacturing process must be corrected by the vehicle manufacturer. Normally, the network of authorised repairers will execute the work on behalf of the vehicle manufacturer. They must do so at the vehicle manufacturer's expense.

In such cases paid for by the manufacturer, i.e. recall actions or free servicing or warranty works etc., the works must be carried out where specified by the manufacturer. Where it pays the repairer, the manufacturer may also determine which parts are to be used.

Where consumers are entitled to recall actions, free servicing or warranty works, details should be provided so that customers are made aware of these respective benefits / rights.

Recommendation 16.5

Introduce regulations to improve access to tools and technical information for new cars

As vehicles gradually move from being primarily mechanical systems to systems with a broad array of electronic componentry and networks linked by computer software, they have become increasingly complex and difficult to repair. The need to access special tools and repair information has the potential to become a significant barrier to entry in the market for repairs.

A mandatory scheme should be introduced for OEMs to share vehicle service and repair information, on commercially fair and reasonable terms. The scheme should provide same technical information and special repair tools which car manufacturers make available to their authorised dealers and repairer networks. This should include environmental, safety and security-related information. Additionally, training should be provided by the car manufacturer and/or dealership to independent workshops on reasonable commercial terms.

The scheme should place an obligation on car manufacturers and other industry participants to ensure that market is properly competitive and not foreclosed in any way. The scheme should address elements such as such as:

- Full time access

Independent repairers should have access to the same digital files such as software updates, made available to authorised dealers.

- Coverage

Obligation to share technical information should apply to all car manufacturers. Access to technical information should be made available on commercially fair terms.

- Dispute resolution

Dispute resolution process should be timely and accessible. Dispute resolution should be subject to compulsory arbitration or mediation.

- Governance/consultation

Key stakeholders to meet in set intervals to discuss the changing nature of repair and service information.

- Training

The same is applicable for technical training on the repairs of motor vehicles

- Enforcement

Where appropriate, options to enforce terms of any regulation should be included.

Further, stakeholders can discuss the feasibility of having the information be openly and easily retrievable from portals of government agencies. This will ensure congruency and accountability of the information, as well as providing a single source of information to avoid fragmentation.

Box 9: Right to Repair law in the US and Europe

Right to Repair in the US

Right to repair essentially relates to the ability of consumers to have their products repaired at a competitive price, implying that there are no unnecessary barriers to repair.

In 2013, under the new law in Massachusetts, auto companies would make their diagnostic codes and repair data available in a common format. This would give car owners more choices and lower repair costs by fostering competition. Automakers and repair shops have agreed to adopt the law as a national standard. The law will:

- Require automakers to make available to repair shops the same vehicle repair information they give to dealers
- Allow repair shops to purchase the data with an ordinary computer
- Require automakers to offer a non-proprietary interface for diagnosing problems with vehicles

Right to Repair in Europe

In Europe, right to repair is more commonly associated with product design (repairability) and resource management and is generally pursued through European Union environmental regulations. The aim is to maximise a consumer's opportunity to repair their goods, avoid creating additional waste and drive competition and encourage market-entrants in the repair industry.

In 2021, new EU rules have been introduced that require manufacturers of electrical goods to make their products repairable for at least ten years after coming to market.

Manufacturers and importers will be obligated to make a range of essential parts such as motors, pumps, etc available to professional repairers for up to ten years. For end-user consumers, manufacturers must make certain spare parts available for several years after a product is taken off the market.

Apart from parts being made available, products will also need to come with repair manuals.

Recommendation 16.6

Increase promotion and visibility of Right to Repair through programs and campaigns

To ensure that independent workshops are able to fairly compete in the market, there is a need for a fair and competitive regulatory environment that enables freedom of choice for consumers and that gives aftermarket SMEs a chance to stay in business, especially for the repair of modern, technologically complex vehicles. After the implementation of Right to Repair regulations, programmes and campaigns can help boost visibility of this new right.

The Right to Repair campaign's main aim would be to:

- Improve the visibility and understanding of the independent automotive aftermarket
- Ensure that legal right of access to technical information, tools and equipment, parts and training is upheld
- Promote a regulatory environment that effectively safeguards the interest of SME workshops
- Uphold consumer's rights to have their vehicles serviced, at any time, by the workshop of their choice

Recommendation 16.7

Develop avenues for consumer redress in relation to lemon law claims

Currently, when a consumer purchased motor vehicles that repeatedly fail to meet the standards of quality and performance **("lemons")**, they may only seek redress from The Tribunal for Consumer Claims under the Consumer Protection Act 1999 [Act 599]. However, this takes undue time away from the Tribunals as must assess the complains on a case-to-case basis. This would be inefficient for both parties as Tribunals are responsible for a wide range of consumer claims and lack the technical expertise to assess a claim with expedience.

Relevant agencies can consider the implementation of lemon law should in Malaysia to provide consumers with a proper avenue for legal redress when they purchased a lemon. An independent body / committee may be set up to oversee all lemon law related claims. The main responsibility of this body is to assess technical complains and assist them with the alternative dispute resolution **("ADR")** process (i.e. arbitration, mediation, arbitration), so these cases may be dealt with in an expedient manner.

The body / committee can constitute representatives of the automobile industry, provincial and territorial governments, and consumers.

Please refer to Annex (28.1) for a comparison of the implementation of lemon law in other countries.

Recommendation 16.8

To initiate a market inquiry into unethical misconducts

Relevant authorities should investigate the unethical business conducts by 3S/4S workshops, where vehicles are being outsourced to third party contractors outside of authorised network, while at the same time consumers are prohibited to do the same to preserve their manufacturer's warranty.

Relevant authorities are fully aware of this practice, known as "fronting", by vehicle manufacturers. There must be transparency through the full disclosure to customers when such outsourcing is done. Consumers must be made aware of the service provider that performed work on their vehicle, along with full disclosure of any parts that may be involved (genuine or otherwise).

Strict enforcement through a designated Act / policy / guideline is required and legal actions can be imposed to any workshop owners who is found to be practicing fraud, or anything suspected to be misconduct. Among the sentences to be imposed includes license suspension and penalty.

Issue 17. [Competition issue] Agreements between car manufacturers and insurance companies causing foreclosure of the car accident repair market

Car manufacturers and insurance companies have entered into agreements and partnerships, that usually stipulate a set of KPIs that insurance companies need to adhere to by directing certain number of insured new cars to franchise workshops. These agreements between car manufacturers and insurance company.

This may have the effect of exclusion or foreclosure of PARS workshop in the market for repairing cars under warranty.

Please refer to 23.2 for further elaboration on the issue and possible harm to competition.

Recommendation 17.1

Introduce tiering system and produce special license / certification to workshops that meet requirements

Relevant ministry or agency can develop a tiering system to categorise proficiency of workshops in Malaysia. Special licenses or certificates can be produced to owners of operators of service centres and workshops if certain requirements are met, such as:

- Employment of accredited mechanics, such as MOHR's NOSS Claim Advisor
- Sufficient facilities and equipment levels
- Accreditation of standards that ensure quality service, professionalism and best practices, such as MS 2697, MS 2696, etc

Workshops that acquire the license / certification that represents being categorised as a high-tier workshop should be allowed to perform maintenance and repair work on cars without revoking the manufacturer's warranty.

In line with the KPDNHEP's past efforts through establishment of Automotive Maintenance and Repair Service Bill, obtaining the special licenses may be made mandatory. It is important to keep track the emergence of workshops in Malaysia and to ensure the services provided by the repairers met the required standard and valuable to the consumers. However, due to some limitations and grey area of jurisdictions among the authorities, the bill in July 2019 was decided to be discontinued and alternatively it will be further executed through the amendment of Peraturan Perlindungan Pengguna (Pendedahan Maklumat Bengkel) 2002. While the amendment is underway, this recommendation strives to be in line with the direction of the amendment, and further the efforts to upskill and improve independent workshops in Malaysia.

Established programmes such as PARS certification issued by PIAM can be leveraged to facilitate this process, leveraging on a pool of existing PARS workshops to establish a foundation for the tiering system and avoid starting from scratch.

Recommendation 17.2

<u>Initiate further inquiry into competition concerns and issuance of the warning letter</u>

Vertical agreement between of the insurance companies and vehicle manufacturer has indicated that its policy is to turn away customers if their cars are still under warranty to help customers preserve their warranty. For example, agreements that contains throughput requirement clauses that set unreasonably high KPIs will encourage insurance companies to drive business to authorised workshops over other alternatives.

Feedback from industry revealed that if the warranty duration is five years, it effectively means that independent workshops would be foreclosed for half of the cars' usual ten-year (10-year) life, and more so for extended warranties.

These agreements should be put under scrutiny, and further investigations are required in order to preserve the competition in the market as this may weaken consumers' incentive during the warranty period to use an independent workshop, which may provide cheaper and/or better services, and in turn weakens the overall competitive pressure from independent workshops on the authorised workshops.

A warning letter shall be issued by MyCC to parties who are found to be involved in such anti-competitive behaviour, and enforcement action will be taken if the situation is not remedied within a reasonable timeframe.

CHAPTER 10: APPENDICES & ANNEXES

28 Appendices

28.1 Review of Anti-Competition Cases and Approaches in Other Countries

28.1.1 Port Logistics Ecosystem

28.1.1.1 Singapore

Context

Globally, Singapore is known as one of the world's busiest ports and bunkering port. Although Singapore continues to enjoy dominant position as the premier transshipment hub in the region in terms of market share, evidence suggests that it's hold on the market appears to be slipping gradually. Statistics suggest that it is behind regional rivals in efficiency.[106] Competitors such as Port Klang and Tanjung Pelepas are credible alternatives for transshipment operations. Other regional competitors such as Indonesia are also increasing investments to develop its container-port capacity[107].

Some challenges highlighted by Singapore's port authority (PSA) are tough operating environment caused by structural shifts, such as ship upsizing, overcapacity, changes in liner alliances and the effect of prolonged period of low oil prices.

Steps taken

Over the years, Singapore has made cuts in port fees which was one of the factors that it is able to maintain high competitiveness. In 2004, the Maritime and Port Authority of Singapore (MPA) after consultation with stakeholders, implemented a new pricing schedule, bringing savings up to S$2.5 million a year for shippers.

In 2013, MPA reviewed the port's dues structure, leading to lower port dues. Port dues are lowered for up to 83 per cent. This would mean shippers which dock in Singapore can save up to about S$22 million a year. The revised fees benefit ships that can turn around fast. Long-staying vessels may have to pay higher fees[108]. A 20 per cent

[106] BT – Singapore's container port faces productivity question
[107] The Economist (2016) – Challenges ahead for Singapore
[108] The Straits Times – Lower dues and other perks make S'pore port more attractive

concession on port dues was also made permanent. The maritime welfare fee introduced in 2012 has also been waived.

Singapore ports also offer incentives and discounts for ships to become ecologically sustainable, with a S$100 million Maritime Singapore Green Initiative. Examples include:

- rebates up to 25 per cent for ships that burn cleaner fuels
- Singapore ships that adopt designs that reduce fuel consumption and emissions will pay only one-quarter of their registration fees
- Waiver of five years of port dues for new vessels fueled with liquified natural gas (LNG), a much cleaner energy source compared to coal and fuel oil.

Work to expand container handling capacity and strengthen Singapore's position as the world's largest transhipment hub is underway, expanding the Pasir Panjang Terminal and building the Tuas mega-port. For the upcoming Tuas mega-port expansion project, local restrictions on price increases are in place to remain competitive in South East Asia. This means that shippers are unlikely to have to pay more when cargo operations start in Tuas.

28.1.1.2 Indonesia

Context

The Indonesian Chamber of Commerce and Industry (Kadin) is urging the government to take action to reduce tariffs at ports and revitalise transportation facilities, in order to improve competitiveness of local products overseas. Indonesia's logistics cost were currently among the highest in Asia. Logistics costs accounts for 17-20% of the price of most goods. Further complains made include shipping lines imposing an "illegal" THC rate on Indonesia that was higher than other countries in the region.

Further, Indonesia's regulatory framework leaves little room for shipping agencies to optimise costs as most tariffs are set by the government. Business associations have the power to approve those tariffs on behalf of ship owners[109]. For instance, the Indonesian National Ship Owners' Association (INSA) has the power to approve tariffs on behalf of all shipping lines (often without consulting shipping lines). This mainly stems from the lack of privatisation in Indonesia's ports.

Indonesia's logistics performance is ranked one of the poorest among ASEAN countries. Despite low ranks, port operators were found to be increasing THC, among other charges. Besides increasing port fees, shipowners were concerned about

[109] World Bank - The Republic of Indonesia Study on Trade in Logistics services Analysis (Dec 2016) <http://documents1.worldbank.org/curated/en/232691540822189989/pdf/Analysis.pdf>

waiting times of container ships, which stood at six compared to an average three-day waiting time in major regional ports.

Steps taken

The Minister of Transportation released a ruling which slashed THC of containers and costs of processing bills of lading. Some of these changes include[110]:

- Cutting THC on 20' containers from $150 to $90
- Cutting THC on 40' containers from $230 to $145
- Cutting processing fee of bills of lading from $30-40 to $10

A special government team for improving trade facilitation suggested that the government should assist local private sector in negotiating with international shipping lines for a significant cut in THC. It was further suggested that shipping lines include THC as a component in their overall ocean freight rates. [111]

Overall, Indonesia's performing in the LPI has seen an improvement over the years, from rank 63 in 2016 to rank 46 in 2018[112]. To further improve port competitiveness, Indonesia now aims to introduce more private sector participation into their ports (in turn, increase investment), and increase state withdrawal from port operations[113]. Recommendations to increase autonomy include:

- Implementing cost-recovery principles and transparency when setting port tariffs
  Tariff rates, wherever they are set by the regulator, should be commuted on a cost recovery basis.

- Enhancing Port Authorities' capacity to fulfill their mandate
  Port authorities should be constituted in a manner that allows them to retain revenue and to be used to reinvest in ports, demanding proper accounting of income and expenditure

- Leveraging port tariffs to support development of non-container sectors

Port Authorities to have freedom to apply suitable tariff control instruments, on a cost-recovery basis.

110 Cutting port handling costs (14 Nov 2005) <https://www.joc.com/port-news/terminal-operators/indonesia-pushes-lower-handling-costs-ports_20170420.html>
111 Govt asked to help lower port fees (11 May 2005)
112 The World Bank - Logistics Performance Index (2018)
113 IFC - Review of Port Tariff Structure and Levels in Indonesia (Sep 2019) <https://www.ifc.org/wps/wcm/connect/f2af7a4f-c17b-447d-ae5b-487ecf982f4b/Port+Tariff%252Bcase+studies+FINAL.pdf?MOD=AJPERES&CVID=m.RbMpP>

28.1.1.3 Thailand

Context

In 2014, at least 7 shipping lines that Thai shippers use have announced increases in terminal handling charges for dry containers by up to 74%, depending on container size, some increases include:

- New THC rates for 20-foot container will be 4,400 baht, up by 69.2%.
- New THC rates for 40-foot container will be 6,800 baht, up by 74.4%
- Cashing document fees will increase approximately 33%, 1,200 baht a set from 800 baht
- Container closure fees increase up by 25%, 200 baht per container from 150 baht
- Container lifting from no charge to 280 baht for a 20-foot container and 560 baht for a 40-foot container

The new rates will be applied at first by seven foreign shipping lines, all based in Asia — Evergreen Line, Yang Ming Marine Transport Corporation, Hanjin Shipping, Wan Hai Lines, China Shipping Container Lines, Orient Overseas Container Line and SITC Hong Kong. Furthermore, another 20 international lines are also preparing to raise their fees.

Thai exporters, particularly SMEs will be affected, given their comparatively low competitiveness and bargaining power. The Thai National Shippers Council (TNSC) calculated that the THC increases alone will cost Thai exporters almost Bt7.05 billion per year, not including other fees such as documentation and administration fees, lift on/off charges, reefer monitoring fees, etc.

Steps taken

After a meeting between the Internal Trade Department with the Thai National Shippers' Council (TNSC) and the Importers and Exporters Association, the Price of Goods and Service Act was implemented to curb THC price hikes. Thai authorities met up with foreign shipping lines to help negotiate against a planned rise in the THC at the country's ports. Authorities also requested that the shipping lines explain the reasons for their increase, given the reducing crude-oil prices at the time.

Should negotiations fail and there is clear evidence of profiteering and conducting unfair trade practices, authorities will be eligible to use trade and service regulations to control shipping costs.

It was also proposed to set up a maritime-transport cost structure in order to make known the actual cost of each export process, and establishing a panel to determine freight and other sea-port expenses[114].

For the long term, controls on the cost of maritime services will be included under the Act on Price of Goods and Services to prevent unfair price increases.

28.1.1.4 Vietnam

Context

In 2020, Vietnamese shippers have been struggling due to the price hikes of shipping companies of two to 10-fold in sea freight fees. The Vietnam Association of Seafood Exporters and Producers (VASEP) stated that:

- Container rental from the UK risen from $ 1,420 to $7,200
- Container rental from Los Angeles risen from &700-1,000 to $5,000 per container
- Container shipping rate from Thailand to Vietnam risen from $60 to $600

Congestion has been a concern arising from strict border controls and limited trade activities during the prolonged COVID-19 pandemic. The increased demand had led to imbalance between volume of goods exported and imported since 2020, leading to freight rates increasing significantly, up from less than &1,000 to $10,000[115]. This has sharply driven expenses for exporters and raised concerns over lack of transparency and inadequate price management[116]. Besides rising freight rates, businesses could not occupy room on ships due to lack of empty containers.

Steps taken

Following complaints from forwarders, the Vietnam Maritime Administration (VMA) had requested shipping companies to submit in detail freight fees back to the agency, which must be in line with the law, detailing regulations on publishing of fees and surcharges of ocean container shipping and seaport charges. VMA had also requested shipping firms to prepare sufficient amount of 40-feet empty containers to support export activities.

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114 ThaiNews (2014) – Thai National Shippers Council urges government to help solve rising shipping costs

115 Viet Nam News (2021) – Maritime administration to inspect shipping rates hike - https://vietnamnews.vn/economy/864624/maritime-administration-to-inspect-shipping-rates-hike.html

116 Hanoi Times (2020) - Vietnam Maritime Administration urges transparency in container shipping rates - http://hanoitimes.vn/vietnam-maritime-administration-urges-transparency-in-container-shipping-rates-315649.html

VMA has also set up a task force to ensure shipping companies comply with the government's Decree No. 146, which details regulations on publishing fees and surcharges of ocean container freight and seaport charges.[117] The task force, chaired by VMA and includes 13 members from Ministry of Transport and Ministry of Industry and Trade, is responsible for addressing complaints from forwarders for unreasonable surge in container shipping rates. The aim is to remove difficulties for export activities and ensure transparency in the listing of freight prices.

In cases where shipping firms are found to deliberately quote prices different from their shipping policies approved by competent authorities, the fine would amount to VND5 million (US$ 215.5 million).

VMA also directed port authorities to coordinate with state management agencies at seaports to speed up the procedures for ships entering and leaving the ports. A petition has also been sent to the customs forces to speed up the clearance of backlogged containers.

28.1.1.5 Sri Lanka

Context

From 1991, shipping surcharges including THC have negatively impacted the import and export industry. Shippers were required to pay additional charges on top of freight charges in order to move their goods. In most cases, surcharges demanded amount to more than the freight charge. The practices were regarded as unfair and unrealistic.

Traditional freight rates that included all charges up to the point consignee receives cargo. However, the introduction of THC caused the interpretation to become "port-to-port" that covers only the sea leg, while on shore costs of using the container terminal were charged. The separation of ocean freight rates from other surcharges including terminal charges which have increased overall shipping charges.

Steps taken

The Sri Lankan Government in 2014, proposed to set up a Merchant Shipping Authority by introducing amendments to the merchant Shipping Act, in order to prevent monopoly in pricing in the shipping trade. Shipping lines will no longer be permitted to levy terminal handling and other charges in addition to freight.

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[117] Hanoi Times (2021) – Vietnam Maritime Administration sets up task force to inspect container shipping rates - http://hanoitimes.vn/vietnam-maritime-administration-sets-up-task-force-to-inspect-container-shipping-rates-316452.html

Ultimately, all surcharges will be incorporated to freight, establishing an all-inclusive freight rate addressed at the longstanding grievance of the industry. The decision resolved the THC issue where shipping lines arbitrarily and unilaterally introduced THC. It also stopped large amounts of surcharges billed and collected locally[118].

Through the regulation majority of the unfair and unethical malpractice came to an end. The Sri Lankan Government is aiming to improve the ease of doing business and trade facilitation through promotion of Free Trade Agreements (FTAs).

28.1.1.6 Australia

Context

Port access fees (also known as infrastructure charges) have been increasing since 2017, of more than 3,000 per cent. This not only led to rising logistic cost, but these cost were likely to be passed on to consumers[119]. It was found that there was also a lack of pricing transparency.

There have also been concerns of “congestion” fees being charged by shipping lines on goods brought into Australia. The congestion surcharge was imposed on top of other fees, including customs clearance, port access and freight charges. The charges have raised the cost of doing business, particularly for importers[120]. According ACCC’s Container stevedoring monitor report[121], average lift revenue charged by stevedores to shipping lines decreased over 28%, yet terminal handling charges imposed by carriers on shippers were increasing.

Steps taken

In 2020, the Australian Government commissioned a review into the issue and announced new guidelines to ensure that port infrastructure price increases are kept to reasonable levels.

Under the scheme:

- Advance notice must be given to the governments about price hikes, and provide justification for any changes

[118] Daily FT (2016) Reforms in the shipping industry
[119] Trucking charges at Australian container ports are surging and consumers may foot the bill - https://ndh.org.au/news/trucking-charges-at-australian-container-ports-are-surging-and-consumers-may-foot-the-bill/
[120] ‘Too unbearable’: Importers call for congestion-fee inquiry <https://www.afr.com/companies/infrastructure/too-unbearable-importers-call-for-congestion-fee-inquiry-20210128-p56xf6>
[121] ACCC (2020) - Container stevedoring monitoring report 2019-20.pdf (accc.gov.au)

- Changes will be limited to once a year, but the price charge will not be further regulated by the government.
- Final notice of the new prices must be issued 60 days prior to the date of proposed increase

The scheme will be subject to change through consolation of transport companies and other parts of the industry and will go through a 12-month trial. It was also suggested that the Australian government create a new agency similar to the US' Federal Maritime Commission and that authority review fees charged by shipping lines.[122] Representatives from the Freight and Trade Alliance has also been pushing for increased regulatory oversight of shipping lines. ACCC also noted in their report that new fees will be monitored closely, and if they become embedded fees borne by importers and exporters, appropriate action will be taken.

28.1.1.7 India

Context

There was an overall lack of transparency in India's logistics sector. THC is supposed to be a reimbursement of the actual amount paid by shipping lines to the ports, terminals and other service providers. However, in India, this was not the case in practice. Shipping lines were collecting THC which were different from what the shipping lines have paid as THC to the port. Shippers were imposed substantial amounts of THC, often exceeding 70-80% of ocean freight. Exporters further claimed that shipping lines were resorting to a "double-dipping" by using THC to pass on trade risk to shippers[123].

The Indian Government had issued directives that allow shippers to bypass carriers and pay THC directly to terminal operators. However, shipping lines were found to increase administrative costs to recoup their reduced revenue due to THC cost reduction[124]. These ad-hoc charges were found to be unreasonable and decided arbitrarily, being inconsistent with the services rendered.

Steps taken

To address shipper concerns over a lack of transparency into logistics costs, Indian government, through customs advisory, issued directives that allow shippers to bypass

[122] Herald Sun (2020) – Rules to stop port fees sailing north
[123] India may follow Sri Lanka in banning terminal handling charges (13 Dec 2013) <https://www.livemint.com/Opinion/pNZckQgUmmqhpqUfvRNzyJ/India-may-follow-Sri-Lanka-in-banning-terminal-handling-char.html>
[124] JOC (2020) – Indian regulators tell carriers to refund ad-hoc terminal fees - https://www.joc.com/port-news/international-ports/indian-regulators-tell-carriers-refund-ad-hoc-terminal-fees_20200319.html

carriers while settling THC related to direct port delivery (DPD) shipments. DPD is a fast-track mode for clearance of imports, where varied terminal charges have been an issue.

It was decided that importers having authorised economic operator (AEO) status, and those who are availing DPD facility for containerised cargo will be allowed to pay THC directly to terminal operators instead of paying through shipping lines[125].

Indian authorities hope to identify and eliminate any variance in THC as a result of potential markups between what a terminal operator charges and what the carrier collects from the shippers.

After this, carriers have decided to increase arbitrary "administrative levy" to offset the THC cost reduction. Indian officials have also asked shipping lines to return any charges they had improperly collected from shippers in defiance of the recent customs reforms meant to regulate THC. All charges paid on these increased levy shall be liable to refund with interest. Regulators have also called on the Container Shipping Lines Association (CSLA) leadership to immediately revoke any authorisations given to shipping lines regarding the "administrative levy".

The Indian Government is also considering adopting Sri Lanka's approach to ban THC, and to prohibit shipping lines from levying THC and other charges in addition to freight rates.

[125] JOC (2020) – JNPT customs joins Indian crackdown on carrier terminal pricing - https://www.joc.com/port-news/international-ports/jnpt-customs-joins-indian-crackdown-carrier-terminal-pricing_20200121.html

28.1.2 Motor vehicle warranty claim restrictions

28.1.2.1 Singapore

Context

In 2015, the Competition Commission of Singapore **("CCS")** had concluded their inquiry in November 2015 that looked into how the automotive parts industry works and its effect on the competition in the country. The main areas the inquiry was concerned with included:

1. the limitation of the number of authorised workshops and the dealership and/or the car manufacturer in turn limit the authorisation to workshops linked to the relevant car dealership;
2. resale price maintenance and requirement by car manufacturers on the use of Original Equipment **("OE")** parts by authorised workshops;
3. car manufacturers may be limiting the supply of diagnostic tools and information to independent workshops; and
4. warranty terms and conditions that require non-warranty related servicing and repairs to be carried out at authorised workshops in order for the car warranty to remain valid.

Prior to this inquiry, it was discovered that there were various conditions that would void a customer's car warranty. Although, the most alarming of conditions were related to the maintenance and repair of the car. Many car dealers had included a clause in their warranty stating that:

- "maintenance and repairs are carried out by unauthorised workshops, including maintenance/repairs which are not covered by the warranty"; and
- "maintenance and repairs are carried out by using non-OE parts or other specified parts recommended by the car dealer."

These restrictions gave car dealers the right to void car warranties or reject warranty claims if the car has been serviced and/or repaired at an independent workshop, regardless of whether the damage or defect to be claimed under the warranty is in fact caused by the independent workshop. Such restrictions could and were blatantly affecting the ability for independent workshops to compete effectively with authorised workshops.

Measures/Recommendations

The CCS found that the first and fourth issue were correlated as the limitation on number of authorised workshops dealt with addressing car dealers' restrictions require car owners to service and repair their cars with authorised workshops.

In the efforts to address the concerns regarding warranty restrictions, CCS met with nine major authorised car dealers and several of their car manufacturers, and sought their cooperation to remove the warranty restrictions[126]. The manufacturers agreed to do so. The car dealers would not be able to void such car warranties based on prior draconian restrictions, however it was established that the car dealers would be able to void car warranties or reject claims only if they find that the damage or defect to be claimed under the warranty is in fact caused by independent workshops[127].

The removal of the warranty restrictions will facilitate a more competitive market for car repairs and servicing, with more choices for car owners, and opportunities for existing and new independent workshops. Market participants and consumers are encouraged to report any potentially anti-competitive business practices to CCS[128].

In relation to the second and third issue, the CCS had found that the impact on the competition at the point of inquiry to unlikely be substantial[129]. The Commission had mentioned that it was found that the importation and wholesale distribution of car parts are generally competitive however car parts can be obtained from a large number of suppliers located in Singapore and overseas. Although there is limited supply for parts which are replaced infrequently or that belong to niche models, CCS said this is due to the small number of buyers and sellers in the market and nothing else[130]. CCS also found that technical information, equipment and diagnostic tools are generally available. This is despite car manufacturers and their authorised car dealers not supplying such inputs to independent workshops[131].

28.1.2.2 European Union[132]

Context

[126] CCCS - Major Car Dealers Amend Warranty Terms that Restrict Competition for Car Servicing and Repairs (last updated on 19 Feb 2019) https://www.cccs.gov.sg/media-and-consultation/newsroom/media-releases/major-car-dealers-amend-warranty-terms
[127] Car Repairs in Singapore – Is The Lift on Warranty Restrictions a Big Deal? (29 Dec 2017) https://blog.moneysmart.sg/transportation/car-repairs-singapore-warranty/
[128] CCCS - Major Car Dealers Amend Warranty Terms that Restrict Competition for Car Servicing and Repairs (last updated on 19 Feb 2019) https://www.cccs.gov.sg/media-and-consultation/newsroom/media-releases/major-car-dealers-amend-warranty-terms
[129] CCCS - Market Inquiry on Car Parts in Singapore (last updated on 17 Jan 2019) https://www.cccs.gov.sg/resources/publications/market-studies/market-inquiry-on-car-parts
[130] Car dealers to remove warranty restrictions to allow independent workshops to compete (11 Dec 2017) https://assureinsurance.com.sg/car-dealers-to-remove-warranty-restrictions-to-allow-independent-workshops-to-compete/
[131] Car dealers to remove warranty restrictions to allow independent workshops to compete (11 Dec 2017) https://assureinsurance.com.sg/car-dealers-to-remove-warranty-restrictions-to-allow-independent-workshops-to-compete/
[132] AAAA - International Regulatory and Industry Frameworks for Accessing Repair and Service information (Feb 2017) https://www.aaaa.com.au/policy-advocacy/submissions/supplementary-submission-to-the-accc-barriers-to-accessing-repair-and-service-information/

In the automotive sector, focusing on aftermarket, it was found that there were obstacles in order to access repair networks. This was seen to be due by car dealers/manufacturers limiting the number of 'authorised repairers' customers could go to for repairs, through direct or indirect quantitative selection. The car manufacturers were found to be misusing the terms of a warranty. Manufacturers could legitimately refuse to honour a warranty claim if the car was repaired / serviced at an independent workshop.

Additionally, limiting distributors' or repairers' ability to buy spare parts from third parties can be recognised as an anti-competitive behaviour in the market. The refusal and difficulty to supply information to independent operators due to a lack of implementation details may lead damage to both vehicles and consumer safety as well as the inability for independent operators to compete effectively in repair works.

Measures/Recommendations

Following the expiry of the Block Exemption Regulation No. 1400/2002 on 31st May 2010, the European Commission has introduced a new competition law framework for the automotive sector focusing on aftermarket issues. This has been applied in the market since the 1st June 2010 and will be applied until the 31st May 2023.

The first initiative was to achieve effective competition in the market through emphasizing that all operators can access the technical information necessary to do the repairs and maintenance on increasingly sophisticated vehicles. Any information communicated to the members of the authorised networks should be made available to independent operators which includes "technical information for the repair and maintenance of vehicle". This information must be provided in a non-discriminatory manner and at a fair price and in useable form.

The second initiative pertains to independent repairers being able to carry out regular maintenance and repairs during the warranty period. Vehicle manufacturers may not make the warranties conditional on the repair and servicing of a vehicle within their network, or on the use of their own branded spare parts. Consumers have the right to use any repair shop for non-warranty work, during both the statutory period (two years in most EU member states) and any extended warranty period. However, statutory liability requires that anyone who damages a vehicle as a result of negligent work or use of defective parts is liable for it.

The new competition law framework also confirms that vehicle manufacturers may not hinder their original equipment suppliers from also supplying their products as spare parts to independent distributors or directly to independent or authorised repairers. Independent repairers are free to purchase and to use any parts or equipment, "original parts" or "parts of matching quality", for the repair and maintenance of vehicles as long as these fulfil the legal requirements. However, there are criticisms and weaknesses to this initiative as independent repairers should be able to source any part, including "captive" parts, from the wholesale level (and not from their direct competitors) and at wholesale price in order to truly compete with the authorised repair network.

28.1.2.3 South Africa[133]

Context

The Competition Commission had begun investigation as it was triggered by complaints by consumers as well as independent operators regarding anti-competitive behaviours in the sector. Motor and insurance companies were allegedly using exclusionary agreements to shut out independent operators from the maintenance and repair market.

The allegations include:

- exclusionary agreements / arrangements between OEM and approved motor-body repairers
- exclusion / foreclosure of independent service providers in the markets for service and repair
- unfair allocation of work by insurers
- restrictions on the sale of original spare parts

The Commission also allege that insurers have allocated work to an unjustifiably small number of panel beaters and repair shops, to the exclusion of smaller operators.

Measures/Recommendations

The Competition Commission's final guidelines for competition in the automotive aftermarket will take effect from 1 July 2021.

Car manufacturers will allow customers to seek service, maintenance, and mechanical repair work from any service provider of their choice without risking their warranty. Independent dealers will have to meet quality standards set by motor companies, which will be expected to provide training at a reasonable cost. OEMs and/or approved dealers are required to provide training to access to training to employees of independent repairers who request training, at a reasonable cost that may not exceed that imposed on employees of approved dealers. This includes security-related

[133] Competition Commission South Africa - Guidelines for Competition in the South African Automotive Aftermarket (10 Dec 2020)

information that permits access to cars' security systems, including coding and programming, software, and safety systems.

Additionally, service plans and maintenance plans for the vehicle will be separated at the point of sale from the purchase price of the vehicle. This would allow customers to exercise choice regarding whether to purchase the service or maintenance plan. Customers will know exactly what the plan costs, and can make a more informed decision.

The buyer should also be informed of details of all inclusions and exclusions included in the maintenance or service plan beforehand – including the average price for each service interval, the average price of the parts that commonly require replacement at specific kilometer intervals, or upon the vehicle reaching a specific age.

The guidelines also address the fitting of “original” (parts with the manufacturer’s branding) or non-original spare parts (the same parts, but without the branding). Consumers must be able to use non-original spare parts from any provider, without risking their warranty. Mechanics will be allowed to use any parts certified to the same standards. Car manufacturers may only put restrictions on items linked to the car’s security system. If the non-original part damages the car, the car manufacturers must conduct an assessment at its own cost to determine the cause of the damage, and if the warranty can be voided. The car owner must then claim from the part provider.

28.1.2.4 Australia

Context

Access to technical service and repair information was a major focus of the ACCC's market study into new car retailing. Access to technical information has been contentious for some time, with considerable efforts made by industry and Government to address it.

The Australian Competition and Consumer Commission **("ACCC")** found that the market was not adequately protecting consumer rights with respect to vehicle purchase and ownership. There was evidence that this market does not operate with clear and transparent information, does not allow consumers to make informed purchasing decisions, consumer rights were not widely understood, and access to remedies were difficult.

Measures/Recommendations

It was recommended that a mandatory scheme to share technical information with independent repairers on 'commercially fair and reasonable terms'. This should include real-time access and appropriate safeguards to enable the sharing of environmental, safety and security-related technical information[134].

There must not be misleading statements provided in logbooks and service manuals. This includes statements that may mislead consumers that their new car must be serviced only by an authorised dealer to maintain the warranty when no such condition exists. Misleading and deceptive conduct, or misrepresentations will be targeted through action by the ACCC, including enforcement action where appropriate[135].

It was recommended that consumers are further educated on Australian Consumer Law (ACL). There's no obligation for the consumer to have the car serviced by a car dealership during the standard factory warranty period. While the car is under warranty (and at any time after), consumers have the right to have the vehicle serviced by an independent repairer without voiding your warranty. However, the work must be done using appropriate quality parts, trained technicians and according to the timings outlined in the vehicle's service schedule.

Further educate consumers about the differences between the consumer guarantees, warranties against defects and extended warranties. Dealers and manufacturers

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[134] Driving reform in the automotive market, 4 May 2018 https://www.accc.gov.au/speech/driving-reform-in-the-automotive-market
[135] Car warranties (last updated Nov 2020) https://rac.com.au/car-motoring/info/car-warranties

should not make broad statements that consumers will 'void their warranties' or similar if they go to an independent repairer. Consumer guarantee rights cannot be excluded by contract. The consumer guarantees apply regardless of any other warranty offered by a manufacturer and there is no requirement under the ACL for a vehicle to be serviced by a dealer for the consumer guarantees to apply[136].

In the event that consumers do require repairs that are covered under the warranty, they shall return the vehicle to the dealer for the warrantable repairs to be carried out at the manufacturer's expense. If the dealer refuses to make the repairs within a reasonable period of time or not at all, the vehicle owner can have the repairs done elsewhere and, provided it was a repair covered under the warranty, they can seek to recover 'reasonable costs 'from the dealer[137].

ACCC was also clear on the point that any qualified mechanic can service the vehicle and fill out the logbook as long as they fulfil the requirement.

[136] Australian Automotive Aftermarket Association - Australian Consumer Law Review (Dec 2016) https://consumerlaw.gov.au/sites/consumer/files/2016/12/Australian-Automotive-Aftermarket-Association.pdf
[137] Car warranties (last updated Nov 2020) https://rac.com.au/car-motoring/info/car-warranties

28.2 Glossary for port logistics and transportation

28.2.1 Port, cargo and shipment terminologies

Terminologies	Definition
Breakbulk cargo	Cargo that is shipped in unitized form such as palletised, bagged, strapped, bundled, drummed and crated but is not containerized. 
Breakbulk vessels	Used for the carriage of breakbulk commodities.
Bulk vessels	Used for the carriage of bulk commodities.
Container vessels	Used for carrying 20', 40' and 45' containers. Vessels capacities vary, ranging from 85 TEUs to 15,000+ TEUs
Crude carrier	Used for the carriage of crude oil.
CFS/CFS	A shipment, where the goods are delivered at CFS for grouping (consolidating) them together for a specific destination. Usually, this occurs in case of LCL shipment. The goods are delivered at the destination CFS where they are de-consolidated. Such shipment is called LCL/LCL shipments and will have multiple Shippers and multiple consignees.
CFS/CY	This is usually a buyer consolidation shipment. The cargo is consolidated or grouped together at a CFS at Origin port ("**LCL**"). However, at the destination port, the delivery of the container happens at a container yard ("**FCL**"). Hence such shipments are also called LCL/FCL shipments and have multiple shippers and single consignee.

CY/CFS	When cargo is picked up from container yard at origin port ("**FCL**") but delivered to a CFS at the destination port ("**LCL**") for de-consolidation, the term mentioned on the B/L is CY/CFS. Such shipments are also referred to as FCL/LCL shipments and will have single shipper and multiple consignees.
CY/CY	An FCL shipment, where the packed containerised cargo gets picked up at container yard at origin port and would get delivered at destination port Container Yard to the consignee. In this case, the carrier liability starts at CY of origin port and ends at CY destination port. Such shipments are also referred to as FCL/FCL shipments and will have a single Shipper and Consignee.
Depot	A designated area for empty containers.
Dry bulk cargo	Dry cargoes such as Iron ore, Grain, Coal, Alumina and Phosphate are carried in loose form, (i.e. the cargo is not packed) and loaded directly in the holds of the ship   
LNG carriers	Used for the carriage of Liquified Natural Gas.
Reefer vessels	Used for the carriage of frozen cargoes / temperature-controlled / perishable goods like fruits, meat, fish, etc.
Ro-Ro vessels (roll-on roll-off)	Used to transport wheeled cargo like vehicles, trucks, excavators, etc.
Tanker vessels	Used for the carriage of various liquid bulk commodities.
Tare / Unladen weight	The weight of an empty container
Transhipment	A transhipment is when cargo / container is moved from one vessel to another vessel while in transit to its final port of destination.

Wet / Liquid bulk cargo	Free-flowing cargoes such as crude oil, liquefied natural gas and chemicals, which are not boxed. Usually transported by ships that are referred as tankers. Liquid bulk cargo is generally classified into edible, non-edible, hazardous and non-hazardous liquids.  

Note: Non-exhaustive

28.2.2 Supply chain stakeholders

Stakeholders	Definition
Customs (customs authority)	The Customs Department can be regarded as "the key border agency" responsible for all transactions related to issues arising from the border crossings of goods.
Customs brokerage License	Corporations, partnerships and associations must have a broker license to transact Customs business. Each of these businesses must have at least one individually licensed officer, partner or associate to qualify the company's license.
Consignor / Shipper / Exporter	The party who contracts with the carrier to carry goods from point of origin to the destination. Also known as "Consignor or Exporter" in certain documents.
Consignee / Importer	The party receiving / placed order for the goods is called "the Consignee or Importer".
Container depot operators (CDO)	Manage one or several container terminals where containers are picked up, dropped off, maintained and stored (loaded and empty containers). CDOs also carry out maintenance, inspection and repair of containers.
Container freight station	Primarily used for less than container load shipments. Refers to a warehouse where goods belonging to various exporters or importers are consolidated (grouped) or deconsolidated (de-grouped) before being exported or after being imported respectively.
Container yard	Primarily used for full container load shipment. Refers to an area within the port where containers are stored before loading on to the vessel or after unloading from the vessel/ship after it arrives. 

Forwarding agents (customs broker)	A company approved under section 90 of the Customs Act, 1967 to make customs entries and obtain customs clearance of the goods on behalf of the exporter or importer. Also referred to as "forwarding agent" under the Customs Act, they are private individuals, partnerships, associations or corporations licensed, regulated and empowered by Customs to assist importers and exporters in meeting regulatory requirements governing imports and exports.
Freight forwarder (Forwarder)	An independent service provider (intermediary) who, at the request of the Shipper or Consignee, plans and provides the necessary services for expediting the shipment to its destination. Generally, a freight forwarder would combine various Less than Container Load ("**LCL**") shipments to make a full container and takes care of documentation needed to move the shipment from origin to destination.
Port operators	Manages port operations dealing with container and conventional cargo. Provides a wide range of port services, including marine services, rental services and other ancillary services.
Shipping lines	Carriers of cargo from one port to another port using ships.

Note: Non-exhaustive

28.3 Ipsos approach

28.3.1 Context understanding

We will commence the market review by having an in-depth consultation with MyCC to:

a. Obtain information currently available;
b. Seek clarification of the information, if necessary;
c. Understand specific needs to be addressed and any key focus areas;
d. Discuss hypothesis / assumptions by MyCC with regard to anti-competitive practices in the transportation industry, which will be further validated during the market review;
e. Discuss the proposed transportation sub-sectors to be covered;
f. Finalize the methodologies for the study and obtain relevant support if needed; and
g. To brief MyCC on the key activities, work process and timeline, as well as involvement required from MyCC.

Coupled with in-depth interviews with stakeholders, we will also be organising multiple working group discussions through the market review, as well as a public consultation and expert panel group towards the end of the market review. These group discussions and public consultation aim to serve as a platform to:

a. Obtain on-the-ground insights and clarify on existing information;
b. To refine preliminary hypothesis and define relevant sub-sectors for review;
c. Understand on-the-ground issues faced by the stakeholders related to the transportation sector;
d. To consider recommendations from stakeholders on how to improve market inefficiencies and competition issues;
e. Share the key findings of the market review with the stakeholders;
f. Validate the findings as well as recommendations;
g. Seek additional insights to refine and finalize the recommendations; and
h. Create awareness of the measures that will be implemented to address the anti-competitive issues identified and obtain the necessary support.

At the same time, an extensive secondary research will be performed to obtain all relevant market information and statistics for market and competitiveness analysis, benchmarking with other countries as well as cross-checking with primary data. The key sources of information will include:

a. Internal Ipsos library (local and regional past studies on transportation, white papers, specialist databases);
b. Government publications and statistics;

c. Industry reports, articles and statistics (e.g. Annual reports, publications by local / regional / global associations and institutes, independent industry data providers, etc.);
d. Local, regional and international news articles; and
e. Academic research publications.

28.3.2 Industry structure analysis and market assessment

Next, prior to deep-diving into the proposed transportation sub-sectors, we will adopt a four-pronged approach to identify and verify key transportation service providers for each sub-sector with potential competition concerns.

These proposed transportation sub-sectors will be further analysed during the market review where additional sub-sectors may be identified.

Figure 28-1: Ipsos' approach for verifying transportation sub-sectors

The verification process will primarily be derived through:

a. Extensive secondary desk research on news and articles that have highlighted recent issues, inefficiencies and possible anti-competitive behaviours; and
b. Preliminary feedback from industry players:
   i. Verification with industry players / service providers (n = 20 – 25)
      - Shippers (consignees and consignors)
      - Storage and warehouse service providers
      - Port authorities
      - Terminal handling / operators
      - Cargo handling services
      - Freight forwarders
      - OEMs
      - Etc.
   ii. Verification with industry associations:
      - Malaysian National Shippers Council (MNSC)
      - Federation of Malaysian Manufacturers (FMM)

- Shipping Association Malaysia (SAM)
- Federation of Malaysian Freight Forwarders (FMFF)
- ASEAN Ports Association Malaysia (MAPA)
- Maritime Institute of Malaysia (MIMA)
- Malaysia Automotive Association (MAA)

iii. Verification with regulators / government agencies:
- Royal Malaysian Customs Department (JKDM)
- Ministry of Transport (MOT)
- Ministry of International Trade and Industry (MITI)
- Ministry of Domestic Trade and Consumer Affairs (KPDNHEP)
- State / Local authorities

c. Subject matter experts

Depending on the respondents and final transportation sub-sectors to be covered, this verification process may form a part of the qualitative interviews that will be conducted during the market review. Additional interviews for further validation will also be conducted if necessary.

28.3.3 Market assessment

Once the transportation sub-sectors have been finalized, we will proceed to conduct an in-depth market assessment along the supply chain and identify the roles of the confirmed transportation service providers, with specifics on prices / charging fees, possible anti-competitive conducts and efficiency levels.

We will identify all existing industry players and alliances across the supply chain. Our analysis will include:

a. Industry structure
   i. Market structure and development
   ii. Industry news and trends
   iii. Market size
   iv. No. of industry players and key players
   v. Market share and segmentation
   vi. Regulations and legislations
b. Key players' profiles
   i. Involvement in supply chain levels
   ii. Vertical integration
   iii. Geographical coverage
   iv. Subsidiaries
   v. Revenue and growth

Some of the key questions which we will aim to address for the market structure include:

a. What is the market size for each of the transportation sub-sector?

b. Who are the key players in each level of the supply chain?
c. What is the market share of each player contributing to the supply chain?
d. Who are the vertically integrated players and how would their economies of scale impact the market?
e. If the market is highly concentrated, what does it mean and how would it impact competition?

From the perspective of regulations, we will map relevant acts and policies in the transportation industry to identify if there are any unfavourable or outdated acts / policies that need to be addressed.

Table 28-1: Examples of related acts and policies in the transportation industry

Sectors	Enforced regulations
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)
Storage and warehousing	• Relevant Local Regulation of each state • Section 65 of Customs Act 1967
Freight transport agency services & Haulage and Bonded Services	• COGSA 1950 • Customs Act 1967 • Land Public Transport Act 2010

Other Auxiliary Services	• Customs Act 1967 for freight brokerage services:
	    ○ Freight receiving & acceptance services
	    ○ Transportation document preparation services

At the same time, we will also review the multiple initiatives and policies to understand if there are regulations that may be impeding competition. These policies will include:

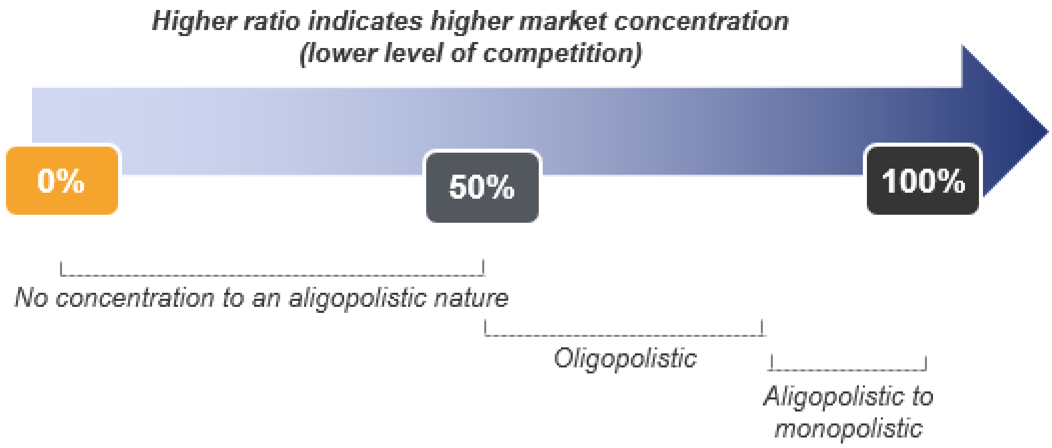
a. Logistics and Trade Facilitation Masterplan (2015 – 2020);
b. 11th Malaysia Plan (11MP);
c. Third Industrial Master Plan 2006-2020 (IMP3);
d. National Land Public Transport Master Plan (NLPTMP);
e. National e-Commerce Strategic Roadmap (NESR);
f. National Transport Policy (2019 – 2030); and
g. National Automotive Policy (NAP) 2020.

To measure the market concentration for each transportation sub-sector, we will compute the Concentration Ratio (CR) and Herfindahl-Hirschman Index (HHI).

28.3.4 **Concentration Ratio (CR_N)**

CR indicates the extent of market control of the N largest companies in the market, i.e. CRN = total market share of the N largest companies in the market. For instance, CR_5 = 70% denotes that the five largest companies in the market have a combined market share of 70%.

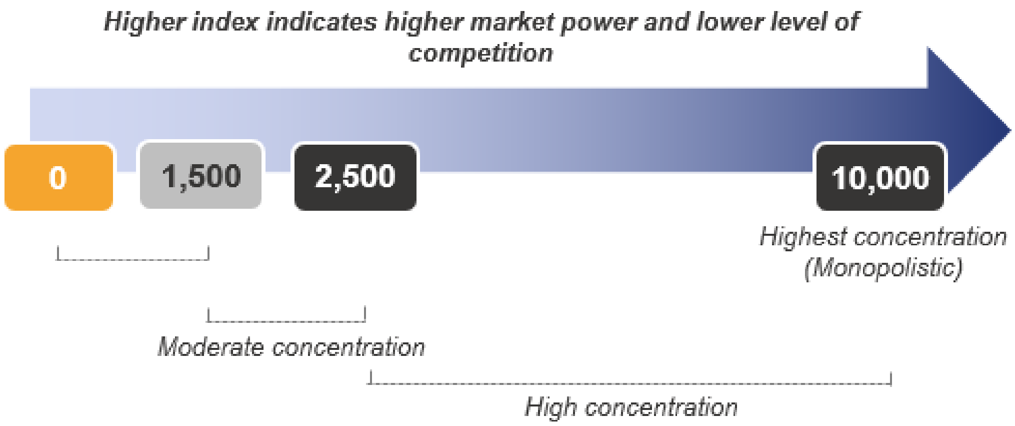
Figure 28-2: Concentration ratio



28.3.5 **Herfindahl-Hirschman Index (HHI)**

HHI is a commonly accepted measure of the level of competition that exists within a market, which also provides an indication of how the distribution of market share occurs across the companies included in the index. It is calculated by squaring the market share of each company competing in a market, and summing the resulting numbers.

Figure 28-3: Herfindahl-Hirschman Index (HHI)



28.3.6 **Competitive assessment**

Next, we will analyse the prices / charging fees along the supply chain (from up-, mid- to down-stream), and examine the cost factors that would contribute to the mark-up of prices / fees along the supply chain. Our analysis will include:

a. Price and charging fees
    i. Price and fees gathering analysis across the supply chain
    ii. Cost price ratio calculation
b. Cost factors
    i. Labour and energy cost
    ii. Transportation cost
    iii. Handling fees
    iv. Other miscellaneous charges

In regards to high prices and charging fees, we will examine and address some of the key questions which include:

a. Who makes the most profit along the supply chain?
b. Are there any signs of profiteering across the supply chain levels?
c. What are the warranty terms and fine prints?
d. Who commands the most bargaining power across the supply chain?
e. What are the other cost factors that may impact prices?
f. How do the fees structure look like and how do industry players devise their prices?
g. Do prices or fees change on a daily / weekly / month basis? Why?

At the same time, we will also study the pricing in detail by identifying (1) who is pricing it; (2) who is paying it; and (3) the variables of charges / fees across the supply chain activities.

28.3.7 Benchmarking

Next, we will conduct a benchmarking exercise to identify the related anti-competition related issues in the transportation sector of other countries, and their measures and initiatives taken to promote healthy competition, ways to optimize their supply chain efficiencies and infrastructure capabilities.

These barriers to healthy market competition will be assessed by the different transportation sub-sectors, supply chain segments and region (if applicable). Our analysis will include:

a. Fees benchmarking
    i. Price / Charging fees comparison analysis with other countries
    ii. Identify potential anti-competitive conducts and examine allegations
    iii. Benchmarking and fees comparison
b. Pain point analysis
    i. Matching unmet needs
    ii. Gap analysis
    iii. Barriers and drivers' analysis

Some of the key addressable questions include:

a. What are the recent allegations made by industry players / consumers?
b. What are the potential anti-competitive practices exhibited by industry players?
c. Are they aware that their behaviour is deemed as anti-competitive?
d. Are the current legislations 'forcing' industry players to drive prices up?
e. What are the pain points faced by industry players along the supply chain? How can we 'narrow the gap'?
f. What measures can we undertake to ensure optimal efficiency levels?

28.3.8 Strategic recommendations

We will conclude the study by formulating measures that can be undertaken by MyCC to address the anti-competitive conducts by industry players and restrictive regulations:

a. Reconfirm root causes;
b. Propose measures to address the root causes (taking into consideration lessons from other countries as well);
c. Determine level of priority for each recommendation based on potential impact on addressing the anti-competitive conducts and restrictive regulations as well as the feasibility of implementation;
d. Test recommendations with key stakeholders; and
e. Finalize recommendations.

The recommendations will contain strategies that encompass the viewpoints of all relevant stakeholders and are in-line with national initiatives, directions, and policies.

a. Recommendation on policy advocacy or legislative change (not compromising the overall policy objective);
b. Recommendation on improving consumer and market participant awareness;
c. Recommendation on improving market efficiencies; and
d. Recommendation on improving market competition.

28.4 Ipsos methodology

28.4.1 Client consultation

Consultation and information gathering with MyCC is an important part of the project, especially at the commencement period to:

a. Further understand the specific needs and issues
b. Clarify on existing information and knowledge
c. Discuss the current hypothesis / assumptions by MyCC
d. Discuss the transportation sub-sectors and service providers to be covered in this study
e. Brief MyCC on the key activities, work process and timeline

The consultation will also ensure that primary and secondary research will be conducted in a more targeted and effective manner and will be consistently aligned to the overall objectives.

Besides that, this information-sharing session would be able to facilitate a better understanding of the market / situation and enable us to focus on the key areas rather than 'reinventing the wheel'.

There will be regular updates and discussions with MyCC throughout the duration of project to ensure all issues are resolved promptly and initial findings can be shared with MyCC.

28.4.2 Secondary desk research

We have a dedicated Global Knowledge Management Centre, based in Malaysia, that manages and updates our in-house databases.

Our team of knowledge management experts will help us tap into various sources of information locally, regionally and globally to ensure comprehensiveness of information gathered, cross-checking with primary data and to allow analysis based on various perspectives.

Sources of info will include, but not limited to:

a. Internal Ipsos databases / library (past similar studies, surveys, industry stats, etc.);
b. Government publications and statistics (e.g. SSM, DOSM, JKDM, MOT, MITI, MAPA, FMFF, MIDA);
c. Industry reports, articles and statistics, including IPO reports;
d. Local, regional and international news articles (current and historical);
e. Academic research publications; and
f. Company websites, annual reports and press releases.

Ipsos Strategy3's Global Knowledge Management Centre conduct extensive desk research of our own proprietary archives and a diverse range of specialist databases and search engines to provide clients with timely information.

The centre has access to thousands of publishers and publications, statistical information, macro-economic and demographic data and forecasts, market research reports, magazines, newspapers, newswires, academic journals, company listings, company profiles and financial reports.

Specialist subscriptions include LexisNexis, Avention, Proquest / Dialog, Meltwater, EMIS Emerging Markets, Economist Intelligence Unit, Euromonitor, Business Monitor International, Oxford Economics, and Marketline.

We also mine information from government statistical departments, NGO databases and trade associations.

28.4.3 In-depth interviews

We will engage with various government agencies and industry players by supply chain segment, transportation sub-sector, location and company size to obtain qualitative insights.

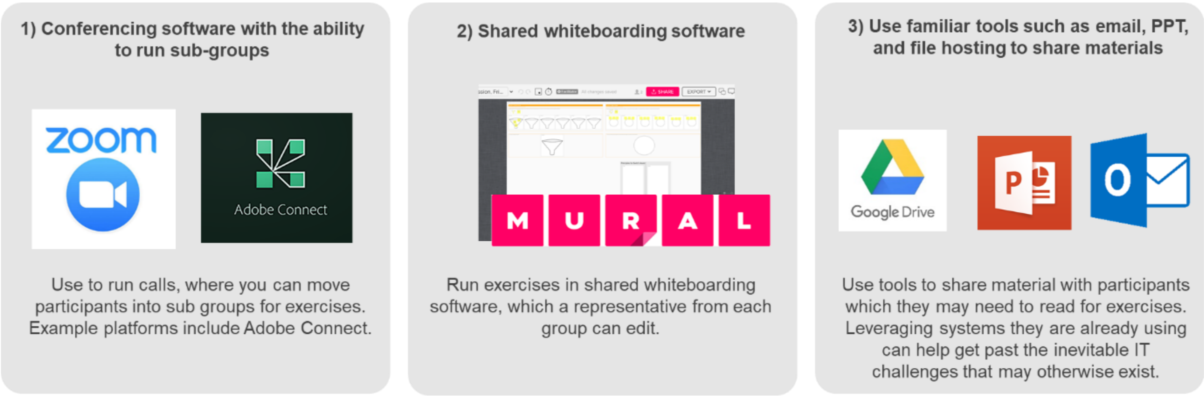
Interview questions will be continuously refined throughout the information gathering process in order to tailor specific questions to be relevant to the respondents as well as to verify new information gathered along the way e.g. snowball sampling method.

All interviews will be conducted by our team of consultants who are experienced in conducting B2B interviews with decision makers, industry professionals and government officials.

Target respondents will include:

a. Shippers (consignees and consignors)
b. Industry players by supply chain segment, transportations sub-sector, location and company size
c. Industry associations, e.g. Federation of Malaysian Freight Forwarders (FMFF), ASEAN Ports Association Malaysia (MAPA), etc.
d. Related ministries / government agencies, e.g. Royal Malaysian Customs Department (JKDM), Ministry of Transport (MOT), etc.
e. Other key opinion leaders and industry experts

Figure 28-4: Ipsos virtual workshop tools



28.4.4 Online survey

An online consumer survey was conducted with new car owners across the whole of Malaysia. A new car owner is defined as a consumer who purchased a new vehicle with a warranty period of 3 years or less.

The total sample size for this online survey was n = 400; sample distribution as below:

Regions	Total sample size
Northern Region	65
Central Region	95
Southern Region	65
East Coast Region	45
East Malaysia - Sabah	65
East Malaysia - Sarawak	65

The purpose of this survey is to gauge consumers' awareness towards new car warranty restrictions, their experience with void of warranties, perception towards franchise and independent workshops and awareness towards Competition Act 2010 and related competition issues pertaining to warranty restrictions.

28.4.5 Focus group discussions (FGDs)

Since the inception of this market review, two separate focus group discussions, with various stakeholders relevant for the study, were held in September 2020 at Kuala Lumpur with the aim to achieve the following objectives:

a. To advocate the roles and functions of MyCC through market review initiative;
b. To understand the current issues faced by the agencies related to port logistics and transportation services and warranty restriction claims of motor vehicles;
c. To identify market inefficiencies and challenges in the port logistics and transportation services and warranty restriction claims of motor vehicles in Malaysia;
d. To establish rapport with stakeholders as primary data providers; and
e. To consider recommendations from stakeholders on how to improve market inefficiencies and competition issues.

The FGD was initiated as part of the preliminary process to gather information from the respective stakeholders involved in the port logistics and transportation services and warranty restriction claims of motor vehicles in Malaysia.

The purpose of the FGD is to identify the preliminary hypothesis relating to competition matters across the supply chain. The FGD is one of the key activities to provide baseline information for the market review.

28.4.6 Expert panel group & public consultation

Towards the end of the study (during the draft final reporting stage), expert panel group(s) and a public consultation will be organized by MyCC with government and industry stakeholders, which will be further supported and facilitated by Ipsos.

The public consultation will serve as a platform to:

a. Share the key findings of the market review with the stakeholders;
b. Validate the findings as well as recommendations;
c. Seek additional insights to refine and finalize the recommendations; and
d. Create awareness of the measures that will be implemented to address the anti-competitive issues identified and obtain the necessary support.

We will support MyCC in terms of presentation of key findings and will be facilitated by core team members of the market review with in-depth understanding of the issues and findings.

All feedback obtained from the expert panel group and public consultation will be incorporated in our final report.

29 Annexes

29.1 Brief comparison of lemon law implementation

This chapter provides an overview of how lemon law is implemented in selected countries:

Singapore	
Claim process	<u>Claim</u> • Claim through Small Claims Tribunal **("SCT")**, if the claim amount is SG$10,000 or less. • Consumers must lodge their claim with the SCT within one year of the delivery of the goods. <u>Guidance</u> • Consumers may approach Consumers Association of Singapore **("CASE")** to seek guidance on whether their claim is reasonable and supportable under the law. • They may also consider mediation at CASE as an alternative dispute resolution mechanism for disputes with sellers
Responsibilities of the body	• Consumer education - actively provide consumers with research findings, survey results and information in a bid to make every Singaporean a smart consumer. • Working with retailers - work with businesses and their trade captains to promote ethical and good business practices • Pushing for legislation - lobbied to the government for fairer legislations with regards to consumer issues when consumer interests are at stake.

	• CASE only provides guidance and alternative dispute resolution for such issues. Consumers will have to bring claims to the SCT.
Funding of body	CASE is a non-profit, non-governmental organisation. Their funding is through membership fees, training, and events that they organise. To lodge a complaint, consumers pay to pay to be a member then CASE will assist the consumer in the complaint.
Philippines	
Claim process	Prior to lodging a claim • The owner should allow the car manufacturer four mandatory attempts at fixing the vehicle. • The owner/consumer must provide a Notice of Availment of Lemon Law Rights in writing to the manufacturer, distributor, authorised dealer, or retailer. Lodging a claim In the event the issue remains unresolved despite efforts to repair the vehicle, the owner/consumer may file a complaint before the Department of Trade and Industry **(“DTI”)** DTI shall settle Lemon Law-related complaints in accordance to ADR: • Mediation • Arbitration • Adjudication
Responsibilities of the body	• Assist consumers with Lemon Law complaints • DTI exercises jurisdiction over Lemon Law disputes

Funding of body	Governmental funding
South Korea	
Claim process	• Lodge a claim with the Vehicle Safety and Defects Review Committee. • The Committee will be authorised to request the parties, including the manufacturer or importer, to submit supporting documents and/or to commission a third-party testing agency to undertake a fact-finding investigation to independently confirm the existence of any defect.
Responsibilities of the body	• The amendment contains provisions for establishing a special arbitration body dealing with disputes over motor vehicles called the Vehicle Safety and Defects Review Committee under the Ministry of Land, Infrastructure and Transport. • The Committee is proposed to be composed of lawyers, professors, vehicle engineers and consumer advocates and it will be authorised to resolve any dispute between the owner of a vehicle and the manufacturer or importer of such vehicle with respect to the refund or replacement of the motor vehicle. • However, both the owner and the manufacturer or importer agree to be bound by the Committee’s decision.
Funding of body	Governmental funding
USA	

Claim process	• Consumer must notify the manufacturer, and, in some states, the dealer about the defect. • Most states require that the consumer go through an arbitration procedure before getting a replacement or refund - some states sponsor arbitration programs, while other states require consumers to use a program run by manufacturers. • Arbitration is usually free and results often are binding only on the manufacturer or dealer. If consumers aren't happy with the result, they can still take the manufacturer to court. • Some states require arbitration only if the manufacturer refuses to give you a satisfactory replacement or a refund. Consumers also may have the option of bypassing arbitration and going directly to court.
Independent body	There is no independent body that deals with specific lemon law claims.
Canada	
Claim process	• Consumers will first try to work out the defect with the dealer / manufacturer. • If the issue is not resolved with the manufacturer, consumers may be eligible for the Canadian Motor Vehicle Arbitration Plan **("CAMVAP")**, which is a program that assist consumers with arbitration for resolution. • If consumers cannot resolve their complaint, they may bring the claim to the Small Claims Court to recover the cost of repairs or to rescind the contract.

Responsibilities of the body	• CAMVAP arbitrators have the authority to order the manufacturer to buy back the vehicle, repair it at the manufacturer's expense, reimburse for repairs already completed, and pay related expenses. • CAMVAP's services are free, and most cases are resolved within 70 days, and it doesn't require legal representation. Arbitrators will bring the hearing to the complainant's hometown.
Funding of the body	CAMVAP is federally incorporated not for profit organisation, whose members are representatives of the automobile industry, provincial and territorial governments, and consumers. The automobile industry funds the program but holds a minority seats on the Board of Directors.

29.1.1 Ancillary matters

29.1.1.1 Motordata Research Consortium (MRC)

The Motordata Research Consortium (MRC) was established in 1998 by PIAM with the endorsement of BNM. MRC's purpose is to reduce subjectivity in market practices in the management of motor insurance claim, and to provide transparency in the motor insurance claims estimation and compensation.

Further, MRC has a social responsibility for ensuring that damaged vehicles are repaired using the correct methodology, equipment, and skills, ensuring that vehicles are safely put back on the road.

MRC was tasked to build, localise and manage a single national centralised database of automobile price parts and repair times. This was meant for the use as a standard in the processing and recording of automobile claims and is modelled after the Thatcham Parts System (TPS) and Thatcham Times System (TTS) from UK.

The database is meant to be a comprehensive vehicle parts price database structure, utilising manufacturer's part numbers and up-to-date retail parts prices. MRC's generic parts descriptions will be applied to allow ease of parts identification. The TTS database is used to estimate the time required to remove and replace vehicle panels and parts, while at the same time incorporating repair methodology to meet manufacturer's specification.

MRC was able to offer the insurance industry a platform to improve claims processing and increase transparency for stakeholders. Being the appointed standard bearer for claims data, the MRC, also has the responsibility to accredit and audit any motor insurance estimating software that wishes to operate in Malaysia.

The resulting database utilises manufacturers' part numbers and up-to-date retail parts prices, whilst applying generic parts descriptions to allow ease of parts identification for the preparation of repair estimate. This information is updated bi-monthly. Changes in the parts prices are also monitored to provide insurance companies and repairers the information to plan and manage potential future losses.

29.1.1.2 Potential market concern of overcharging of vehicle parts in MRC database

The prices provided in MRC's database represents manufacturers' part prices and are meant be adopted by the industry. Industry players including insurance companies were required to adopt the prices stated in MRC's database, which are updated bi-monthly.

After speaking to industry players and stakeholders in the course of this market review, it was found that industry players can not deviate from the stated price, but are allowed to provide discounts on parts prices. The issue stems from the prices of vehicle parts being higher than the retail rate, at times up to 60% higher than retail costs. In effect, insurance companies would incur costs more than what it would cost to a consumer, who is not bound by the mandate of MRC's database prices. According to industry feedback, price premium for parts for local brands (Proton, Perodua) can amount to 20%-50%, while imported brands such as BMW, Mercedes Benz, Toyota, etc may have a premium of 40%-60%.

Although primary assessment of the issue was not indicative of anti-competitive conduct, the high prices set by MRC database may translate to unnecessarily high costs and lead to inefficiencies in the supply chain. As insurance companies' costs increase, this typically leads to inflated insurance premium costs to consumers.

While MRC's database acts as a point of reference and records to increase overall transparency in the market, caution must be taken to ensure that the process is transparent. The process in which prices are derived should be examined by an independent third party. The independent body should audit MRC's processes to make sure that prices are indeed in line with industry levels. This will enable MRC to be accountable thorough transparency and allow MRC to continue to be a high quality point of reference.

29.2 Ipsos discussion guide

Multiple stakeholder engagement sessions including focus group discussions and in-depth interviews have been carried out to ensure the comprehensiveness, completeness, and accuracy of this market review.

In conducting these stakeholder engagement sessions, the interviewers are guided by a series of discussion points and questions designed to unveil industry insights particularly in relation to competition matters.

Note: The discussion guide is not a checklist of questions where all questions were asked and answered by respondents in a structural manner. All interviews were conducted in an informal, semi-structural manner, and the discussion guide merely serves as a guide for Ipsos to probe and navigate through the engagements with respondents.

Disclaimer: Due to the nature of the discussion guide, new questions may have been brought up on the spot during engagements which are not captured on the sections below.

29.2.1 Port logistics ecosystem

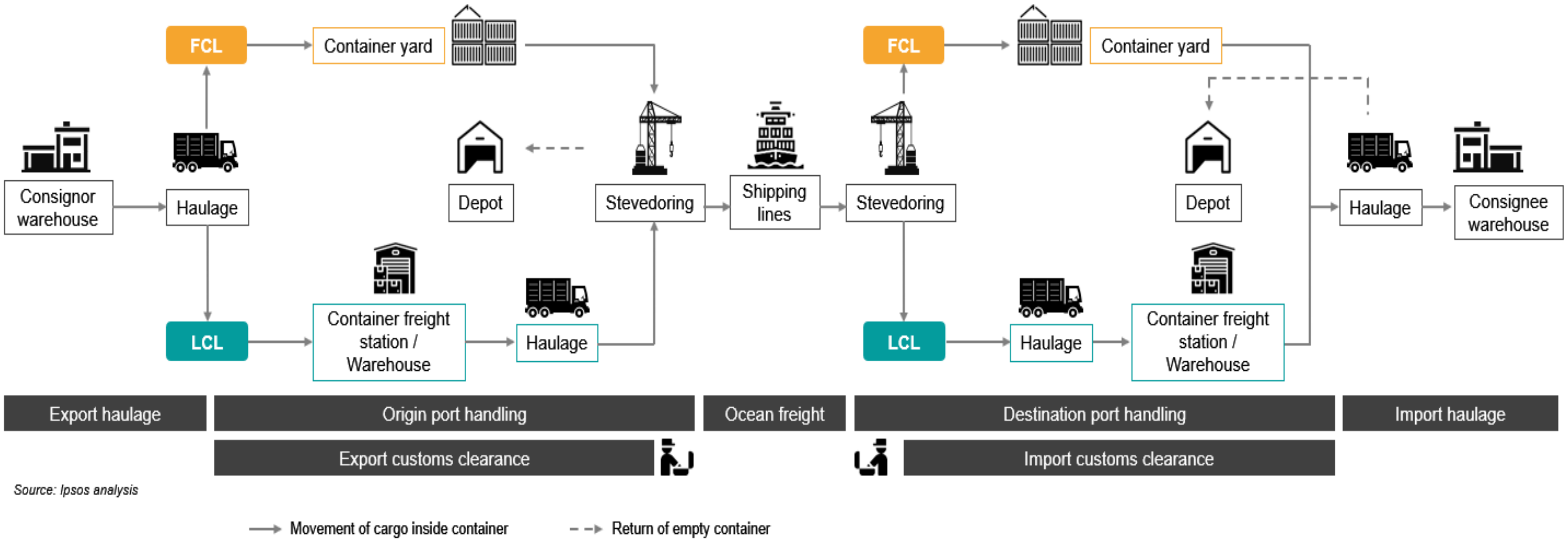
Part A. Company background

1. Please you describe your company's background, nature of business and your role in the company.
2. For each of the port logistics services below, please identify the types of services that your company offers:
3. Please also identify the assets and capacities based on your services offerings.

Port logistics services	Q2 (Y / N)	Q3 (Remarks)
Shipping liner		
Forwarding agent (customs)		
Containers		
Depots		
Stevedoring		
Warehouse		
Haulage		
Lorry transport		
Others, please specify _____		

Part B: Market structure of port logistics

4. Please refer below our initial impression of the port logistics supply chain in Malaysia. Kindly verify the process flow / cargo movement and identify if there are any sub-levels that need to be elaborated.



Source: Ipsos analysis

5. Based on the supply chain levels, please help to identify the top 5 key players along each level of the supply chain / service offerings.

Supply chain level	Key player 1	Key player 2	Key player 3	Key player 4	Key player 5
Shipping liner					
Forwarding agent (customs)					
Containers					
Depots					
Stevedoring					
Warehouse					
Haulage					
Lorry transport					
Others, please specify _____					

6. Please also indicate their market share % where possible. Market share can be defined as revenue / volume / capacity.

7. Based on preliminary feedback from industry players, there is a potential concern of aggressive merger and acquisition among the logistics sector. What do you think about this? Are there any companies that come to mind?

Part C: Laws, regulations and policies

8. We have gathered some potential imposing regulatory requirements in certain ports, as well as issues around policies and regulations. Based on the discussion points below, please share your thoughts and add any other issues you are facing.

Context	Description	Remarks
Procedural issues	• Procedures of custom clearance were reported to be not clear enough and it varies even ports. For example, between Northport vs Westport – same items that can be cleared in Northport may not be cleared at Westport. • Lack of customs officers' knowledge, when unsure of an item, these officers will send containers for inspection, leading to delays that could have been prevented	
Difficulty in obtaining formal documentation on rulings and short notice of rulings	• Lack of engagement between stakeholders and rulings – consequences of new policy are far-reaching or/and complicated. • For example, the implementation of web-based custom system: U-customs received the feedback that it is not realistic due to the complicated nature of customs, hence hard to receive support from players. • At the same time, the U-customs needs to rekey data every single time because the system does not have the feature to save the previous data, and lack of integration across systems (old system: SMK, front-end system: Dagangnet).	
Customs license	• The customs are given the authority to cancel license and this power is not controlled well by custom. In other words, it is not regulated in Malaysia. The only compliance required is the need to comply for International Maritime Organisation (IMO).	
Inefficient regulations and policies	• There are about 24 OGAs (e.g. MAQIS, MQH, CIDB, etc.) in Malaysia which result in a challenge to communicate among these groups. • In addition, it was reported that there are 74 types of products which require specific permit by the OGAs. • This requirement of permit is extended to the transshipment goods which was deemed irrelevant and unnecessary because the shipment only involves movement of goods that do not enter the shore of Malaysia.	

Poor infrastructure causing inefficiencies	• Bad road conditions around the port vicinity cause trucks to slow down and get stuck at times due to potholes. • Moreover, there is no alternative road to Westport, hence, any obstruction on the road along the way will cause massive congestion. • Besides, there seem to be abuse of digital booking system. Agents and consignee use the system to book haulage trucks in advance without accurate timing of cargo arrival. Hence, booked trucks usually waste a lot of time waiting for cargo that arrive much later. • Very poor road connectivity further impedes efficiency among port players (on and off dock) • Received suggestions to add a rail track to carry empty depot	

Part D: Anti-competitive conducts

9. Similarly, have you observed / been made aware of any conduct / business practice in the port logistics sector that could be deemed anti-competitive?

Context	Description	Remarks
Conference liners are deemed anti-competitive because shippers do not have a choice to choose	• Claims that importers, exporters, freight forwarders, etc. have no choice but to use shipping liners from one of the three main alliances. • As for import shipment, importer or freight forwarders do not have a choice to choose which shipping line to engage and if they do not make payment for container deposit, they may not retrieve their shipment.	
Kemaman Port	• There are claims whereby monopoly is happening at Kemaman Port where one of the players own 100% of market share. A relevant example given was the usual charges of forklift which amounted to RM400 per day, whereas it is charged at RM200 per hour at the Kuantan Port.	

Aggressive mergers and acquisitions	• Some companies are acquiring smaller firms along the supply chain to consolidate into a full-fledge port logistics provider. This vertical integration allows some companies to charge more competitive / lower prices which are not sustainable for existing smaller companies	

Part E: Port fees and charges

10. There are claims of unjustified port fees and charges imposed when conducting trade at ports in Malaysia. At the same time, most of these fees are considered burdensome and increasing every other year. To your best knowledge, kindly verify the charges below and **provide historical data where possible.**

Context	Description	Remarks
All charges demanded by shipping lines have to be paid to obtain import shipments	• Importers or freight forwarders have no choice but to pay for all charges (i.e. container deposit, container cleaning fees, etc) demanded by shipping lines. • Export containers are generally not contentious, but import containers come with a multitude of contentious charges. • It was claimed that this can be improved with higher regulation from the Ministry of Transport.	
Unnecessary deposit collection	• It was reported that some countries have legislated to prohibit the collection of deposit (i.e. Sri Lanka, Bangladesh, Hong Kong, China and Singapore), and Malaysia should follow suit. • Besides that, the return of deposit takes up to 45 days, upon the return of containers to depot. • At the same time, the shipping liners are alleged to benefit from the interest percentage when depositing the deposit in the form of cheques.	
Container cleaning charges became	• These container cleaning charges are imposed immediately without checking whether these containers need to be cleaned.	

standard charges		
Rising Depot Gate Charges (DGC)	• There are claims that the DGC rose from initial price of RM5 to RM38. • The increased DGC was supposed to be met with increased efficiencies at the depot, but this was not the case.	
Rising logistics cost at Tanjung Periuk	• It was reported that Tanjung Periuk has one of the highest haulier fees.	
Seal charges	• Seal charges are reported to be at cost of RM2, but charged at a high price up to RM25	

Part F: Miscellaneous

11. Briefly explain how your service fees / charges come about. For example, haulage charges are determined by the size / volume and fuel costs.

12. In your opinion, what solutions / wish list would you like to see implemented in the port logistics sector? Who would be stakeholders and agencies involved and what do you expect from them?

29.2.2 Motor vehicle warranty claims

Part A: Context setting for market structure and warranty restriction

1. Please you describe your company's background, nature of business and your role in the company.
2. Please help to illustrate the business landscape of an OEM in Malaysia.

   [Probing questions]

   - How does an OEM screen for / approve a franchise workshop?
   - What are the requirements to become a franchise? License, certs, qualifications, capital, track record.
   - Describe the roles and functions or an authorised workshop, 3S / 4S, dealers, etc.
3. To your best knowledge, please provide an understanding of how OEM warranty restrictions came about.

Context	Probe for
When	• Gauge the timeline of implementation
What	• What is the scope of coverage for warranty restriction? What does it not cover? • What happens when car owners do not follow / violated the warranty code.
Who	• Who were the first movers? • Who enforced the warranty restriction? Which parties 'authorised' the movement?
Why	• Why was the warranty restriction imposed in the first place? – what was it trying to mitigate.
How	• Please illustrate a scenario of when vehicles owners have / have not adhered to the warranty restrictions. • In your opinion, how has the warranty restriction impacted vehicle owners? And independent workshops?

Part B: Market behaviours and issues

4. We have gathered some potential on-the-ground issues from industry stakeholders that revolve around the warranty restrictions. Based on the discussion points below, please share your thoughts and add any other issues you are facing.

Context	Description	Remarks
Warranty claims	• Prior to 2012, new car owners have the freedom to choose the workshop of their choice – what are the advantages and disadvantages of this situation? • In your opinion, what is the justification for these warranty restrictions since 2012? • What issues do you think have risen from the warranty restriction? Are there short /long term solutions to this? • What if these warranty restrictions are removed again? What implications would it have on the industry?	
High labor charges observed in franchise workshops	• Are these higher labor charges justified and how much more significant are these charges compared to independent workshops? • What is the mechanism behind charging labor charges? • Please explain the roles and charges of having insurance coverage. • How can we ensure consumers are paying the most competitive labor charges, and in return receive the satisfactory service and repair?	
Claims of misconducts by 3S/4S workshops	• It appears that during peak periods or when franchise workshops are understaffed, franchise workshops would send vehicles to independent workshops for repair to fulfill their turnaround time for new vehicle owners.	
Unreasonable void of warranties	• The scope of warranty has been perceived as illogical or unreasonable, for instance voidance of warranty for the entire car when a replacement of bumper was carried out in non-franchise workshops. • Besides that, it was claimed that there are numerous confusing wordings used in the warranty booklet such as “may” or “must”, which do not provide clear contexts / examples, and do not seem to favour vehicle owners.	

Part C: Miscellaneous

5. What is the role of insurance agencies in warranty claims?
6. Please describe the PARS (PIAM Approved Repairers Scheme) and requirements to become a member.

   [Probing questions]

   - Understand the claim process and disbursement.
   - Any difference for franchise vs independent workshops?
7. Please explain the extended insurance packages – how does it work, describe betterment charges.
8. In your opinion, what are the key differences of a franchise vs independent workshop?

   [Probing questions]

   - Perception, service / repair quality, turnaround time, cost, reliability, parts quality, etc.
9. Have you encountered any issues and challenges in the form of regulations / policies that is impeding the automotive sector?
10. Did you observe any warranty restriction claims in commercial vehicles?
11. In your opinion, what solutions / wish list would you like to see implemented in the motor vehicle sector? Who would be stakeholders and agencies involved and hat do you expect from them?

29.3 Ipsos mini survey with vehicle owners

29.3.1 Methodology and respondent profile

This chapter outlines the research design and approach adopted for the Car Warranty Consumer Survey of the Market Review on Transportation Sector under the Competition Act 2010. It outlines the methodology, sample design and weighting.

Methodology

Fieldwork took place between 5th March 2021 and 14th March 2021 across all regions in of Malaysia, which include Central Region, East Coast, Northern Region, Southern Region and East Malaysia. A total of 400 surveys were conducted.

Target respondent

The key stakeholders that participated in the survey are vehicle owners, of which the vehicle is less than 3 years old, and therefore still have their manufacturer's warranty intact. This is primarily to obtain insights as to the awareness of warranty among new car owners, and whether there are issues and challenges related to vehicle warranty among new car owners.

Survey approach

The study was conducted via online using IPSOS's database. Survey invites were spread proportionately to different regions to obtain a good representation from each region. On average, the length of the survey was about 15 minutes.

Data cleaning

Upon completion of fieldwork, the data was cleaned before analysis. Duplicated entries and invalid company names are removed from the final data. Claimed verticals were recategorised into the existing list and questions with open-ended answers were recoded before deriving the final percentages.

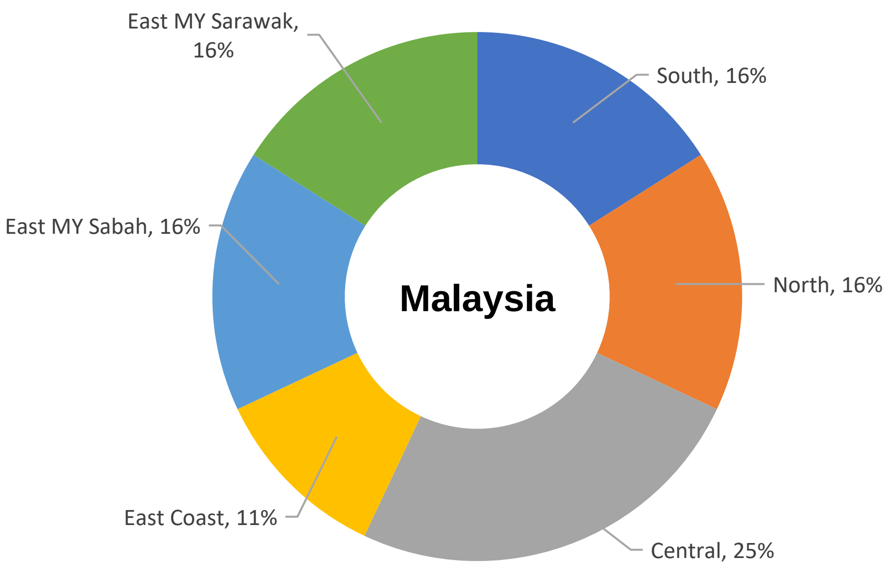
29.3.2 Respondent profile

Demographics

In terms of geographical coverage, the survey covers the whole of Malaysia, which is split into different regions, Central Region, Northern Region, Southern Region, East Coast and East Malaysia. The distribution was designed to, as far as possible, obtain equal representation from each region, including both states in East Malaysia, namely Sabah and Sarawak.

Most respondents are in the Central Region (25%), followed by South, North, Sabah and Sarawak (16% respectively), and East Coast (11%).

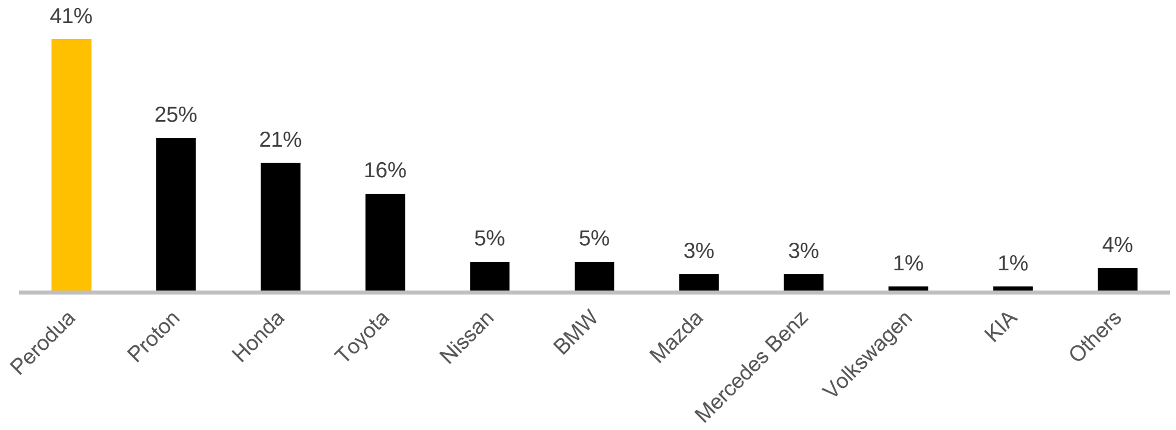
Figure x: Breakdown of respondents according to region



29.3.3 Vehicle Characteristics

Majority of respondents own a vehicle that is 1 to 3 years old (72%), while the rest have vehicles that are less than 1 year old (28%).

Perodua is the vehicle brand that is most popular among respondents (41%), followed by Proton (25%), Honda (21%), Toyota (16%), Nissan (5%), and so on. Below is a breakdown of the car brands of the respondents.



29.3.4 Vehicle warranty

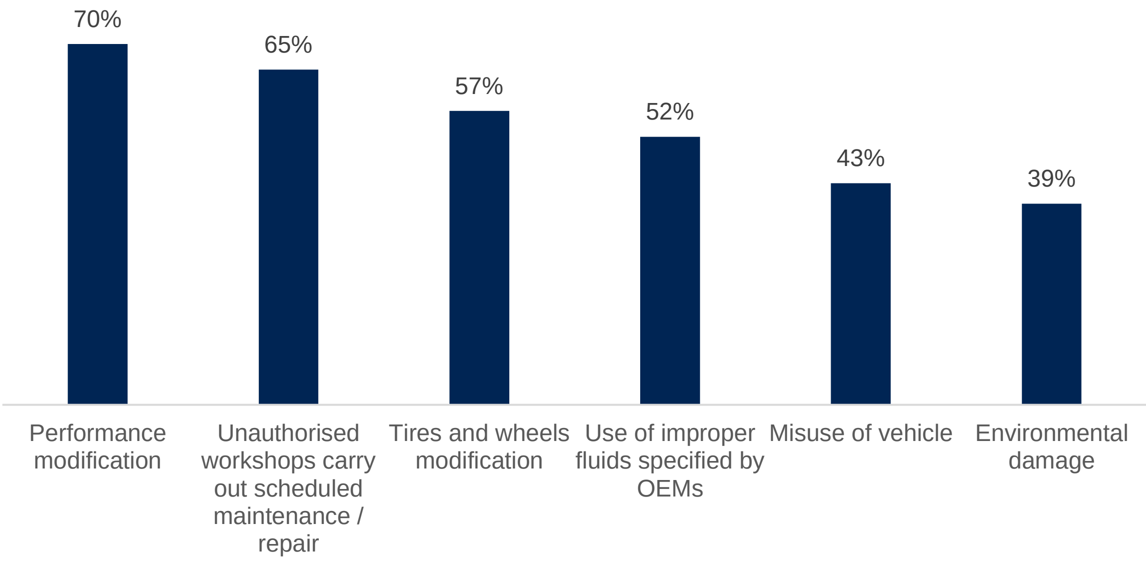
Awareness of conditions that void warranty

Most of the respondents (69%) have not experienced their car warranty being voided.

When asked whether they are aware of the actions or scenarios that will void the warranty of their new car, majority of respondents (70%) think that alteration of engine performance or any enhancements to improve a car's engine output will void the warranty. Furthermore, 57% of respondents felt that modification of their vehicle will void the warranty, such as swapping of tires, wheels, or rims.

It is worth noting that 65% of respondents answered that they think their car warranty will be voided if they engaged the services of non-authorised service centers. This includes sending their car for service or maintenance, as well as repairs. Respondents think that for changing of parts, even for OEM car parts, must be done in authorised workshops/dealerships, otherwise their warranty will be voided.

43% of respondents answered that accidents or self-induced damage to the vehicle will also void their car warranty. This includes mistakes on the part of the owner, or improper use of the vehicle, such as racing, using their vehicle as taxi, rental unit, etc.



Briefing on warranty information

Respondents were also asked on what information were given about consumer guarantee rights or manufacturer's warranty when buying a new car. Majority of respondents (33%) did not receive any briefing or information in relation to the manufacturer's warranty. Some respondents (4%) were asked to refer to the warranty booklet to be informed of the warranty and its conditions.

About 20% of respondents were given a briefing of on their car warranty. Respondents were told not to modify their car or swap car parts as it may risk voiding the manufacturer's warranty. 7% of respondents mentioned that in the briefing, they were told to be careful where they sent their cars for service and repair, and to only engage the services of authorised workshops or their warranty may be voided.

29.3.5 Perception of authorised workshop vs independent workshop

The respondents were given a list of factors and asked to compare authorised workshops and independent workshops.

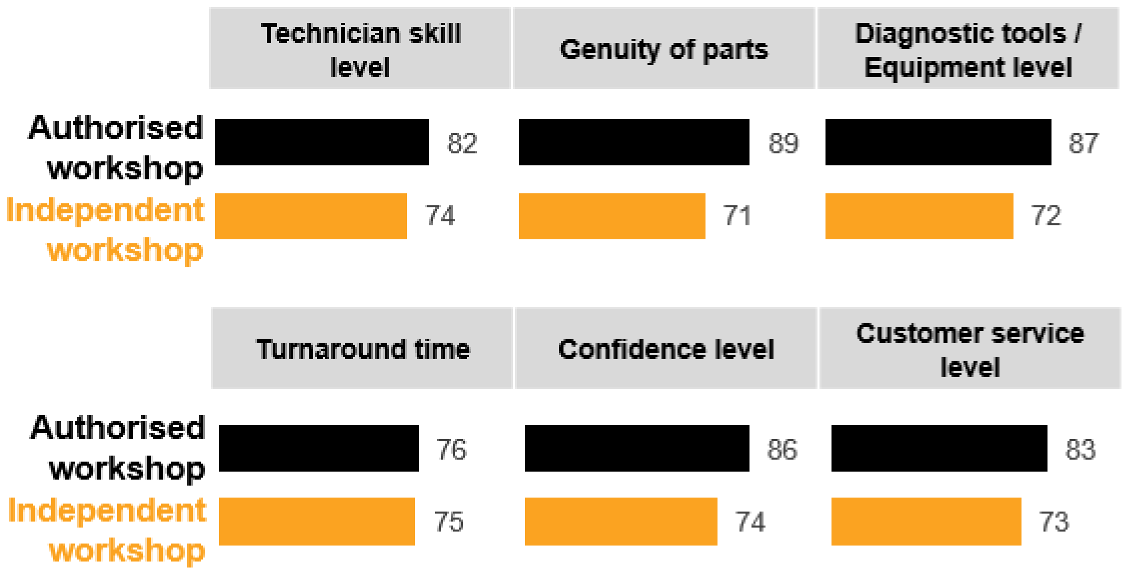
Respondents gave a higher score to authorised workshops for most areas. Confidence level are higher for authorised workshops, especially for the supply of genuine parts. Diagnostic tools and the equipment levels in authorised workshop are also better than those in independent workshops. Authorised workshops are also scored higher in terms of technician skill levels and customer service levels.

Both authorised workshop and independent workshop had similar scores in terms of turnaround time. This suggests that although authorised workshops have better equipment and higher level of expertise, the time taken for turnaround is similar with independent workshops.

Meanwhile, when asked about aspects of prices, respondents have rated all areas to be more expensive. The score difference clearly indicates that independent workshops are cheaper in all areas, including labour charges, prices of car parts, service and repair fees.

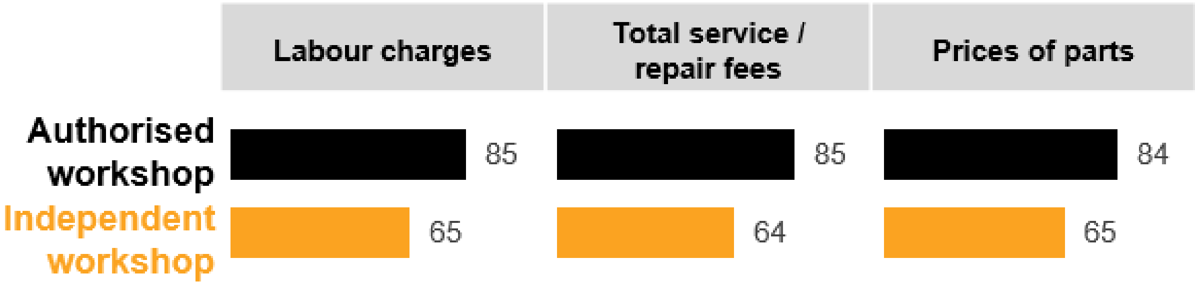
The figures below are a breakdown of the scores given by respondents across different areas.

Figure 29-1: Satisfaction scores of authorised vs independent workshops



Note: higher score means higher satisfaction levels

Figure 29-2: Scores in terms of prices of authorised vs independent workshops



Note: higher score means more expensive

29.3.6 **Post-warranty period**

Respondents were asked when the warranty period is over, would they return to authorised workshops or seek independent workshops. 40% of respondent would still send their cars to authorised workshops for repairs and services. This is mainly due to respondents having higher levels of trust on authorised workshops, in terms of service and expertise. Respondents also mentioned that they return to authorised workshops to ensure that they receive genuine and quality parts for their vehicles. Some responses include:

- Having built a trusted relationship over the years, they will return to authorised workshops
- Authorised workshops will be more familiar with the vehicle after years of working on the vehicle
- Preference of authorised workshop due to the guarantee of quality parts, and professionalism provided by them
- Authorised workshops generally have more reliable mechanics

Meanwhile, 24% of respondents would turn to independent workshops after the warranty period. The main reasons cited was the price of independent workshop being cheaper/more competitive compared to authorised workshops. Many respondents feel that independent workshops have equal levels of expertise, but at a better price and faster turnaround time.

18% of respondents did not have a preference and would go to whichever workshop that was more convenient for them. They would pick the workshop that offers the best price or is the closest to their home. It is worth noting that some respondents mentioned that normal maintenance can be done at independent workshops, however they would turn to authorised workshops for more serious repairs.

29.3.7 Awareness on competition laws and regulations

53% of respondents are aware of the laws and regulation that governs warranties in Malaysia. Respondents are also aware of the Competition Act, which prohibits anti-competitive practices in Malaysia.

There is low awareness of avenues to appeal. Most respondents (over 80%) are not aware of any platform or avenues for appeal in the event their warranty was voided unjustly. Respondents who are aware of avenues for appeal also gave mixed responses, such as:

- Appealing in tribunal court
- Consulting the insurance company
- Engaging authorised car helpers
- Bring the complaint to Jabatan Pengangkutan Jalan (JPJ)
- Consulting KPDNHEP

29.3.8 Warranty restrictions and anti-competitive behaviour

Warranty restrictions are clauses in the warranty that states that in certain circumstances, such as engaging independent workshops for service and repair, the car warranty will be voided. There are concerns that such restrictions are preventing consumers from engaging the services of independent workshops and therefore preventing competition.

In the survey, respondents were asked if warranty restrictions were preventing competition in the auto service and repair industry. 39% of respondents think that it is restricting or preventing competition. These respondents mainly felt that they had no choice but to send their vehicles to authorised workshops to keep their warranty intact. Some responses include:

- Consumers should be allowed to choose. Independent workshops are more convenient, especially for those who live in the rural areas
- Consumers have no choice but to use authorised workshop, or their warranty will be voided.
- The warranty restriction is basically monopoly, excludes fair competition.

Furthermore, given that authorised workshops charge a higher rate in areas such as labour fees, price of parts, service and maintenance fees, respondents felt that they are paying unnecessarily high fees in authorised workshops. In this regard, respondents felt that the warranty restrictions are enabling anti-competitive behavior as they have no choice but to engage the services of authorised workshops. Some responses include:

- The requirements to send to authorised workshops will cause price gauging
- Authorised workshops try to charge on every aspect
- Workshop charges are non-negotiable, customers have no choice

- Consumers are always held random by the warranty restriction. Even delayed Preventive Scheduled Maintenance may cause warranty to be voided despite low usage of vehicle

Some respondents have experienced dismissive behavior from authorised workshops. For example, when authorised workshops were questioned about the extra charges for part replacement during service, they were simply told that it is required and is standard procedure for the upkeep of their vehicle. Meanwhile, when consulting independent mechanics, consumers were told that many of the charges were unnecessary, or that they were over charging. This usually led to consumers feeling that they were being taken advantage for the lack of technical knowledge.

It should be noted that some respondents (4%) felt that the warranty restrictions were justified. The warranty restrictions were in place to protection of the consumer, and that it is to ensure that the consumer gets the best care possible for their vehicles. Some responses include:

- The restrictions are in place to maintain the quality of vehicle, because authorised workshops know better about the car than independent workshops.
- It is to protect consumers from buying unauthorized products.
- All new car owners should not service their car at independent workshops to prevent low quality spare parts, putting their cars at risk.
- It is fair for the OEM to only cover the warranty if you follow their requirements.

29.3.9 Awareness on unethical practices by franchise workshops

73% of respondents were not aware and have not experienced any unethical practices carried out by authorised workshops that may be deemed anti-competitive. When asked to provide examples, majority of responses were regarding car parts. Some responses include:

- Using recycled parts such as used tyres
- Using secondhand parts as replacements
- Using recycled oil

There were also complaints of unsatisfactory service. For example, respondents mentioned that the car was not properly serviced and there were items charged on the invoice that were not done.

Another example given was the authorised workshops had asked a respondent to service his car on a 3-month interval. The respondent felt that this was too frequent and when questioned the need for the service interval, the workshop was not able to come up with a satisfactory answer and changed it to a 6-month service interval instead.

There were also various complaints of respondents receiving sub-par service, and despite being charged expensive fees in authorised workshops, they were unable to resolve the issue.

It should be noted that not all the examples given were necessarily relevant to anti-competitive behavior on the part of authorised workshops.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