

**Refugee Review Tribunal  
AUSTRALIA**

**RRT RESEARCH RESPONSE**

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**Country:** Malaysia  
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– Action taken by authorities against illegal goods smuggling

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**Questions**

- 1. Is there any information to suggest government or official involvement in smuggling goods into Malaysia?**
- 2. What action have the Malaysian authorities taken against the illegal smuggling of goods into Malaysia?**

**RESPONSE**

**1. Background Information: Corruption in Malaysia**

This section provides background information on the subject of corruption in Malaysia, with the aim that this will help contextualise the information presented subsequently regarding government or official involvement in smuggling goods into Malaysia, and actions taken by the Malaysian authorities against illegal goods smuggling.

One of the most comprehensive and up-to-date reports on corruption in Malaysia is found on the Business Anti-Corruption Portal website. The report examines the extent of corruption in Malaysia and outlines “Public Anti-Corruption Initiatives” instigated by the Malaysian Government to deal with this problem. In order to provide a backdrop against which one can compare the efficacy of measures taken by the government in dealing with corruption as well as better understand difficulties the country faces eradicating this problem, a list of “Public Anti-Corruption Initiatives” noted in the report are provided below.

**Legislation:** The **Anti-Corruption Act 1997** is the most important legal instrument in the government's fight against corruption. It establishes the Anti-Corruption Agency and provides for offences and penalties for private and public sector corruption, including active and passive bribery, attempted corruption and abuse of office, corruption through agents,

corruption in public procurement, and electoral corruption. The Anti-Money Laundering Act 2001 criminalises money laundering and contains provisions for the freezing of assets and the seizing of assets obtained through corruption and, together with the Anti-Corruption Act, it provides a legal framework for the protection of whistleblowers, yet to be developed into a specific whistleblower protection law and enforced....

**Government Strategies:** In 2004, Prime Minister Abdullah Badawi launched the **National Integrity Plan (NIP)** and the **Integrity Institute of Malaysia (IIM)**. The NIP identified five key objectives, including reducing corruption and abuse of power, increasing the efficiency of public service delivery, and enhancing corporate governance. The IIM is responsible for the implementation of the NIP and organises seminars and workshops for citizens and companies in order to get involved in anti-corruption work, such as the Forum on the Construction Industry that was held in 2005. Abdullah has also taken steps to create a more open and accountable government. He decided in March 2008 that all BN ministers and deputy ministers must publicly declare their assets twice throughout five-year terms and gave responsibility to the Anti-Corruption Agency to develop the declaration forms and process. However, civil society has urged Abdullah to extend this requirement to include spouses and families as well as to all those who hold office, including local councils and the newly-formed opposition-led state governments. The **ADB/OECD Anti-Corruption Initiative for Asia-Pacific Anti-Corruption Action Plan for Asia and the Pacific** was endorsed in November 2001. The initiative is a non-binding regional framework for anti-corruption action and includes measures aimed at the public sector, the private sector and civil society. It provides for a Regional Steering Group which reviews country progress within the field of anti-corruption. The government has recently launched a Code of Corporate Governance. All listed companies are required to disclose their level of compliance with the code.

**Anti-Corruption Agency:** The **Anti-Corruption Agency Malaysia (ACA)**, in Malay) is mandated to implement the Anti-Corruption Act and it investigates and prosecutes corruption in the public and private sectors. The agency is required to: (i) examine public bodies to reveal corrupt practices and secure improvements; (ii) instruct, advise and assist persons upon request on prevention of corruption; (iii) educate the public; and (iv) enlist and foster public support in combating corruption. It has the independent power to conduct investigations and is able to prosecute cases with the approval of the Attorney General. The **Malaysian Anti-Corruption Academy** became operational in September 2005. Its main role is to train ACA officers, but it also heads a regional centre for anti-corruption capacity-building. Several sources claim that the ACA lacks independence and is heavily politicised, as it functions as a government agency reporting directly to the Prime Minister. The ACA has been accused of practicing a different set of rules for big fish and small fish when it comes to corruption and, while conviction rates for those arrested on corruption charges are reportedly around 78%, only a few political elites or big business leaders have been arrested by the ACA. ACA investigations are occasionally publicised in the news, but they rarely target high-ranking officials or well-connected business representatives, let alone effectively. The head of Malaysia's anti-corruption agency, Zulkipli Mat Noor, had to step down in March 2007 amid allegations of graft. Zulkipli denies the allegations, and the investigation is ongoing. The Prime Minister has announced far-reaching reforms to the Anti-Corruption Agency (ACA) to give it greater independence and capacity. The reforms include turning the Anti-Corruption Agency into a 'full-fledged' Malaysian Commission on Anti-Corruption, setting up an independent advisory board and a parliamentary committee, as well as tripling the size of the agency's force and providing comprehensive protection for whistleblowers.

**The Parliamentary Select Committee on Integrity (PSCI)** has twelve members - ten from the ruling Barisan Nasional coalition, two from the opposition - and allows MPs, *inter alia*, to inquire into cases of corruption and abuse of power, although it has no authority to

investigate. Transparency International 2008 reports that the PSCI is subject to political pressure and executive influence, and has weak summons enforcement capacities.

**The Auditor General:** The Auditor General is legally required to submit Reports on Audit of the Public Accounts, Activities of the Federal Government Ministries, Departments and Agencies to the King (*Yang Di Pertuan Agong*). These laws further require the King to table the Auditor General's reports in Parliament. A select committee known as the Public Accounts Committee is responsible for examining the reports of the Auditor General tabled in Parliament. During its meetings, the Public Accounts Committee may call the heads of ministries, departments and agencies to explain the issues and matters raised by the Auditor General's reports. In 2008, the Auditor General gave a directive to the National Audit Department to institute an accountability index and ranking system for federal ministries and state treasuries (ranked every year), and departments, statutory bodies, local councils and local governments (ranked every three years). The rankings will relate to levels of compliance with guidelines that demand, among other things, department heads to conduct surprise checks to ensure funds are properly, effectively and efficiently used.

**The Attorney General:** In 2006, the Attorney General was responsible for setting up an Ombudsman institution to investigate complaints against all government agencies including ministers and lawmakers. This step was initiated in the aftermath of allegations made against the national police force.... According to the Merdeka Center for Opinion Research Peninsula Malaysia Voter Opinion Poll July 2008, public confidence in the Attorney General to act in a fair and independent manner is low.

**The Public Complaints Bureau** is an online complaint system, functioning somewhat like an Ombudsman's office, where the public can lodge complaints against departments and agencies of the Government of Malaysia. However, unlike international standards for Ombudsman offices, the Public Complaints Bureau is not an independent intermediary organisation, but instead falls under strict government control. The Public Complaints Bureau has started to set up temporary integrated mobile complaint counters manned by Public Complaints Bureau personnel at various districts in order to enable the public to forward their complaints in person. In Transparency International Malaysia's Transparency Perception Survey 2007, 63% of corporate respondents acknowledged their awareness of the bureau; however, 67% of the respondents felt the work of the bureau to be ineffective. There was a higher awareness of the bureau among foreign-owned companies than locally owned companies.

**The Police Commission** was established in 2004 in order to enhance the operation and management of the police force. The commission made 125 recommendations focusing on three main areas of reform: crime reduction, eradicating corruption and observing human rights. According to Amnesty International, there is a major concern regarding lack of transparency in the process of implementing these recommendations. One of the main recommendations was the establishment of an independent commission for police complaints and misconduct, but is yet to be established. The police's refusal to establish the commission and political reluctance to follow up the recommendations have slowed down the process of reducing police corruption.

**E-Governance:** The Malaysian government's **myGovernment** official online portal contains links to government tenders and various government services. Links are provided to facilitate business access to registration and licensing and permit guidelines and forms as well as online tax payments. To enhance transparency in public procurement processes, the government has furthermore launched an e-procurement system. The system is still developing and has encountered different types of problems in the initial phase...

**Public Procurement:** Procurement in Malaysia is largely decentralised and the implementation of central regulation varies. While there is no code of conduct for procurement officials, conflict of interests provisions do exist and the procurement process has been positively influenced by new procurement rules and guidelines and greater financial auditing oversight. The government e-procurement system provides links to supplier registration forms and guidelines, e-bidding, pricing, and a tender notice board. However, the official policy of Malaysia is explicitly discriminatory, as procurement processes are meant to support national public policy objectives, including the preferential treatment of *bumiputera*<sup>1</sup>.... Procurement officials are required to report all attempts of bribery to the police or the **Anti-Corruption Agency** (ACA, in Malay). The government has the discretion to blacklist a company that has engaged in corruption and determine the duration of debarment. Bidders can access several complaint mechanisms through the Public Complaints Bureau, the Anti-Corruption Agency, the Public Accounts Committee and procuring agencies, which can cancel tenders if irregularities are revealed. In addition, the Monitoring and Control Division of the Ministry of Finance monitors adherence to procurement rules, and may also set up special task forces to investigate complaints. The minister of finance has the ultimate decision-making authority regarding complaints.

**Whistle-Blowing:** The Anti-Corruption Act and Anti-Money Laundering Act provide a legal framework for a protection of whistleblowers mechanism, but no specific law to protect whistleblowers has yet been developed.... The Anti-Corruption Agency... provides an online whistleblower mechanism and posts a corruption hotline with relating reporting guidelines through which companies and individuals can report corruption (Global Advice Network 2008, 'Malaysia Country Profile', Business Anti-Corruption Portal website, pp. 6-9 <http://www.business-anti-corruption.com/normal.asp?pageid=741> – Accessed 23 October 2008 – Attachment 1).

As the report shows, despite these measures having been put in place, there are ongoing difficulties eradicating corruption due to its having permeated even the highest levels of government.

...[T]he institutions meant to tackle corruption, including the main anti-corruption institution, the Anti-Corruption Agency, are accused of being politicised and lacking independence, and several sources point to the fact that members of the ruling coalition and powerful business actors seem to go free from investigations and arrests.

... The March 2008 vote indicates growing opposition to the problem of corruption, but it remains to be seen if those still holding political power will be willing or able to address the problem in a substantive way. Abdullah and his announced successor, current Deputy Prime Minister Najib Razak, have also been tied to corruption scandals, including dubious defence contracts and charges of alleged abuse of power by respected UMNO party members for using government funds to bribe UMNO members in a bid to sustain their position in the party. These charges have added fuel to ongoing criticism of Abdullah and the status quo.

... There is a widespread perception of corruption as common among the country's political and business elite, and bribery and other corrupt practices constitute serious problems for companies operating in Malaysia.

... It should be noted that some prosperous Malaysian companies are nominally privately-owned, but in many ways remain 'political businesses' that owe their growth to the preferential treatment they receive from the ruling party, if not outright ownership by political

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<sup>1</sup> *Bumiputera* is a term used widely in Malaysia to refer to ethnic Malays and other indigenous ethnic groups such as the Orang Asli.

officials. Not surprisingly, high-ranking officials or business representatives with well-connected companies are rarely targeted in anti-corruption cases. Moreover, according to the Merdeka Center for Opinion Research Peninsula Malaysia Voter Opinion Poll July 2008, 62% of respondents believe that it is people with political connections that are the ones who really profit from projects funded by the government. Many areas of public life, such as public procurement, are affected by the government's affirmative action programme. Furthermore, local private sector associations have been known to discriminate against foreign-owned companies. For procurement, closed-door negotiations are allowed in cases where it is possible to help *bumiputera* companies obtain a foothold in the economy through the acquisition of a tender. The policy of awarding huge infrastructure projects to selected *bumiputera* companies without open tender and giving special licences to the same group has encouraged corruption between public officials and domestic and foreign companies (Global Advice Network 2008, 'Malaysia Country Profile', Business Anti-Corruption Portal website, pp. 1-2 <http://www.business-anti-corruption.com/normal.asp?pageid=741> – Accessed 23 October 2008 – Attachment 1).

In providing general comments on the Public Anti-Corruption Initiatives the report states:

Progress in Prime Minister Abdullah's pledges to combat and reduce corruption has been slow, particularly in recent years. The year 2006 saw the disclosure of a number of corruption scandals under the Mahathir administration, many of which did not receive decisive responses. Abdullah's anti-corruption campaign appears to have been more focused on establishing rules for ethical government rather than actually enforcing them and prosecuting corrupt politicians and civil servants. The understandings of problems of transparency and integrity are demarcated along ethnic lines, and the public efforts to fight corruption are generally considered to be 'works-in-progress'. Furthermore, the failure of public officials to respond to Parliamentary Select Committee on Integrity (PSCI) summons shows a lack of accountability and respect for oversight mechanisms in state institutions and undermines the authority of public anti-corruption institutions monitoring the public sector (Global Advice Network 2008, 'Malaysia Country Profile', Business Anti-Corruption Portal website, p. 9 <http://www.business-anti-corruption.com/normal.asp?pageid=741> – Accessed 23 October 2008 – Attachment 1).

Ongoing problems with corruption which are highlighted in the Business Anti-Corruption Portal website report are also referred to in Freedom House reports on Malaysia for 2007 and 2008. The Freedom House report on Malaysia for 2007 states:

Despite a strong popular mandate in 2004 and signs of renewed momentum on police reform and anticorruption efforts in 2005, little concrete reform has actually been achieved since Abdullah took office.

...Malaysia was ranked 44 out of 163 countries surveyed in Transparency International's 2006 Corruption Perceptions Index. Corruption in the country is mostly limited to elite circles. There is marked graft in the police force, and political corruption, particularly bribery and cronyism, is common in the ruling BN coalition. Abdullah followed through to some extent on his anticorruption campaign pledges by launching a National Institute for Ethics and a National Integrity Plan in 2004. Progress has been slow in subsequent years, however.... The police inspectorate general's refusal to establish an independent police complaints and misconduct board in March 2006, coupled with resistance from several BN members of parliament, undermined progress on reducing police corruption. A long-anticipated cabinet reshuffle, finally implemented in February 2006, retained many of Mahathir's ministers, including the controversial minister of international trade and industry, Rafidah Aziz, who was tainted in 2005 by favoritism in allocation of state contracts and licenses. While 2006 saw the disclosure of a number of corruption scandals under the Mahathir administration,

many of these did not receive decisive responses. Abdullah pointed to the large increase in the number of arrests and prosecutions for corruption since he entered office and pledged that anticorruption efforts would be strengthened under the Ninth Malaysia Plan, yet his record in 2006 on corruption did little to inspire confidence (Freedom House 2007, *Freedom in the World - Malaysia* (2007), p. 2, pp. 4-5 – Attachment 2).

The government's failure to follow through on its anti-corruption promises and its crackdown on those who exposed cases of high-level political corruption, is described in Freedom House's 2008 report on Malaysia, which states:

Over the course of the year, Malaysia moved farther away from Abdullah's promises of an open, transparent, and accountable government.... Bloggers and online news sites exposed several high-level political corruption cases, and the government showed significant intolerance to the disclosure of official business. Defamation charges were brought against two bloggers in January, and a major crackdown on online media was launched in June and July, with BN officials issuing a series of coverage directives and convening to find legal mechanisms for controlling media on the internet - essentially the country's last outlet for free expression.

...After launching a National Integrity Plan and National Institute for Ethics in 2004, Abdullah has largely failed to follow through on his anticorruption campaign pledges. Corruption remains prevalent in the police force and worsened among members of the ruling coalition in 2007, with a number of cases at the very highest levels. Zulkipli Mat Noor, the head of the Anti-Corruption Agency, was accused of corruption and sexual crimes by a former subordinate and Sabah state director. His contract was not renewed in March, although his work was praised.

Deputy Prime Minister Najib Razak was accused in April of deceiving the public about defense contracts.

...[T]he country's leading crime-fighting officials - the inspector general of the police and the deputy minister for internal security - launched corruption allegations against each other in late spring. The country's third-highest-ranking police officer was arrested on charges of concealing massive wealth in November. Efforts to correct police corruption, begun in 2005 with a royal commission to investigate the police, have been hamstrung by the police inspectorate general and attorney general's resistance to the royal commission's central recommendation: the establishment of an independent police complaints and misconduct board. In early September 2007, Abdullah promised that a bill to establish such an independent commission would be presented in Parliament by year's end. A Special Complaints Commission (SCC) Bill was introduced but faced considerable criticism, and decisions were deferred until 2008. Malaysia was ranked 43 out of 180 countries surveyed in Transparency International's 2007 Corruption Perceptions Index.

Malaysia's Official Secrets Act (OSA), which prohibits the dissemination of any information classified as "official secret," effectively reduces transparency in governance and curbs freedom of information. With heightened concerns about political corruption and general elections looming, the government invoked the OSA in 2007 to prevent the disclosure of potentially damaging information. In January, four opposition politicians were prosecuted under the OSA for revealing a controversial highway concession agreement following a series of protests against highway toll hikes.

...With mainstream media so heavily restricted, the internet has emerged as a primary outlet for free discussion and for exposing cases of political corruption. The government responded in 2007 with an escalating crackdown, beginning in January with the first defamation charges

brought against bloggers, for accusations of plagiarism against the publisher and editor of the New Straits Times, which enjoys close ties with UMNO. A BN official brought defamation charges against the critical website Malaysiakini in April, and another blogger, Nathaniel Tan, assistant to the head of PKR, was arrested under the OSA in July for commentary related to corruption in the country's internal security system. (He was released after his four-day remand expired.) Coverage warnings were issued in February, April, and July, with the July directive going so far as to threaten offensive bloggers with use of the Internal Security Act (ISA), OSA, and Sedition Act, all of which could draw several years in prison. Newspapers were specifically warned against covering the “rumors” being reported online (Freedom House 2008, *Freedom in the World - Malaysia (2008)*, p. 3, pp. 4-5 – Attachment 3).

These events may have contributed to a lack of public confidence in the government's integrity, evidenced in the results of a survey conducted by Transparency International for 2008, which ranked Malaysia 47<sup>th</sup> out of 180 countries in the Corruption Perceptions Index (CPI). *The Star Online* reports:

Malaysia's score in the Corruption Perceptions Index (CPI) has not improved this year, according to a survey conducted by Transparency International.

The country's ranking declined to 47 out of 180 countries in 2008, compared to 36 out of 91 countries in 2001 and 43 out of 179 countries in 2007.

Transparency International Malaysia said in a statement that this showed that some countries had made better progress than Malaysia.

“The country's CPI score remained at 5.1, the same as in 2007. The score for Malaysia for the last eight years since 2001 had been between 4.9 (2002) and 5.1 (2005, 2007, 2008).

“This shows that the trend of the CPI for Malaysia has remained mediocre at mid-point, with no improvement over the last eight years,” said the statement.

In South-East Asia, Malaysia ranked second behind Singapore, which scored 9.1 on the index. Last was Myanmar with a score of 1.3.

The statement said a number of high profile cases had dampened public confidence in the integrity of government institutions, such as the V.K Lingam case, alleged corruption cases in government procurement, abuses in land excision and fraud on land transfer, and corruption in business transfers at the local municipality level.

Transparency International, however, commended Malaysia on the setting up of Pemudah, a Special Task Force to Facilitate Business, and the Prime Minister's initiative to reform the judiciary and the Anti-Corruption Agency (‘Malaysia still lagging in Corruption Perceptions Index’ 2008, *The Star Online*, 24 September

<http://thestar.com.my/news/story.asp?file=/2008/9/24/nation/2100629&sec=nation> - Accessed 24 October 2008 – Attachment 4).

## **2. Is there any information to suggest government or official involvement in smuggling goods into Malaysia?**

While many of the sources consulted refer to the problem of corruption in Malaysia, limited information is available on the topic of goods smuggling. Nevertheless, it is clear from the information available that high-ranking and low-ranking government officials have, at

various times, either been caught smuggling goods into Malaysia, or subjected to allegations of being involved in goods smuggling. Examples of this are provided below.

In October 2007, *The Star Online* reported that Customs officers were being investigated in connection with an increase in smuggling activities in Port Klang.

Customs Director-General Datuk Seri Abdul Rahman Abdul Hamid said the department identified some 100 forwarding agents and customs agents allegedly involved in smuggling activities.

He said 28 smuggling cases had been detected this month alone involving RM2mil worth of goods and duty up to RM3mil.

“It shows a bocor (leakage) at the Customs gate here.

“The modus operandi is also diversified; some even try to smuggle in low price items such as RM1 shoes or fluorescent lights that are worth only one sen,” he said yesterday when making a surprise check at the port.

“We know who they are and I have their names. We suspect inside jobs,” he added. (‘Customs officer under probe over rise in smuggling’ 2007, *The Star Online*, 31 October <http://thestar.com.my/news/story.asp?file=/2007/10/31/nation/19330081&sec=nation> - Accessed 23 October 2008 – Attachment 5).

In August 2008, Customs officers were caught smuggling mobile phones into Malaysia (Chong, C.S. 2008, ‘Smuggled handphones: 3 Customs officers nabbed’, *The New Straits Times*, 31 August [http://www.nst.com.my/Current\\_News/NST/Sunday/National/2337147/Article/pppull\\_index.html](http://www.nst.com.my/Current_News/NST/Sunday/National/2337147/Article/pppull_index.html) - Accessed 23 October 2008 – Attachment 6), while an earlier report indicated the involvement of Customs officers in diesel smuggling (‘DG: Sandakan diesel smuggling involving Customs an isolated case’ 2006, *Daily Express*, 1 October <http://www.dailyexpress.com.my/news.cfm?NewsID=44718> - Accessed 23 October 2008 – Attachment 7).

According to *The Star Online* (2 May 2008) three senior personnel within the Ministry of Domestic Trade and Consumer Affairs were placed under investigation for their alleged involvement in diesel smuggling activities.

Domestic Trade and Consumer Affairs Minister Datuk Shahrir Samad wants the Anti-Corruption Agency (ACA) to “keep a close eye” on his officers following recent investigations involving senior ministry personnel over their alleged involvement in diesel smuggling activities.

According to the minister, the arrests - two in Sabah and one in Sarawak - had jeopardised the ministry's integrity and he did not want anything like this to happen again.

“I do not want those working in this ministry to be in cohort or masterminding illegal activities. Those serving the Government and the people must be individuals of high esteem, responsible and honest. I do not want any of this to happen again,” he told reporters Friday after chairing his ministry's post-Cabinet meeting.



Shahrir said the trio, including the enforcement chiefs of Sabah and Sarawak had since been transferred to the ministry headquarters here and were given desk duties pending completion of the probe.

He said this also indicates how “lucrative” diesel smuggling activities were, so much so that even irresponsible government officials were willing to take the risk, adding more than 200,000 litres of diesel with a market value of RM540,000 were seized (Anis, M. A. 2008, ‘Minister wants ACA to keep an eye on domestic trade officers’, *The Star Online*, 2 May <http://thestar.com.my/news/story.asp?file=/2008/5/2/nation/20080502185318&sec=nation> - Accessed 23 October 2008 – Attachment 8).

Senior government officials were also responsible, the Environmental Investigation Agency (EIA) claimed in a report released in September 2006, for facilitating the smuggling of illegal Indonesian timber into Malaysia (‘EU-Malaysia plan for legal timber trade fails to tackle massive wood smuggling’ 2006, Environmental Investigation Agency website, 29 September <http://www.eia-international.org/cgi/news/news.cgi?t=template&a=339&source> - Accessed 23 October 2008 – Attachment 9).

### **3. What action have the Malaysian authorities taken against the illegal smuggling of goods into Malaysia?**

In cases where government officials have either been caught smuggling goods into Malaysia, or suspected of being involved in goods smuggling, it appears that officials have been suspended from their position pending investigation. Depending on investigation findings they may then face disciplinary action or court action, or could even be fired (Singh, S. 2007, ‘Tighten Customs Act to curb smuggling’, *The Star Online*, 2 December <http://thestar.com.my/news/story.asp?file=/2007/12/2/nation/20071202190110&sec=nation> - Accessed 23 October 2008 – Attachment 10; ‘DG: Sandakan diesel smuggling involving Customs an isolated case’ 2006, *Daily Express*, 1 October <http://www.dailyexpress.com.my/news.cfm?NewsID=44718> - Accessed 23 October 2008 – Attachment 7).

Measures taken by the Malaysian authorities to curb illegal goods smuggling include:

- Recruiting higher numbers of enforcement personnel (‘DG: Sandakan diesel smuggling involving Customs an isolated case’ 2006, *Daily Express*, 1 October <http://www.dailyexpress.com.my/news.cfm?NewsID=44718> - Accessed 23 October 2008 – Attachment 7).
- Increasing the monitoring of port activities (‘Customs officer under probe over rise in smuggling’ 2007, *The Star Online*, 31 October <http://thestar.com.my/news/story.asp?file=/2007/10/31/nation/19330081&sec=nation> - Accessed 23 October 2008 – Attachment 5).
- Conducting “surprise operations” involving special Customs investigation teams (‘DG: Sandakan diesel smuggling involving Customs an isolated case’ 2006, *Daily Express*, 1 October <http://www.dailyexpress.com.my/news.cfm?NewsID=44718> - Accessed 23 October 2008 – Attachment 7).
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- Increasing intelligence operations to identify syndicates operating in designated areas ('DG: Sandakan diesel smuggling involving Customs an isolated case' 2006, *Daily Express*, 1 October <http://www.dailyexpress.com.my/news.cfm?NewsID=44718> - Accessed 23 October 2008 – Attachment 7).
- Increasing rewards offered to individuals who enabled authorities to break smuggling cases by providing tip offs (Anis, M. A. 2008, 'Minister wants ACA to keep an eye on domestic trade officers', *The Star Online*, 2 May <http://thestar.com.my/news/story.asp?file=/2008/5/2/nation/20080502185318&sec=nation> - Accessed 23 October 2008 – Attachment 8).
- Rejecting applications to the government for payment of diesel subsidies in cases where companies could not prove they sold diesel to only those qualified to buy it ('DG: Sandakan diesel smuggling involving Customs an isolated case' 2006, *Daily Express*, 1 October <http://www.dailyexpress.com.my/news.cfm?NewsID=44718> - Accessed 23 October 2008 – Attachment 7).

Further examples of measures taken by the authorities to curb smuggling activities are provided in a report in *The Star Online* (2 December 2007) which states:

The Customs Department wants more stringent penalties to be included in the Customs Act 1967 to check rampant smuggling as well as to ensure the safety of its officers in dealing with increasingly bolder smugglers.

Its director general Datuk Seri Abdul Rahman Abdul Hamid said that the present penalties of a fine of between 10 times and 20 times the amount of the unpaid duty and imprisonment of up to three years were outdated and had not helped curb the menace.

"On the contrary, our officers have been killed in the line of duty. Smugglers have become so aggressive that they will not hesitate to set our official vehicles alight," he said.

Abdul Rahman said that Customs conducted raids almost daily and this exposed his men to higher risks.

"If the smugglers have to crash their vehicle into ours to escape, they would just do it. We must get the message across to them not to challenge the law," he said.

Citing another example, Abdul Rahman said that section 136 of the Act stipulated that those found guilty of obstructing Customs officers from carrying out their duties, such as tontos, were only liable to a fine of up to RM10,000 or jail of not more than three years or both. This too should be made tougher, he said.

Abdul Rahman said that unbridled smuggling attempts at Port Klang had prompted him to request the assistance of the Anti Corruption Agency, the Integrity Institute of Malaysia, Customs union, shipping agents and the managers of the respective zones in the port area to provide input on ways to check such activity.

He admitted that some of his officers were also in cahoots with the smugglers and that this was not tolerated.

"We have taken action against them. Some have even been sacked," he added (Singh, S. 2007, 'Tighten Customs Act to curb smuggling', *The Star Online*, 2 December <http://thestar.com.my/news/story.asp?file=/2007/12/2/nation/20071202190110&sec=nation> - Accessed 23 October 2008 – Attachment 10).

## List of Sources Consulted

### Internet Sources:

#### **Government Information & Reports**

UK Home Office <http://www.homeoffice.gov.uk/>

US Department of State <http://www.state.gov/>

#### **Non-Government Organisations**

Freedom House website <http://www.freedomhouse.org/template.cfm?page=1>

Business Anti-Corruption Portal website <http://www.business-anti-corruption.com/Home.asp>

#### **Region Specific Links**

Malaysian Crime Prevention Foundation website <http://www.emcpf.org/>

*The Star Online* <http://www.thestar.com.my.com/>

*Daily Express* (Sabah, Malaysia) [www.dailyexpress.com.my/](http://www.dailyexpress.com.my/)

*The New Straits Times Online* [www.nst.com.my/](http://www.nst.com.my/)

#### **Search Engines**

Copernic <http://www.copernic.com/>

Google search engine <http://google.com.au/>

Clusty <http://clusty.com/>

### Databases:

FACTIVA (news database)

BACIS (DIAC Country Information database)

ISYS (RRT Research & Information database, including Amnesty International, Human Rights Watch, US Department of State Reports)

MRT-RRT Library Catalogue

## List of Attachments

1. Global Advice Network 2008, 'Malaysia Country Profile', Business Anti-Corruption Portal website <http://www.business-anti-corruption.com/normal.asp?pageid=741> – Accessed 23 October 2008.
2. Freedom House 2007, Freedom in the World - Malaysia (2007). (CISNET Malaysia CX192375)
3. Freedom House 2008, Freedom in the World - Malaysia (2008). (CISNET Malaysia CX209046)
4. 'Malaysia still lagging in Corruption Perceptions Index' 2008, *The Star Online*, 24 September <http://thestar.com.my/news/story.asp?file=/2008/9/24/nation/2100629&sec=nation> - Accessed 24 October 2008.

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