



# ALCOHOL

**Comparative Analysis of the Proposed Regulation  
of Alcohol in Indonesia and the Regulation in  
Malaysia**

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# Proposed Regulation of Alcohol in Indonesia Compared to Malaysia

## STUDENT REPORT

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*There are no optimal or best regulatory solutions, just solutions that respond better than others to the plural configurations of support and opposition that exist at a particular moment in history.*

*Ian Ayres and John Braithwaite*

## ABSTRACT

Alcohol use and alcohol-related harm are considered to be one of the major concerns in global health. Indonesia and Malaysia are multi-confessional and multi-cultural countries with Islam being the most practiced religion. Following the resolution on Global strategy to reduce the harmful use of alcohol, World Health Organization has published a number of guiding principles to develop policy and implement the strategy. One of the principles is to develop policy sensitive to national characteristics in religious and cultural context. This principle make Indonesia and Malaysia as a perfect illustration of the complexity of culture in alcohol consumption within a country. However, there is a substantial knowledge gap in alcohol policy development particularly in developing countries. This study analyze the approach to reduce alcohol-related harm used in Indonesia contemporary alcohol regulations and interventions in comparison to Malaysia. The alcohol policy framework is in accordance to WHO guidelines and supporting research. This study is done in two-fold. First, a brief discussion on perceived alcohol problems in Indonesia and Malaysia. Second, in a comparative legal analysis manner, to have an insight into all alcohol-related regulations and interventions in Indonesia and Malaysia. Later, this study concludes and make recommendations to improve reduction of alcohol problems in Indonesia.

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## **List of Abbreviations**

<b>AAF</b>	Alcohol-attributable fraction
<b>APB</b>	Alcohol Prohibition Bill
<b>ASDR</b>	Age-Standardized Death Rates
<b>ASEAN</b>	Association of Southeast Asian Nations
<b>FAO</b>	Food and Agriculture Organization
<b>GISAH</b>	Global Information System for Alcohol and Health
<b>HS</b>	Harmonized System
<b>MMC</b>	Muslim Majority Country
<b>NADFC</b>	National Agency of Drug and Food Control
<b>SES</b>	Socioeconomic Status
<b>WHO</b>	World Health Organization



# 1. Introduction

Alcohol use and alcohol related harm are considered to be one of the major concerns in global health. Harmful use of alcohol is a causal factor for more than 200 types of non-communicable and communicable diseases and injury conditions (World Health Organization, 2014). In 2010, the Global strategy to reduce the harmful use of alcohol was adopted into World Health Assembly resolution. Considering that many of the studies on alcohol policy come from high-income countries, for lower income countries there are substantial knowledge gaps in ways to address effective policies (Regional Office for the Western Pacific, World Health Organization, Hill, Clarke, & Casswell, 2011). Furthermore, for developing countries that have predominantly Muslim populations, policy development is influenced by religious and cultural factors. Alcohol policies in Muslim majority countries (MMCs) should acknowledge the heterogeneity among the country's population (Al-Ansari, Thow, Day, & Conigrave, 2016).

Indonesia and Malaysia have a similarly distinctive combination of cultures, and it is also reflected in the alcohol consumption. These two countries have majority Muslim populations, as well as diverse ethnicities and large minority religions. Despite being Muslim majority countries, where the major religion (Islam) prohibits alcohol use, alcohol drinks are still legally consumed in both countries. The alcohol beverages are regulated with an established system of monitoring and control. However, these countries have adopted different approaches in their regulations and strategies to curb the alcohol problem.

The current alcohol policy in Indonesia is a set of regulations covering affordability and availability of alcohol with monitoring and enforcement. However, recently Indonesia is pursuing a drastic change from regulating availability towards a total prohibition of alcohol on a nationwide basis. In 2015, The House of Representatives drafted an Alcohol Prohibition Bill (APB) or *Rancangan Undang-Undang Larangan Minuman Beralkohol* which is still under discussion<sup>1</sup>. The Bill seeks for a total ban of the production, sale, distribution, and the consumption of alcoholic drinks. Meanwhile, Malaysia has a restricted prohibition for specific populations instead of total prohibition, as well as a set of civil regulations that conform to heterogeneity of the population. It is indeed a form of art to develop national law sensitive to different cultures and religions.

This thesis analyses the different approaches of alcohol regulations in acknowledging the heterogeneity of religions and cultures among MMCs, particularly Indonesia and Malaysia.

## 1.1. Problem Statement

Total prohibition is common in MMCs, but not quite so in multi-cultural and multi-religious countries. During the history of alcohol policy, total prohibition has not shown to be completely effective at reducing alcohol consumption where there is a large demand for alcohol, as it will be fulfilled by illegal operators (Babor et al., 2010). Considering cultural and religious

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<sup>1</sup> Panitia Khusus Dewan Perwakilan Rakyat RI. *Rancangan Undang-Undang Republik Indonesia tentang Larangan Minuman Beralkohol* (2015). Retrieved from <http://www.dpr.go.id/doksileg/proses2/RJ2-20150626-022127-5059.pdf>.

characteristics of Indonesia, it is questionable if the Alcohol Prohibition Bill is fit for such purpose or if there's another type of regulation. On the other hand, Malaysia has a different approach to reduce alcohol consumption specific to its cultural and religious factors.

## 1.2. Research Aim

In the context of developing regulations based on the country characteristics, one plausible method is to look at policy instruments used in another comparable country. Malaysia is chosen for this purpose because it has similar characteristics to Indonesia in being multi-cultural and a Muslim majority country. This study is aimed to understand the underlying alcohol-related problem in Indonesia, and to see whether the Alcohol Prohibition Bill is fit for purpose or perhaps to consider other instruments. Therefore, this research compares the Alcohol Prohibition Bill with the current regulations in Indonesia and Malaysia, in order to analyze different approaches of the alcohol regulation. Moreover, the comparison will seek for the most relevant, evidence-based legislative options for Indonesia.

## 1.3. Research Framework

Main Research Question

*How can alcohol be regulated in Indonesia?*

Sub-questions

1. What does alcohol consumption in Indonesia look like?
2. What does the Prohibition of Alcoholic Beverages Bill aim to regulate?
3. What is the current alcohol regulation in Indonesia?
4. What measures does Malaysia have taken to tackle similar issues?
5. What would be the advantages and the disadvantages for applying those measures in Indonesia?

## 1.4. Methodology

The thesis is written in four parts. Before starting, there will be an introduction to the legal system of Indonesia and Malaysia, setting the meta-framework for the policy analysis. The first part is the analysis of Indonesian alcohol consumption and its harmful use, in order to set the scene for readers. Research about alcohol use in Indonesia will be conducted by systematic review of journals, and electronic databases mainly from the Global Information System for Alcohol and Health (GISAH). The second part is the analysis of Indonesian alcohol policies, starting from the proposed Alcohol Bill using a legal doctrinal approach to critically analyze the synthesis of the Bill and its academic draft. It includes analyzing rationale of the Bill and interests of legislators. Later, the results will be analyzed and compared with all existing regulations in Indonesia related to alcohol, including the repealed President Decree and current provisions issued by Government.

In the third part, this research will look into national policy in a comparative and descriptive approach between Indonesia and Malaysia. Comparing national alcohol policies is complicated because each country has its own socio-political and cultural circumstances. But, looking into the

rationale of each policy, it can give a holistic understanding of the law. The comparison will be carried out using the guide to support countries in developing alcohol legislation written by WHO Western Pacific Region (2011) as the meta-framework for the thesis. Meta-frameworks act as a translation device and will enable to compare between national frameworks. Further description of the framework will be eluded in the next chapter. The comparison will give a review of experiments from Malaysia in facing similar problems and (socially-) given conditions. The study assesses how each country handles similar alcohol-related issues given their own social differences through the alcohol regulation. The regulation including taxation, regulating availability of alcohol (e.g. prohibition, licensing system), restricting minimum age of purchase, restricting alcohol marketing, deterring drinking and driving, monitoring and enforcement, and national planning. This will be done extensively by reviewing the law itself and scholarly articles. Primary texts are available in each of official languages; respectively Indonesian and Malaysian. Consequently, there are mixtures of spelling and referencing styles. American spelling is used throughout the text, while some legislation quotes and titles are written with British spelling. The referencing styles used are APA 6<sup>th</sup> edition for the main text and footnotes for legal text.

The last part will cover results of comparative analysis in the writing of the thesis. The research will then conclude legislative options based on the comparative analysis.

## 2. Background Information

This chapter provides brief introduction to the Indonesian and Malaysian legal systems. These information are intended to help readers to understand the analysis written in the following chapters.

### 2.1. Brief introduction to Indonesian legal system

The Indonesian legal system is based on civil law system. The system is an interweave with influences from customary law (*adat* law) which has been adapted into written norm, Syariah norms and values, and an “incomplete local permutation of the legal system of the Netherlands”<sup>2</sup>. As mentioned before, some Islamic values have influenced societal norms and thus influenced the nation’s regulation. However, Syariah criminal law is not implemented in the nation. Although Indonesia has always been persistent in showing that Islam in the country is moderate and tolerant, and that they uphold diversity and pluralism<sup>3</sup>. Multi ethnicity is addressed in Pancasila as “a unified Indonesia” principle, which serves as moral standard and internalized in each legislation (Notonegoro, 1974). In fact, political groups and other stakeholders always have a debate upon their Islamic or secular values (Ramage, 1997).

Indonesia is a unitary state with devolution to its 34 provinces. *Undang-Undang* No.23 of 2014 on Regional Government states that government affairs are decentralized to a certain degree. Main areas of government affairs at the Central Government level are foreign policy, defense, national security, judicial, national monetary and fiscal, and religious affairs. Outside from these areas can be regulated at Regional Government, some areas are shared between the two levels. Aside from the national law the provincial government exercises regional regulations made by their own legislature. Until now the amalgam of the legal system, religious belief, and *adat* law varied completely from region to region. For instance, some provisions in Aceh province in Northern Sumatra strongly hold to the Islamic criminal law called *Jinayat*, laws in Bali province are largely influenced by Hindu-Buddhist norms and values, and some tribes in West Papua continued the animism belief until the spread of Christianity.

National primary legislations are divided into several types and levels of enforcement. According to *Undang-Undang* No.12 of 2011 on Enactment of Laws<sup>4</sup>, legal force of each

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<sup>2</sup> Further information on this matter, see Barton, G. (2010). Indonesia: Legitimacy, secular democracy, and Islam. *Politics & Policy*, 38(3), 471–496. Or Ricklefs, M. C. (2008). *A History of Modern Indonesia since c. 1200*. Palgrave Macmillan.

<sup>3</sup> Joko Widodo: Islam in Indonesia is moderate. (n.d.). Retrieved from <https://www.aljazeera.com/programmes/talktojazeera/2017/05/joko-widodo-islam-indonesia-moderate-170503075654145.html>.

<sup>4</sup> Republik Indonesia. *Undang-Undang Republik Indonesia Nomor 12 Tahun 2011 tentang Pembentukan Peraturan Perundang-Undangan* (2011).

legislation is in accordance with the principle *lex superiori derogat legi inferiori*<sup>5</sup> with the following hierarchy<sup>6</sup>.

1. The Constitution, known as *Undang-Undang Dasar 1945* as it was enacted upon independence in 1945.
2. Decree of People's Consultative Assembly.
3. Law or Government Regulation in Lieu of Legislation.<sup>7</sup> Law is known as *Undang-Undang*, drafted by House of Representative or the President and reached a joint agreement between the legislative house and president. While Government Regulation in Lieu of Legislation is enacted by the President in events of emergency, with subject to immediate review by the legislative house.
4. Government Regulation, enacted by The President for implementation of the Law.
5. Presidential Regulation, on matters that are ordered by Law or implementation of Government Regulation.
6. Provincial Regulation, drafted by the Provincial House of Representatives with the governor's consent.
7. Regional Regulation, drafted by Regency / Municipal House of Representatives with the consent of the regent / mayor.

The primary legislation sets out the main principles and then assign particular authority to ministries or non-ministerial government agencies to pass a subsidiary law. Outside of the hierarchy, Art.8 of *Undang-Undang* No.12 of 2011 states that Ministerial Regulation is recognized and has binding legal force as long as it is commanded by higher law or constituted by its authority. The position of international treaty in Indonesian legal system is at the level of Law (*Undang-Undang*) and the Presidential Decree. In addressing alcohol policy, the Ministry of Trade and the Ministry of Industry play a significant role with the National Agency of Drug and Food Control (NADFC) as a complement.

## 2.2. Brief introduction to Malaysian legal system

In order to have a better understanding to the concept, a brief introduction to the Malaysian legal system is given. Malaysia is a federal constitutional monarchy, consisting of thirteen states and three federal territories. The Malaysian legal system is based on English common law, after British colonial rule introduced the system.

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<sup>5</sup> Means "a law higher in the hierarchy repeals the lower one".

<sup>6</sup> There are two possible mechanisms to check if a Provincial Regulation or Regional Regulation is contrary to higher law, to be tested through judicial review or executive review. More on this topic, refer to: Pakpahan, R. H., & SH, M. (2013). ANALISI PROSEDUR PENGUJIAN PERATURAN DAERAH. [41] *JURNAL LEGISLASI INDONESIA*, 10(1).

<sup>7</sup>For the purpose of this thesis, Law will be referred as *Undang-Undang*.

It is important to note that the Federal Constitution puts Islam as the official religion of the Federation. Hence, Malaysia recognizes a dual system of law enacted under the Federal Constitution, state law and Muslim law known as Syariah. Muslim law applies to Muslims only and it is administered by a separate court system called Syariah Courts. In general, the legal system comprises of secular laws (criminal and civil laws) dealing in personal law matters and only some states have Syariah criminal law (jenayah or jinayat).

The Federal Constitution is the supreme law of Malaysia. Each of the states has its own State Constitution, which contains provisions pertaining to state matters as provided under the Federal Constitution. Legislation are laws passed by Parliament at the national level as well as State Legislative Assemblies at the state level. Laws passed after Malaya's (now peninsular Malaysia) independence in 1957 are called 'Acts', while the laws passed by State Legislative Assemblies are called 'Enactments' with the exception to the ones passed in Sabah and Sarawak which are called 'Ordinances'. The Parent Act may hand over some authority for the head of state, ministers, local government authorities to handle technical provisions called subsidiary law. Unwritten Laws are the laws which are not written by the legislative bodies, it comprises of English common law and rules of equity, Judicial Decisions and precedents of the courts of Malaysia, and Custom Law relating to customary norms or *adat* that has been given a legal force.

## 3. Theory

### 3.1. Alcohol Policy

National policy plays a pivotal role in reducing the prevalence of alcohol related problems in the country. Some studies have shown that inadequate national policies for alcohol are prone to higher health and social harms (Monzavi, Afshari, & Rehman, 2015). Policy can touch upon key areas which directly influence the alcohol consumption, for instance taxing or pricing policy, outlet sales licensing, or restricting minimum age of purchase.

At international level, WHO Global Strategy to Reduce the Harmful Use of Alcohol was adopted into World Health Assembly resolution Number WHA61.4 in 2010 (World Health Organization, 2009). As the implementation of this resolution, the WHO Western Pacific Region established a guide to support countries in developing alcohol legislation (Regional Office for the Western Pacific, World Health Organization, Hill, Clarke, & Casswell, 2011). The guide includes common issues to consider in making the policy, which is quite relevant to this study because the policy framework provided by this guide will be used as meta-framework in the research.

The guide focuses on policies that research reviews have identified as most effective and cost-effective, and that require legislation to implement:

1. Reduce the affordability of alcohol through taxation and pricing policies.
2. Reduce the availability of alcohol restricting and/or regulating the sale of alcohol.
3. Reduce alcohol consumption by children and young people by setting a minimum age for sale and purchase.
4. Monitor and enforce legislation and policy.
5. Reduce exposure to alcohol marketing.
6. Deter drinking and driving.

## 4. Alcohol consumption in Indonesia

A total population of 263,991,769 people dispersed in 13,466 large and small islands, forming more than 200 ethnic groups, the cultural difference in Indonesia is inevitable and vast (Ministry of Tourism Republic of Indonesia, n.d.; World Bank, 2018). Beside the ethnic groups, religions in Indonesia are diverse; Muslims are the majority population (87%), and are often being highlighted in publications, but the rest of them (13%) equals to 29.6 million non-Muslims people with different religions. In order to better understand the problem, it is important to briefly look at the consumption of alcohol in the country. Total alcohol consumed is addressed as one of many components causing alcohol-related harms. Although consumption is not significant enough to be the main cause, it is related to most of the diseases and injuries attributable to alcohol (Rehm et al., 2003). In modern epidemiology studies, patterns of consumption and quality of alcohol are taken into consideration aside from the total consumption.

### 4.1. Total Alcohol Consumption per Capita

Indonesia has a relatively low alcohol consumption. The World Health Organization placed Indonesia as the 7<sup>th</sup> country with lowest level of recorded alcohol consumption, 0.1 liter of **pure alcohol per capita** (World Health Organization, 2014). The same study estimates that Indonesians drink five times more unrecorded alcohol than the legally purchased ones or 0.5 liter of pure alcohol per capita. Total alcohol per capita (15 years of age and older) settles at 0.6 liters of pure alcohol from 2008-2010. While the total alcohol per capita (15+) consumption in the population of only drinkers counts to 7.1 liters of pure alcohol in average, male drinkers account for 9.4 liters and females drank about 1.7 liters per capita. This estimation comes from data collected by the Food and Agriculture Organization (FAO) and market research companies such as International Wine and Spirit Record and Canadean. This report shows several aspects of consumption that have impacts on the course of negative consequences and harms, including diseases. These aspects ranged from environmental factors, the levels and pattern of drinking, also the quality of the alcohol itself have been investigated for its contribution to the incidence of harms. Eventually, each of the issue would require different combinations of policy strategies.

Another survey done by The Ministry of Health of Indonesia shows that 0.2% of general population or about 500,000 Indonesians consume alcoholic beverages (Menteri Kesehatan Republik Indonesia, n.d.). This survey, *Studi Diet Total*, used a different approach by interviewing individual food consumption of the respondents on the day before the survey was executed. Since the alcohol consumption is relatively low, this does not indicate an urgency for imposing a total prohibition (Uddarojat, 2016a).

### 4.2. Patterns of Drinking

Observing the drinking habits, WHO points out the prevalence of heavy episodic drinking reached 31.9% of all drinkers or 42.8% out of male drinkers. The term of heavy episodic drinking refers to consumption of at least 60 grams or more of pure alcohol in the past 30 days, on at least one occasion. Report from Indonesia Basic Health Research on 2007 by National Institute of Health Research and Development shows the most consumed alcoholic beverages in the country



are traditional alcohol 43.1%, beer 24.7%, wine 22.5%, and liquor 9.7%. With traditional alcohol predominantly consumed in the province of North Sumatra, Bali, East Nusa Tenggara, West Papua, Papua, Maluku (Moluccas), North Maluku, South Sulawesi (Celebes), Central Sulawesi, North Sulawesi, Central Kalimantan (Borneo), and West Kalimantan (*Riset Kesehatan Dasar*, 2007).

### 4.3. Traditional Alcohol

Traditional alcoholic beverages are commonly consumed in some parts of Indonesia for religious and customary purposes. They are found in certain provinces where the majority population are non-Muslim. For instance, in North Sumatra, *tuak* has a great tradition in their daily life and customary ceremonies. *Tuak* is known for its use in customary rituals as a drink offer for the elders (Ikegami, 1997). The production of traditional alcoholic beverages has not been fully standardized in practice. Another example is Arak Bali, a distilled spirit made from white glutinous rice and originated from Bali. Even though one arak brand has obtained a license from The Ministry of Health, other brands are still produced illegally by smallholders and farmers. Based on this fact, traditional alcoholic beverages often fall into the category of illegal alcohol. Additionally, there are several cases of injuries and death involving traditional alcoholic drinks<sup>8,9</sup>.

### 4.4. Quality of Alcohol

It is important to note that in Indonesia the consumption of unrecorded alcohol reached five times more than legal alcohol. Unrecorded alcohol is produced or distributed outside the regulated market with different or even with no controls. The number of total alcohol per capita consists of 0.1 liter of recorded alcohol and 0.5 liter of unrecorded alcohol. Numerous factors have made legal alcohol unaffordable and people shift to unrecorded alcohol, which is cheaper and more accessible. WHO refers unrecorded alcohol to alcohol that is not detected in official statistics on taxation and sales. Unrecorded alcohol includes informally produced alcohol, smuggled alcohol, alcohol for medicinal use, or registered in another jurisdiction for purchase made in cross-border shopping.

The term ‘illegal alcohol’ is divided into four categories, ‘moonshine alcohol’ for homemade alcohol produced with distillation process (legally or illegally), ‘smuggled alcohol’ for branded alcohol which evade paying tax, ‘counterfeit alcohol’ or fake products made with alcohol and/or non-food chemical ingredients and sold with a famous brand label at incredibly cheap price which deemed as a fraudulent practice, and ‘surrogate alcohol’ that is alcohol produced not for human consumption (Rehm & Poznyak, 2015)<sup>10</sup>. A type of surrogate alcohol in Indonesia is known as ‘*oplosan*’ which has the same principle as the fraud alcohol but *oplosan* producers won’t even bother to add any label; *oplosan* is also recognized in the Alcohol Prohibition Bill as concoction.

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<sup>8</sup>Methanol poisoning on Bali, Lombok, Gili Trawangan: Liam Davies’ story. (n.d.). Retrieved from <http://www.news.com.au/travel/travel-updates/incidents/the-aussie-tourist-hot-spot-where-poisoning-deaths-are-a-very-real-risk/news-story/14bc53b9c3838d41317894ecdaf9c0a4>.

<sup>9</sup> Contaminated alcohol in Indonesia is killing hundreds of people each year. (2017, October 4). *Asian Correspondent*. Retrieved from <https://asiancorrespondent.com/2017/10/contaminated-alcohol-indonesia-killing-hundreds-people-year/>.

<sup>10</sup> The term of illegal alcohol will be used interchangeably in this thesis, depending on the literature being referred.

Furthermore, due to individual production and consumption, traditional alcoholic beverages often are not registered in NADFC – thus being unrecorded and uncontrolled (Pribadi, 2017). In some cases traditional alcohol are being adulterated or contaminated by hazardous materials (“Indonesia: Warning against poisoning from alcohol drinks, including arak, containing methanol | SafeTravel,” n.d., “Methanol poisoning in Bali,” 2016).

Uddarojat finds that these illegal alcohol are sold at a very low price, for instance in Depok city a 620 ml of moonshine alcohol can be obtained for IDR 25.000 or around 1.58€ In the province of Yogyakarta, and possibly other provinces too, 300 ml of *oplosan* with 40% alcohol content is sold at 1.89 €approximately (IDR 30,000). On the other hand, legal alcohol is sold at a high price such as 750 ml of Gordon’s London Dry Gin for 26.45 €(IDR 420,000). In the same study, he argues that *oplosan* would more likely be a choice for low-income people. Some studies finds several factors affecting the consumption of alcohol and vulnerability of consumers, one of them is the socioeconomic status (Adler et al., 1994). *People with lower socioeconomic status appear to be more vulnerable to tangible problems and consequences of alcohol consumption* (Grittner, Kuntsche, Graham, & Bloomfield, 2012). This factor could reasonably explain the high level consumption of unrecorded alcohol in Indonesia. Categorized as a lower middle income country and coupled with high prices of legal alcohol, relatively to lower-income population, a shift of public interest towards illegal and more affordable alcohol can be expected.

Not only the affordability but also the availability makes illegal alcohol a preferred choice among Indonesian consumers. Jakarta Metro Police has pointed out a high amount of counterfeit and *oplosan* alcohol in the capital, in 2013 there were 17,672 bottles confiscated and increased to 23,875 in 2014. There was a drastic increase in 2015 right after the Ministry of Trade put a ban on alcohol sales on small shops (*minimarket*)<sup>11</sup>, and the number of illegal alcohol confiscated was up to 37,633 bottles (Uddarojat, 2016a). These data indicate that counterfeit alcohol is still widely available as one of the options for alcohol drinkers in the republic.

#### 4.5. Health Consequences of Alcohol Abuse

The WHO measures the health burden of alcohol by using prevalence data of liver cirrhosis and road traffic accidents among the causes of morbidity and mortality<sup>12</sup>. So far, WHO data are the main knowledge source of alcohol-related harm in Indonesia. Although these circumstances are only a few of the many consequences, WHO has made the prevalence rate available in a unit, namely age-standardized death rates (ASDR) per 100,000 population (15 years old and older). The alcohol-attributable fraction in cause of incidence is then defined in percentage (AAF).

In Indonesia, WHO uses the estimation for a total population at 241,000,000, the prevalence of liver cirrhosis is 16% and 30.7% of AAF for males and females respectively. The ASDR is 52.7 and 16.6, for males and females respectively, in 100,000 population. This indicates that the total AAF is 13.5 per 100,000 population. Meanwhile, the prevalence of road traffic

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<sup>11</sup> Menteri Perdagangan Republik Indonesia. Peraturan Menteri Perdagangan Republik Indonesia tentang Perubahan Kedua atas Peraturan Menteri Perdagangan Nomor 20/M-DAG/PER/4/2014 tentang Pengendalian dan Pengawasan terhadap Pengadaan, Peredaran, dan Penjualan Minuman Beralkohol, Pub. L. No. 06/M-DAG/PER/1/2015 (2015).

<sup>12</sup> The data calculate both mortality and morbidity inseparably. Derived from: World Health Organization. (2014). *Global status report on alcohol and health, 2014*. World Health Organization.

accidents in general is 34.4 of male and 13.6 of female ASDR in 100,000 population. The AAF value is 3.6% for male and 0.20% for female. So, the total AAF in road traffic accidents is 1.26 incident.

#### 4.6. Determinant Factors of Alcohol Abuse

A research on Indonesian alcohol culture acknowledges four dimensions of determinants in the case of alcohol abuse including social, economic, cultural, and environment (Pribadi, 2017). The factors determining alcohol culture in Indonesia are described in Table 1.

*Table 1 Determinants of Alcohol Abuse in Indonesia*

<b>Determinant</b>	<b>Factor</b>	<b>Explanation</b>
Social	Prestige	Alcohol is viewed as a symbol of social, prestige, and masculinity mostly because of the high price of imported alcohol.
	Lifestyle	Social life is synonymous with alcohol use, such as nightclub party in urban and rural areas.
	Norms	Norms as in family and society with different levels of tolerance. The highest consequence of consuming alcohol is to be labelled with negative stigma.
Economic	Economic power	Increase of alcohol consumers in Indonesia can be associated with affordability of alcohol compared to their economic power. The high price of imported alcohol makes it only affordable for the upper class, while the lower-middle class would choose the local brand or some traditional alcoholic beverages. Even <i>oplosan</i> .
	Market mechanism	Market price plays an important role in shaping the alcohol consumption pattern. Imported and licensed alcohol is safer for the fact that the alcohol content is printed on the label, therefore consumers would adjust the amount of drinks to consume. Meanwhile unrecorded alcohol mostly don't have the alcohol content on the label, thus the consumption is rather uncontrolled.
	Government revenue	Alcohol is ambivalent, on one hand it can cause harms but on the other hand it is still one of the source of government revenue.
Cultural	Custom and tradition	In some regions alcohol has an affinity to the culture and tradition, which is a guide to the community norms. Therefore it is important to approach the complexity of alcohol consumption through traditional and cultural approaches.
	Religions and beliefs	There are six official religions in Indonesia (Islam, Catholicism, Protestantism, Hindu, Buddhism, and Confucianism), each of them has its own level of tolerance for alcohol

		consumption. However, religions can only limit what can and/or cannot be done, with vertical responsibility between an individual and his/her belief.
Environmental	Regulation and policy	Regulation has the power to control alcohol use, if it is integrated in relevant governmental bodies and enforced thoroughly. Which is not fully the situation in Indonesia.
	Product availability	Since the law enforcement is rather loose, both recorded and unrecorded alcohol are arguably still accessible for all.
	Advertising media	The law on advertising alcohol on media is highly strict, there is no known alcohol ads since.
	Health promotion	In Indonesia, health promotion program is still minimal. As an effort to reduce alcohol abuse, health program must focus on socializing the knowledge to society and advocacy about negative impacts of alcohol consumption to policy maker.

#### 4.7. Conclusion

The total alcohol consumption is low in Indonesia, as a majority Muslim country alcohol has never been a country-wide problem. The minority of the population makes up most alcohol drinkers, including non-Muslims and people whose culture has affinity with alcohol. Some problems occur with the increased availability of illegal alcohol and traditional alcohol, more importantly methanol poisoning. The last section explains four determinants behind alcohol abuse in Indonesia, and will be used to analyze which factor can be the priority target of intervention. The Indonesian government aims to tackle these risks by increasing centralized formal controls and alcohol bans.

## 5. Alcohol Regulation in Indonesia

### 5.1. The Alcohol Prohibition Bill

The Indonesian House of Representatives (*Dewan Perwakilan Rakyat Republik Indonesia*) has initiated deliberation of an Alcohol Prohibition Bill (hereinafter APB or the Bill) as the first regulation in the form of *Undang-Undang* to centralize alcohol policy in the country<sup>13</sup>. A first academic draft was proposed by an Islamic party, Prosperous Justice Party (Indonesian: *Partai Keadilan Sejahtera*), back in 2015. The regulation on alcoholic beverages heretofore are still dispersed in various ministerial and presidential regulations and have not been regulated in an integrated body. The Representative House aims to place alcohol regulation at the top level of the legislative hierarchy, known as *Undang-Undang*.

This chapter focuses on the APB, and discusses the interpretation of its rationale based on the Bill's academic draft. The Bill is the primary text to understand the proposed policy, therefore it will be analyzed article by article<sup>14</sup>. While a review upon the academic draft is as important because the words diction in the Bill is premature and the draft may give a clearer view to the context. For the overall development of alcohol policy in the country, see next chapter.

#### 5.1.1. General Provisions

In its current form, the Bill seeks a total ban of the production, sale, distribution, and the consumption of alcoholic drinks containing 1% up to 55%<sup>15</sup> of alcohol, including traditional alcoholic drinks and concoctions. It is worth to note that in the APB, the objectives were to:

- protect the public from the negative effects of alcohol beverages,
- raise public awareness about the consequences of alcoholic beverages,
- create public order and peace away from disturbance caused by alcoholic drinkers.<sup>16</sup>

The prohibition enlisted in Chapter III of the Bill comprises the production, distribution, consumption, admittance, storage, and/or sale of alcoholic beverages in the territory of The Republic of Indonesia<sup>17</sup>.

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<sup>13</sup> Special Committee of Dewan Perwakilan Rakyat RI (2015) *Rancangan Undang-Undang Larangan Minuman Beralkohol*, <<http://www.dpr.go.id/doksileg/proses2/RJ2-20150626-022127-5059.pdf>> accessed on 15 August 2017.

<sup>14</sup> The first draft of the Bill may be partially or entirely revised throughout the enactment process. The material analysed in this study is the 2015 version, as well as some suggested phrasing during legislator discussion which is made publicly available.

<sup>15</sup> The maximum permissible limit of the alcohol strength for distribution in the country is 55%, refer to: Menteri Perindustrian Republik Indonesia. *Peraturan Menteri Perindustrian Republik Indonesia tentang Perubahan atas Peraturan Menteri Perindustrian Nomor 63/M-IND/PER/7/2014 tentang Pengendalian dan Pengawasan Industri dan Mutu Minuman Beralkohol*, Pub. L. No. 62/M-IND/PER/8/2015 (2015).

<sup>16</sup> Art. 3 *Rancangan Undang-Undang Larangan Minuman Beralkohol 2015*.

<sup>17</sup> Art.5-07, *Rancangan Undang-Undang Larangan Minuman Beralkohol 2015*.

Within Chapter 7 will discuss whether the prohibition pursued by this Bill is best fit for tackling alcohol-related issues in the country.

For the purpose of this chapter, the key terms mentioned in the APB will be accompanied by The Minister of Industry Regulation No.62/M-IND/PER/7/2015<sup>18</sup>. This regulation lays down technical-related definition and specification needed in alcoholic beverages industry. The first chapter of the APB defines the scope and definitions of terms used in the text, including the definition of alcoholic beverages in Article 1 of APB as follows.

*Alcoholic beverages are beverages containing ethanol (C<sub>2</sub>H<sub>5</sub>OH) obtained by both fermentation and distillation or fermentation without distillation of carbohydrate in agricultural products, either by giving any pre-treatment or not, with or without any additives, or being processed by mixing the concentrate with ethanol or by diluting alcoholic beverages.*

The second chapter lays down types of alcoholic beverages to be regulated by the prohibition of alcohol.

- a. Class A Alcoholic Beverages is Alcoholic Beverages with ethanol content (C<sub>2</sub>H<sub>5</sub>OH) more than 1% until 5%;
- b. Class B Alcoholic Beverages is Alcoholic Beverages with ethanol content (C<sub>2</sub>H<sub>5</sub>OH) more than 5% until 20%; and
- c. Class C Alcoholic Beverages is Alcoholic Beverages with ethanol content (C<sub>2</sub>H<sub>5</sub>OH) more than 20% until 55%<sup>19</sup>.

The classification has been enforced since the enactment of the President Decree of 1997<sup>20</sup> until recently written in the APB. Besides of the above-mentioned categories, the prohibition would also apply to traditional alcoholic beverages and **concoctions**<sup>21</sup>. For beverages containing ethanol less than 1% is a naturally occurring alcohol which placed them out of the scope. Beverages with high ethanol content more than 55% is considered as non-food grade, therefore it is not included in the classification<sup>22</sup>. This may cause misleading for the reason that there are distilled alcohol containing more than 55% alc. and still considered fit for human consumption.

### *Exemption*

Chapter III of APB allows some limited alcohol consumption to be exempted from the regulation, i.e. traditional custom practices, religious practices, tourists, medical purpose, alcohol

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<sup>18</sup> Menteri Perdagangan Republik Indonesia. *Peraturan Menteri Perdagangan Republik Indonesia tentang Perubahan Kedua atas Peraturan Menteri Perdagangan Nomor 20/M-DAG/PER/4/2014 tentang Pengendalian dan Pengawasan terhadap Pengadaan, Peredaran, dan Penjualan Minuman Beralkohol*, Pub. L. No. 06/M-DAG/PER/1/2015 (2015).

<sup>19</sup> Art.4(1) *Rancangan Undang-Undang Larangan Minuman Beralkohol 2015*.

<sup>20</sup> In Indonesian: *Republik Indonesia. Keputusan Presiden Nomor 3 Tahun 1997 tentang Pengawasan dan Pengendalian Minuman Beralkohol*, Pub. L. No. 3 (1997). This President Decree was repealed and replaced by Presidential Regulation No. 74 of 2013 on Alcoholic Beverage Control and Supervision.

<sup>21</sup> Art.4(2) *Rancangan Undang-Undang Larangan Minuman Beralkohol 2015*.

<sup>22</sup> Art.1(3) The Minister of Industry Regulation No.63/M-IND/PER/7/2014 (1<sup>st</sup> Amendment) amended by No.62/M-IND/PER/7/2015 (2<sup>nd</sup> Amendment) on *Pengendalian dan Pengawasan Industri dan Mutu Minuman Beralkohol*

beverages sold in shops with specific license. Further provisions concerning limited use of alcohol as referred to above would be set out in a Government Regulation<sup>23</sup>. Certain shops that are exempted from the regulation are further specified in the Elucidation part of the APB, including duty-free stores, five-star hotels, high-class restaurants with gold or silver certification from the regional government, bars, pubs, night clubs, and liquor stores<sup>24</sup>.

The exemptions specified in this chapter has some vague language. For instance the control of alcohol consumed by tourists would be applicable to only international tourists or also domestic ones? On the other hand, the vague language may provide the legislators to openly discuss on the topic. As it is now, the exemptions are quite wide and flexible for interpretation. While Government Regulation as mentioned in the text is supposedly made after the APB pass through, thus in the meantime it is still unknown how they would adopt the law. The stringency of alcohol prohibition in the country would then depend on the stores licensing scheme and other controls in Government Regulation.

#### 5.1.2. Traditional alcoholic beverages

Elucidation of the Bill lays down the definition as follows: “A *traditional alcoholic beverage is an alcoholic beverage produced from the sap of a palm tree, sugar palm or other blends, namely: sopi, bobo, ballo, tuak, arak, saguer or other names.*” This clause recognizes traditional alcoholic beverages exist in certain regions.

One of the main targets of the Bill is to abolish the unregulated production of traditional alcoholic beverages. However, some of the traditional alcoholic beverages are exempted for particular occasions, i.e. customary interests and religious rituals. For this purpose, the production must be formalized and registered according to Government Regulation.

#### 5.1.3. Monitoring and Enforcement

According to Chapter IV of the Bill, the supervisory function is exercised by central and regional government through a joined team that consists of at least the Ministry of Industry, the Ministry of Trade, the Ministry of Finance, the National Agency of Drug and Food Control (NADFC), the National Police, the Attorney General, and representatives of community or religious leaders. The team will be established at both national and regional level. Coordination of the team, according to Article 13, will be done at the national level by the National Police at the provincial level by governors and at the municipal level by the district regent/mayor. The team will monitor the enforcement of APB at least four times a year and is funded by the State Budget at the national level, and by the Regional Development Budget at regional level<sup>25</sup>.

Furthermore, an investigation shall be conducted by the competent authority if there is initial evidence that a crime has been committed. The criminal provisions in this regard are set

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<sup>23</sup> Art.8 *Rancangan Undang-Undang Larangan Minuman Beralkohol 2015*.

<sup>24</sup> Elucidation of Art.8 *Rancangan Undang-Undang Larangan Minuman Beralkohol 2015*.

<sup>25</sup> Art.10-15, *Rancangan Undang-Undang Larangan Minuman Beralkohol 2015*.



forth in Chapter VI of the Bill. Whereby any person who violates any of the provisions of Article 5, 6, 7 shall be subject to different sanctions respectively. For a violation by producing alcoholic drinks shall be subject to imprisonment of at least two years to ten years or a fine between 200 million to 1 billion Indonesian Rupiah (12,670 €to 63,360 €). Distribution, storage, and/or sale of alcoholic beverages shall be punished by imprisonment for two years to ten years or a fine between 200 million to 1 billion Indonesian Rupiah. While consumption of alcoholic beverages shall be punished by imprisonment for three months to two years or a fine between 10 million to 50 million Indonesian Rupiah (633 €to 3,168 €)<sup>26</sup>. If the incident causes a disruption of public order or threatens the security of another person, it is punished by imprisonment for one year to five years or a fine for 20 million to 100 million Indonesian Rupiah. In the case of deeds resulting in the loss of another person's life, they are punishable by the main penalty plus a third of the sanction<sup>27</sup>.

At the time this law is in force, it is provisioned to go hand in hand with all laws governing alcoholic beverages insofar as it does not conflict with the provisions of this law<sup>28</sup>. In this regard, the next step is to analyze the framework of the current legislation, and the legal gap that would be filled with the proposed regulation.

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<sup>26</sup> Art. 18-20, *Rancangan Undang-Undang Larangan Minuman Beralkohol 2015*.

<sup>27</sup> Art.21, *Rancangan Undang-Undang Larangan Minuman Beralkohol 2015*.

<sup>28</sup> Art.22, *Rancangan Undang-Undang Larangan Minuman Beralkohol 2015*.

#### 5.1.4. Ongoing discussion on the Bill

The main point to consider is the underlying reason of the Bill itself, whether it is the societal norms or the high level of alcohol-related harms in Indonesia. The academic draft of the Bill uses public health concern as the main argument and then relates it to adverse impacts of alcohol. Hence it is adopted into the aim of APB that in general address health and social consequences of harmful use of alcohol. The clear statement of public health objectives is recommended by the World Health Assembly, and has been proven to be effective compared to economic growth objectives, to enable the country to take into account the broader health impacts of alcohol.

The academic draft and thus the first version of the Bill was proposed by an Islamic party, Prosperous Justice Party. They presented the Bill as what seems to be a total ban of alcohol production and distribution inside the country, even so the discussion within the legislators shows a vague stance on the issue. There is a sense of correlation as to why an Islamic party would propose an alcohol ban in the country, the Bill however doesn't bring any religious reasoning to the table. As in any other political issue, the legislators have always been cautious in discussing religious differences among them, especially that the ban would also affect non-Muslim Indonesians taking into account that Indonesia is still not a Muslim country.

The use of public health and social objective is interesting to look upon despite lack of evidence. Some legislators may disagree with the statement 'lack of evidence' because, in fact, they use this reasoning in many occasions. They believe that 'the high number of criminals is caused by the harmful influence of alcoholic beverages' and 'many casualties involved misuse of stronger alcoholic drinks and *oplosan*' (WikiDPR, 2015). Yet they admittedly do not have data supply on alcohol production, distribution, and (negative) impacts ("*RUU MINOL: Pansus Minta Pemerintah Suplai Data*," 2017). This situation may actually reflect the drinking norm in Indonesia.

There are some opposing parties, fueled by the very same concern about the danger of illegal or *oplosan* alcohol, who prefer to approach the problem differently. *Nadhlatul Ulama* (NU), the largest Muslim organization in Indonesia, have set its stance disagreeing on a total ban on alcohol in the capital ("NU Jakarta rejects booze ban," 2017). In line with Uddarojat (2016a) research, NU Jakarta pointed out that beer (legal alcohol) should not be the main focus but, instead, tackling the use of illegal alcohol as the biggest problem in the country. Opposing parties, including the Minister of Trade in 2016 and the Legislative Council, say that there should only be controls on the distribution, sale, and consumption of alcohol and the proposed Bill should also facilitate a balanced and responsible economic development through a flexible regulatory system in line with the president's economic policy<sup>29</sup>.

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29 Policy Package Phase I by President Joko Widodo published in September 2015 <http://industri.bisnis.com/read/20150914/12/472288/deregulasi-perdagangan-minuman-beralkohol-kembali-ke-minimarket>.

The discussion on the APB inside the House of Representatives is going at a slow pace, now, two years after it was proposed the discussion still has not reached approval from the President who is represented by six ministers for this issue. The ministers involved are the Minister of Trade, the Minister of Religious Affairs, the Minister of Finance, the Minister of Industry, the Minister of Law and Human Rights, and the Minister of Health. These ministers have proposed a Problem Inventory on the APB based on their point of view. It is divided into seven clusters, i.e. title, classification of alcoholic beverages, prohibition, control, monitoring, community participation, and criminal provisions (*"Pembahasan DIM RUU Minol dibagi dalam 7 kluster,"* 2016). One of the main problem they found is the title of the Bill itself whether it should be 'Alcohol Prohibition', 'Alcohol Control', or simply 'Alcoholic Beverages'. The title will determine the approach used by the regulation, which means it will be the regulation's core. Meanwhile, the same problem is still being addressed within the Special Committee who is issuing this Bill (*"Kendala Pembahasan RUU Minol,"* 2017). The current stage of discussion inside the house is to answer the Problem Inventory, which has reached 30-40% of the proposed list (*"RUU Larangan Minuman Beralkohol Pertimbangkan Budaya Lokal,"* 2017).

## 5.2. Current Alcohol Regulation in Indonesia

Alcohol-related regulations in Indonesia are based upon the Presidential Regulation No. 74 of 2013 on Alcoholic Beverage Control and Supervision<sup>30</sup>. The regulation treated alcoholic beverages as special commodities, or in their own word, categorized as ‘goods under surveillance’ of which comprises domestically produced alcohol, traditional alcoholic drink, and imported alcohol. To closely supervise the consumption of alcohol in the country, the regulation laying down surveillance on its production, importation, distribution, and sales. This law mainly focuses on scope of production and distribution, and restricting location of sales and direct sales. Furthermore, the regulation grants several authorities under the scope of ministries and regional governments for taxation, licensing, and other matters. Hence, in the near future the Alcohol Prohibition Bill may replace the Presidential Regulation as the laws serve the same scope.

Next to this national regulatory scheme, there are also regional regulation as a further elaborations of its national counterpart embedded with cultural value, norms, and identity of each region. In this chapter the structure of the alcohol law currently enacted in the country will be described. Firstly, analysis about the Presidential Regulation No. 74 of 2013 as the core law followed by regulations at ministerial level and some notable regionals’ regulation. After that, some differences in the articles of the current law compared to the Bill will be discussed further.

### 5.2.1. General Provisions

The Presidential Regulation imposes surveillance for any “*beverages containing ethyl alcohol or ethanol (C<sub>2</sub>H<sub>5</sub>OH) which processed from agricultural products containing carbohydrates by fermentation with distillation or fermentation without distillation*”; “*alcoholic beverages from local production or imported alcohol*”<sup>31</sup>. According to the regulation, traditional alcoholic beverage falls into the definition of the alcoholic beverages.

The classification of alcoholic beverages is also based on the ethanol content, and divided into three classes as follows;

- Category A is for low ethanol content up to 5%
- Category B for beverages containing more than 5% ethanol up to 20%
- Category C with high ethanol content more than 20% to 55%<sup>32</sup>.

The lowest class as defined here is a little different with the one put on the Bill, here includes beverages with ethanol content lower than 2%. Alcoholic beverages both produced domestically or import must meet the standards of production quality as well as food safety and quality standards, which is set by National Agency of Drug and Food Control (NADFC)<sup>33</sup>.

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<sup>30</sup> Presidential Regulation No. 74 (2013) on *Pengendalian dan Pengawasan Minuman Beralkohol*, repealing Presidential Decree No. 3 (1997) on *Pengawasan dan Pengendalian Minuman Beralkohol*.

<sup>31</sup> Art.1 (1) and 2 Presidential Regulation No. 74 of 2013 on *Pengendalian dan Pengawasan Minuman Beralkohol*.

<sup>32</sup> Art.3 Presidential Regulation No. 74 of 2013 on *Pengendalian dan Pengawasan Minuman Beralkohol*.

<sup>33</sup> Art.5 Presidential Regulation No. 74 of 2013 on *Pengendalian dan Pengawasan Minuman Beralkohol*.

The surveillance of the alcoholic beverages covers the whole production, distribution, and sales of both domestically produced or imported alcohol. In general, the product shall meet the national production standards for quality, and food safety and quality standards. The surveillance is done by licensing business operators with a permit issued by the Ministry of Industry; importing license and/or sales permit in accordance of the alcohol classification issued by the Ministry of Trade; and distribution license and labelling requirements from the NADFC<sup>34</sup>. Later on, discussion on the surveillance and the enforcement will be written within the subchapters hereafter.

### 5.2.2. Reducing Affordability

Controlling affordability is the most common measure used by nations to tackle alcohol-related problems, mainly in a form of formal controls over alcoholic beverages such as taxation and pricing. Increased alcohol taxes and prices have been proven worldwide to induce reduction of alcohol use and related problems (Babor et al., 2010). Taxation of alcoholic beverages has contributed as a significant source of government revenue in many countries. As for the target of excise duty in 2017 comes from ethyl alcohol IDR150 billion, alcoholic beverages of IDR5.53 trillion, compared to tobacco products amounting to IDR49.88 trillion. With total target revenue of customs and excise is IDR191.23 trillion (“*Gara-Gara Aturan, Penerimaan Bea Cukai 2016 Turun - Katadata News*,” 2017).

Effort to reduce affordability of alcohol in Indonesia is done through its taxation policy, import duty and excise duty. Whereas before the 2010 amendment alcohol was considered as luxury goods to which luxury taxes are being levied. Now the current regulation no longer includes alcohol in luxury taxes provision, but alcohol continues to be part of sumptuary taxable goods in Indonesia alongside tobacco.

#### 5.2.2.1 Import duty

Import duty is regulated by Regulation of the Ministry of Finance No.6/PMK.010/2017 on Establishment of Commodity Classification System and Imposition of Import Duty, in accordance to the latest amendment of Harmonized System (HS) 2017 by the World Customs Organization (WCO) and ASEAN Harmonized Tariff Nomenclature 2017 by Association of Southeast Asian Nations (ASEAN). HS codes contain 4 and 6 number digits used as a global tool to monitor international trade and statistics between and/or with WCO Member States. And the eight-digit commodity nomenclature issued by ASEAN to be used as national code, instead of the previous ten-digit nomenclature in the 2012 version wherein the last two digits were the national codes. AHTN 2017, and thus the Indonesian Tariff Nomenclature, acts as a starting point towards ASEAN Single Window in trade harmonization.

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<sup>34</sup> Art. 3(3), 4, and 5 Presidential Regulation No. 74 of 2013 on *Pengendalian dan Pengawasan Minuman Beralkohol*.

Table 2 List of import duties imposed to alcoholic beverages in Indonesia<sup>35</sup>

HS/AHTN Code	Description of Goods	Import Duty
22.02	Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured, and other non-alcoholic beverages, not including fruit or vegetable juices of heading 20.09.	
2202.91.00	Non-alcoholic beer	20.0%
22.03	Beer made from malt  of an alcoholic strength by volume not exceeding 5.8% vol.	IDR 14,000
22.04	Wine of fresh grapes, including fortified wines; grape must other than that of heading 20.09.	90.0%
22.05	Vermouth and other wine of fresh grapes flavoured with plants or aromatic substances.	90%
22.06	Other fermented beverages (for example, cider, perry, mead, saké); mixtures of fermented beverages and mixtures of fermented beverages and non-alcoholic beverages, not elsewhere specified or included.	90%
22.07	Undenatured ethyl alcohol of an alcoholic strength by volume of 80% vol. or higher; ethyl alcohol and other spirits, denatured, of any strength.	30%

<sup>35</sup> More complete list, see Annex III Commodity Classification System and Imposition of Import Duty of Regulation of the Ministry of Finance No.6/PMK.010/2017 pg. 231-232.

22.08	Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80% vol.; spirits, liqueurs and other spirituous beverages.	150%
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In Annex I of Regulation No.6/PMK.010/2017, alcoholic beverages is categorized into “Beverages, spirits and vinegar” of Chapter 22 as seen in Table 2. Indonesia combines two types of indirect taxes for the alcohol commodity, and then adopt the considerably most ideal system for each category of alcohol. For alcohol lower than 5% (Category A) is levied specific tax system, while ad valorem system applies for higher alcohol content (Category B&C).

#### 5.2.2.2 Excise duty

Indonesia specifies alcohol products and tobacco products as excisable goods, which is regulated under Regulation of the Ministry of Finance No. 226/PMK.04/2014 on Storage, Import, Export, and Transportation of Excisable Goods. Moreover, Regulation of the Ministry of Finance No.207/PMK.011/2013<sup>36</sup> elaborates a specific tax system based on the alcohol classification for pure ethyl alcohol, alcoholic beverages, and concentrates containing ethyl alcohol. Particularly for alcoholic beverages, excise duties are formulated with necessary adjustments to the inflation rate, economic growth, and annual excise tax revenue target. The excise are payable to the Directorate General of Customs and Excise. The amount of tax levied upon alcoholic beverages is stipulated on the Annex of Regulation No.207/PMK.011/2013.

*Table 3 Excise duty of alcoholic beverages on domestic and imported products in Indonesia*

CATEGORY	Alcohol Content	Excise duty (Indonesian rupiahs per liter)	
		Domestic products	Import
A	Up to 5%	13,000	13,000
B	More than 5% up to 20%	33,000	44,000
C	More than 20%	80,000	139,000

<sup>36</sup> Laying down The Amendment of Regulation of the Ministry of Finance No.62/PMK.011/2010 on Excise Duties of Ethyl Alcohol, Beverages Containing Ethyl Alcohol, and Concentrates Containing Ethyl Alcohol. The excise is enforced since January 2014.

Import duty in Indonesia is much higher than the excise. According to Ministry of Finance Regulation No.6/PMK-010/2017 tariff of alcoholic beverages is determined with type of the beverage (Category A, B, or C), for beers value of tariff is specified and for higher alcohol categories the tariff is ad valorem based on the unit price of goods (90% and 150%). Before the regulation was amended in 2015, import duties were expressed in specific tax around IDR55,000 to IDR125000 (€3.27 to €7.42). To illustrate the difference between the current import tariffs with pre-2015 regulation, for one bottle (1 litre) of whiskey worth IDR 1,000,000 (€9.4) under the old system will be sold at IDR 1,125,000 per bottle (€6.82), with the current tariff at 150% it will be sold at IDR 2,500,000 per bottle (€148.5) (CNN ID, n.d.). Meanwhile, the excise duty is expressed as specific value depending on the beverage category and counted as per liter of beverage. The increase of alcohol content correlates with the increase of the excise duty. This taxation structure means imported alcoholic drinks are several times more expensive than domestically produced ones. In one media, the Ministry of Trade confirmed that the legal reasoning to the high tariff on alcohol is Indonesia's social, religious, and cultural norms ("*Pajak Minuman Alkohol Naik 150 Persen*," n.d.).

### 5.2.3. Regulating Availability

Limiting availability of alcohol according to the current Presidential Regulation in Indonesia is mainly about regulating the sales and import permit. Density of alcohol outlets is not openly limited, but instead the sales of alcoholic beverages (Category A, B, and C) can only be done under supervision of related ministry and/or regional government in certain locations:

- a. hotel, bar, and restaurant permitted under tourism law;
- b. duty-free shop, and;
- c. other places according to regional regulations<sup>37</sup>.

Other than places referred to above, Category A of alcoholic beverages is also allowed to be sold at retail stores as specified further in the Regulation of the Ministry of Trade No. 06/M-DAG/PER/1/2015. Art.7(2) of Presidential Regulation No. 74 of 2013 states that regional regulations shall not permit alcohol sales adjacent to place of worship, educational institution, or hospital. Furthermore, the hours and location of alcohol sales are regulated differently in every regional regulation.

#### 5.2.3.1 Alcohol Licensing

The Ministry of Trade has been authorized by Presidential Regulation No.74 of 2013 to regulate licensing issues for the procurement and sales of alcoholic drinks. The implementation is governed under Regulation of the Ministry of Trade of The Republic of Indonesia No.20/M-DAG/PER/4/2014 and has been amended twice. The first amendment came in October 2014 by Regulation of the Ministry of Trade No. 72/M-DAG/PER/10/2014, and the second amendment in January 2015 by Regulation of the Ministry of Trade No. 06/M-DAG/PER/1/2015. In general, the

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<sup>37</sup> Art. 7 Presidential Regulation No. 74 of 2013 on *Pengendalian dan Pengawasan Minuman Beralkohol*.



original and all amended versions of the law lay down the licensing system for alcohol sales for take-away alcohol and on premise, setting up the criteria for outlets, plus the enforcement at ministerial level. In general it requires any company engaged in alcohol trade to have Business License for Trading of Alcoholic Beverages (Indonesian: *Surat Izin Usaha Perdagangan Minuman Beralkohol*) and specific type of license for every importers, distributors, sub-distributors or wholesalers, or for Category A which is allowed to be sold by retailers.

#### 5.2.3.2 Importers and Distributors

Importers must be licensed with Registered Importer of Alcoholic Beverages and Business License for Trading of Alcoholic Beverages to conduct the procurement of alcoholic beverages from imports. The Minister of Trade is responsible for issuing the Registered Importer of Alcoholic Beverages license<sup>38</sup>. The importer may then apply for import and must attain the imports of alcoholic beverages for at least 80% of the proposed target. The Ministry of Trade specifies the allocation of types and quantities of alcoholic beverages that can be imported to balance consumption demand based on the demand fulfillment of alcoholic beverages, both duty-paid goods and duty-not-paid goods. The procurement of duty-paid alcoholic beverages can be done by registered importers, while the procurement of duty-not-paid alcoholic beverages can only be done by State Owned Enterprises<sup>39</sup>.

These beverages are distributed through distribution channels, first Registered Importer companies or Alcohol Manufacturer must appoint authorized Distributors (with Business License for Trading of Alcoholic Beverages) to distribute alcoholic beverages. Later the Distributor must also appoint Sub Distributors to distribute imported and domestically produced alcoholic beverages. Subsequently, Sub Distributors may distribute Category A of alcoholic beverages, such as beers, only to authorized retailers for off premise consumption (with Category A Alcoholic Beverages - Retailer Certificate) or authorized direct sellers (Category A Alcoholic Beverages - Direct Seller Certificate). With regard to Category B and C of alcoholic beverages, basically wine and spirits respectively, Sub Distributors may distribute them to authorized retailers for off premise consumption or authorized direct seller for on premise consumption, both of which have been granted the Business License for Trading of Alcoholic Beverages<sup>40</sup>.

#### 5.2.3.3 On premise License

Sale of alcoholic beverages to be drunk directly on the premises can only take place at hotels, restaurants, bars in line with the tourism law; and other places that are specified further in the regional regulations based on the alcohol policies of each region<sup>41</sup>. Specifically Category A sellers must comply with an Integrity Pact<sup>42</sup> that includes, among other things:

- 1) Check proof of age the buyer's identity card to ensure age limit requirements (aged 21 or above).
- 2) To not serve alcoholic beverages to persons who already seem intoxicated.

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<sup>38</sup> Art. 5 Regulation of the Ministry of Trade No.20/M-DAG/PER/4/2014.

<sup>39</sup> Art. 7 Regulation of the Ministry of Trade No.20/M-DAG/PER/4/2014.

<sup>40</sup> Art. 13 Regulation of the Ministry of Trade No.20/M-DAG/PER/4/2014.

<sup>41</sup> Art. 14 Regulation of the Ministry of Trade No.20/M-DAG/PER/4/2014.

<sup>42</sup> Art. 22(9) Regulation of the Ministry of Trade No.20/M-DAG/PER/4/2014.

- 3) The alcohol outlet is not established near a youth center, a youth hostel, street vendors, small kiosks, campgrounds, bus station, train station, place of worship, school, and hospital.
- 4) To not do promotional activities that can induce excessive alcohol consumption.
- 5) Comply to all regulation related to alcoholic beverages.<sup>43</sup>

#### 5.2.3.4 Off premise License

Authorized retailer can sell alcoholic beverages of any category, with addition specific to beer and other low-alcohol strength beverages is to have the Category A Alcoholic Beverages - Retailer Certificate<sup>44</sup>. Retailers must comply to minimum age requirements for buyers (aged 21 or above) and to fulfill certain display and placing inside the premise requirements<sup>45</sup>. Respectively, for retailers who wish to obtain the Category A Retailer Certificate must comply with the Integrity Pacts similar to the on premise one<sup>46</sup>.

The size of retail markets selling Category A beverages, such as beers, has been repeatedly amended. First off in the initial version of the Ministerial Regulation, the retailers are specified as *minimarket* (a premise of less than 400m<sup>2</sup>), supermarket (more than 400m<sup>2</sup>), hypermarket (more than 5 000m<sup>2</sup>), or other convenience store with premise of at least 12m<sup>2</sup>. Then in the second amendment it was stated that sales on *minimarket* and other convenience store less than 400m<sup>2</sup> were no longer permitted and had required to withdraw the intended products from distribution, as sales permits are no longer valid. Yet few months after the prohibition, in September 2015, President Joko Widodo has launched a Policy Package Phase I in which one of the content is deregulation of Regulation of the Ministry of Trade No. 06/M-DAG/PER/1/2015 with the aim to mobilize the national economy. In other words, sales of beers on small convenience stores are now allowed if it doesn't oppose the regulation at regional level.

In addition, Art.7(4) gives justifications for regional governments to enact legislations based on the local culture and characteristics. Regional regulations shall act as a further elaboration of the law, just as how it is articulated in Art.7 before. This paragraph is intended for particular regions that embrace religious practices, such as Syariah law. In regards of traditional alcoholic drinks, the Presidential Regulation grants authority to the regional government to exercise control and supervision necessary according to the needs of customary or religious rituals in the respective region<sup>47</sup>. Further provisions regarding the control and surveillance of alcoholic beverages are regulated by ministers in their respective fields.

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<sup>43</sup> Annex VII Regulation of the Ministry of Trade No.20/M-DAG/PER/4/2014.

<sup>44</sup> Art. 19 Regulation of the Ministry of Trade No.20/M-DAG/PER/4/2014.

<sup>45</sup> Art. 15 and 16 Regulation of the Ministry of Trade No.20/M-DAG/PER/4/2014.

<sup>46</sup> Art. 22(8) Regulation of the Ministry of Trade No.20/M-DAG/PER/4/2014.

<sup>47</sup> Art. 8 Presidential Regulation No. 74 of 2013 on *Pengendalian dan Pengawasan Minuman Beralkohol*.

#### 5.2.4. Setting a minimum age for purchase

The licensing legislation, Regulation of the Ministry of Trade No.20/M-DAG/PER/4/2014, sets a minimum purchase age as a requirement. The licensee must comply with certain conditions, including selling alcohol (all categories) to consumers aged 21 or above by showing the identity card<sup>48</sup>. Furthermore it is written in the Integrity Pact that age verification must be done to each buyer before purchase<sup>49</sup>. This legislation makes it an offence for licensee to sell alcohol to people underage, thus it may result in revocation of the license(s) which shall be done no later than 7 working days after a written warning is issued<sup>50</sup>. However, there is no provisions regarding the buyers in this particular legislation which can lead to legal uncertainty whether it is a prosecutable offence to buy alcohol if you are a minor, or for using a false proof of age, or to supply alcohol to a minor as an adult.

The enforcement is done by the integration of various government agencies to be discussed in the next section. For this issue, the government may involve the police as a supporting functionary<sup>51</sup>.

#### 5.2.5. Monitoring and enforce legislation and policy

Monitoring and enforcement function on the licensing issue is charged on the Integrated Team (Indonesian: *Tim Terpadu*). It is established integration of various provincial government agencies (the provincial branch/local office of the ministry) related to alcohol issue, i.e. trade service, industry, health, tourism, civil security, local drug and food control, and other related agencies<sup>52</sup>. Financing of this team is charged upon the Regional Income and Expenditure Budget.

Monitoring is mainly done through the business realization reports required for each licensed company on a three-month basis. This requirement applies to all importers, distributors, sub-distributors, tax-free stores, retailers, and direct sellers<sup>53</sup>.

The licensing legislation makes these action a prosecutable offence

- To distribute alcohol that is not in accordance with the submitted distribution channel plan<sup>54</sup>;
- To sell alcohol to the public without a license<sup>55</sup>;
- To operate any form of trade in alcoholic beverages without a license<sup>56</sup>;

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<sup>48</sup> Art. 15 Regulation of the Ministry of Trade No.20/M-DAG/PER/4/2014.

<sup>49</sup> Annex VII Regulation of the Ministry of Trade No.20/M-DAG/PER/4/2014.

<sup>50</sup> Art. 41 Regulation of the Ministry of Trade No.20/M-DAG/PER/4/2014.

<sup>51</sup> Art. 33(f) Regulation of the Ministry of Trade No.20/M-DAG/PER/4/2014.

<sup>52</sup> Art. 33 Regulation of the Ministry of Trade No.20/M-DAG/PER/4/2014.

<sup>53</sup> Art. 36 and 37 Regulation of the Ministry of Trade No.20/M-DAG/PER/4/2014.

<sup>54</sup> Art. 39 and 40 Regulation of the Ministry of Trade No.20/M-DAG/PER/4/2014.

<sup>55</sup> Art. 49 Regulation of the Ministry of Trade No.20/M-DAG/PER/4/2014.

<sup>56</sup> Art. 43 Regulation of the Ministry of Trade No.20/M-DAG/PER/4/2014.

- To sell alcohol to the public in prohibited location or area<sup>57</sup>;
- To sell alcohol to a minor and/or to put alcohol not in line with Art. 16 of Regulation No.20/M-DAG/PER/4/2014<sup>58</sup>; and
- To store alcohol not in accordance with the storage provisions in Art. 26 of Regulation No.20/M-DAG/PER/4/2014<sup>59</sup>.

Any offence made against the provisions in this legislation may result in suspension or revocation of the license. This type of sanction is found to have larger impact on the business rather than a fine (Regional Office for the Western Pacific, World Health Organization, Hill, Clarke, & Casswell, 2011).

#### 5.2.6. Regulating alcohol marketing

Alcohol business operators are prohibited from advertising alcoholic beverages in any mass media according to Art. 30 Regulation of the Ministry of Trade No.20/M-DAG/PER/4/2014, any offences to this article may result in revocation of the license<sup>60</sup>. The provision is in line with the social norms accustomed to no alcohol advertising to be published in any media.

However, these articles do not directly constrain any direct promotions done inside the designated areas, for instance to hold a happy hour discount for liquors. Other non-advertising forms of marketing such as sponsorships for sports and musical events are hindered by extant regulations relating to alcohol premises license. Accordingly, tobacco industries, being less restricted by law, remain as the market player for event sponsorships.

#### 5.2.7. Deterring drinking and driving

Indonesia claims to have zero-tolerance for driving under the influence of alcohol, despite using a rather uncommon type of implementation into the law. The blood alcohol concentration (BAC) is generally used as an objective measurement to determine the relationship between alcohol and physical impairment, thus the capability of driving and probability of being involved in accidents (Babor et al., 2010). However, the current Indonesian law does not specify the minimum level BAC. Instead, *Undang-Undang* No. 22 of 2009 on Traffic and Road Transport states that “every person who drives a motor vehicle on the road shall drive properly and with full concentration”<sup>61</sup>.

Furthermore, stipulated in the Elucidation to this article is the term referred to as ‘full concentration’ which has a meaning “every person shall drive a motor vehicle with full attention

<sup>57</sup> Art. 46 Regulation of the Ministry of Trade No.20/M-DAG/PER/4/2014.

<sup>58</sup> Art. 41 Regulation of the Ministry of Trade No.20/M-DAG/PER/4/2014.

<sup>59</sup> Art. 45 Regulation of the Ministry of Trade No.20/M-DAG/PER/4/2014.

<sup>60</sup> Art. 48 Regulation of the Ministry of Trade No.20/M-DAG/PER/4/2014.

<sup>61</sup> Art. 106(1) *Undang-Undang* No. 22 of 2009 on Traffic and Road Transport.

and not distracted by illness, fatigue, drowsiness, using the telephone or watching television or video equipment attached inside the vehicle, or drink any alcoholic beverages or drugs that affects the ability to drive properly.” In other words, a driver may drink alcoholic beverages up to the level of which the driving ability is affected; but not limited specifically. Hence it depends on individual tolerance to alcohol and ability to drive, there is a subjective measurement to this legislation.

If a motorist drives a Motor Vehicle on the Road carelessly and does other activities or is affected by a situation causing impaired driving concentration on the Road, shall be punished with a maximum imprisonment of 3 months or a fine of not more than IDR 750,000<sup>62</sup>.

Such action may also be subject to Article 311 of *Undang-Undang* No. 22 of 2009:

*(1) Any person who deliberately drives a Motor Vehicle in a manner or circumstance that is harmful to life or property is liable to a maximum imprisonment of 1 (one) year or a maximum fine of IDR 3,000,000 (three million rupiah).*

*(2) In the event that the action referred to in paragraph (1) resulted in a Traffic Accident with damage to Vehicle and / or Goods as intended in Article 229 paragraph (2), the offender shall be punished with imprisonment of 2 (two) years or a fine of at most IDR 4,000,000 (four million rupiah).*

*(3) In the event that the actions referred to in paragraph (1) result in Traffic Accidents with minor injuries and damage to Vehicles and / or goods as intended in Article 229 paragraph (3), the offender shall be sentenced to imprisonment maximum of 4 (four) years or a fine of not more than IDR 8,000,000 (eight million rupiah).*

*(4) In the event that the action referred to in paragraph (1) resulted in a Traffic Accident with persons severely injured as referred to in Article 229 paragraph (4), the offender shall be punished by a maximum of 10 (ten) years or the maximum fine IDR 20,000,000 (twenty million rupiah).*

*(5) In the event that the action referred to in paragraph (4) resulted in the death of another person, the perpetrator shall be sentenced to a maximum of 12 (twelve) years imprisonment or a fine of not more than IDR 24,000,000 (twenty-four million rupiah).*

According to this article, a driver in a drunken state can be regarded as a dangerous situation. In fact, such reckless behavior may hold the driver liable, a degree of which the driver is liable of depends on the matter of consequences of the accident - whether the accident caused damage to the vehicle / goods, caused minor injuries, caused serious injury, or caused another person to die.

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<sup>62</sup> Art. 283 *Undang-Undang* No. 22 of 2009 on Traffic and Road Transport.

## 6. Alcohol Regulation in Malaysia

Legal provisions regarding alcohol are addressed (directly and/or indirectly) by several departments or agencies at central level, state level, and district and local authority. At the central level, alcohol control laws are set by Minister of Finance and enforced by the Royal Malaysian Customs Department. Although there is no specific law dealing with the topic, all matters pertaining to alcohol are mainly controlled through tax laws. The general regulation on alcohol are laid down in Excise Act of 1976 [Act 176] and Customs Act of 1967 [Act 235], enacted by Minister of Finance, and its subsidiary regulations. Technical definitions and labelling requirements are written in Food Regulations 1985 [P.U.(A) 437] amended by Food Amendment Regulations 2016 [P.U.(A) 145].

In an effort to reduce the harmful use of alcohol, the Government of Malaysia has a national initiative namely Malaysia's Alcohol Control Action Plan 2013-2020 which is included as part of the National Strategic Plan for Non-Communicable Diseases (NSP-NCD) 2016-2025. They are incorporating World Health Assembly strategies into the country's policy. The total alcohol consumption in Malaysia accounts to 1.3 liters of pure alcohol, with 1.0 liters of which is unrecorded alcohol per capita consumption, surpassing the recorded alcohol in 0.3 liters of pure alcohol<sup>63</sup>.

At the state level, the government has the power to enact laws specific to the respective state over some matters stipulated in the constitution. However, alcohol provision is out of their authority mainly for the fact that alcohol is a dutiable goods. Even so, the State Government can regulate alcohol indirectly through other areas of law, including the Sharia (spelled in Malay as *Syariah*) provisions and entertainment enactments. Syariah law shall and only be applicable to all Muslims, covering religious observances which include alcohol prohibition. These provisions mainly prohibit Muslims from drinking alcohol or involvement with any activities related to alcoholic beverages depending to the state. Meanwhile at the local level, Customs and Licensing Boards of the Districts or Local Government (City Council)<sup>64</sup> direct the alcohol licensing issues, and this subject will be discussed further in this chapter.

### 6.1. General Provisions

The Customs Act 1967 and the Excise Act 1976 are currently the main legislations concerning alcohol in Malaysia. The provisions aim to control the availability of alcoholic beverages, which are often referred as intoxicating liquor. The scope of the law is extended to dutiable goods (customs and/or excise), and the classification of alcohol under surveillance is not defined explicitly but rather each section of the Acts specify which type of alcohol drink (e.g. beer, toddy, spirits) is affected.

Alcoholic beverage according to regulation 361 paragraph(1) of Food Regulations 1985 P.U.(A) 437 of 1985 is a *"liquor containing more than 2 per cent volume per volume of alcohol and includes the food for which a standard is prescribed in regulations 362 to 384 and in regulation 386 but does not include denatured spirit or any liquor or any preparation containing*

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<sup>63</sup> Management of Substance Abuse Unit, pg. 270.

<sup>64</sup> Excise Act 1976, ss. 20-40.

*more than 2 per cent volume per volume of alcohol for which medicinal properties are claimed.”* Additional provision is established in paragraph(6), *“alcoholic beverage for which a standard has not been otherwise expressly prescribed by these Regulations shall not be categorized as food not elsewhere standardized.”*

Another term given for alcoholic beverage is described in subsection 2(1) of the Customs Act 1967 as *“‘intoxicating liquor’ includes any alcohol, or any liquid containing more than two per centum of proof spirit, which is fit or intended to be or which can by any means be converted for use as a beverage”*. Some regulations applies to ‘native liquor’, as stated in subsection 2(1) of the Excise Act 1976 is *“any of the intoxicating liquors customarily fermented, made or prepared by natives in Sabah and Sarawak for their own consumption”*.

## 6.2. Reducing Affordability

Malaysia controls the affordability of alcohol by tightening its taxation policy, increasing customs duty and excise duty. The Acts and Regulations regarding taxation is written in the Customs Act 1967, the Excise Act 1976, and regulations made under its scope. Excisable goods in Malaysia are mainly alcohol and cigarettes. The estimated revenue for excise duty in 2015 are RM122.2 million (for manufactured alcoholic beverage), RM1.2 billion (for beer), and RM1.1 million (for wine), counted about 14% of the total estimated revenue of all excise duties in the same year at RM9.4 billion (*Kementerian Kewangan Malaysia*, 2014). Malaysia focus the load more on the excise duties rather than the import tariffs. In the current regulations, alcohol taxation uses only specific sum of money. The import taxes ranges from RM3.00-108.50 (€0.63-22.71) and on average the tax is higher upon alcoholic beverages with higher alcohol content. The import tax is specified upon a certain unit for each category, either per one bottle or per 100% volume per liter. The excise duties per 100% volume per liter also ranges, for instance, beer has duty rate of RM175 (€36.63), fermented alcoholic beverages RM40-60 (€8.37-12.56), spirituous beverages RM40-150 (€8.37-31.4), and the highest rate is for sparkling wine with RM450 (€94.20). While most of traditional alcoholic beverages fall into fermented category or spirituous beverages. This increased rate of tax has just been implemented in 2017, with estimated price of liquor with 20-40% alcohol including the traditional ones will be doubled by ten times from the average of RM5 to RM50 per 700ml bottle. At the same moment, the Malaysian government have also raised the minimum age to consume alcohol from 18 to 21 years old.

### 6.2.1. Import duty

Imposition of import duty in Malaysia is separated from the main statute, the Customs Act 1967. The regulations are stipulated most recently in the Customs Duties Order 2017, repelling its 2012 version. With the exception of non-alcoholic beer, all kind of alcoholic beverage mentioned here is levied a specific tax system (specified sum of money) upon every liter of quantity, unless specified otherwise. The goods are codified in a similar way with Indonesian system, both of them being members of ASEAN. The amount of customs duty for each classification is written in Appendix 1.

### 6.2.2. Excise duty

Regulations on excise duty are also separated from the main statute, as is provided by subsection 6(1) of the Excise Act 1976. At the same time with Customs Duties Order, the excise duty regulation has been comprehensively updated to Excise Duties Order 2017 and has become effective on April 2017, repealing the 2012 version of the same title. The excise duty also applies the same system, which specify a sum of money upon the unit of quantity of the goods (in liter for alcohol products). Malaysia's excise duties for alcohol products is significantly higher than Indonesia<sup>65</sup>. This regulation also applies to pure ethyl alcohol and concentrates containing ethyl alcohol. The rate of excise duty levied does not distinguish alcohol products manufactured in Malaysia from the products imported into Malaysia. The excise duty list is provided in Appendix 2.

## 6.3. Regulating Availability

Controlling availability through law means regulating access for obtaining alcohol in the market. This type of policy is one of the most commonly practiced in many countries. Retail markets, in this regard, can be as either formal or informal. In developing countries, informal markets which is not regulated by the government play a significant market share<sup>66</sup>. Each type has a certain measure to regulate alcohol availability to the society in general. With regard to formal retail markets, Malaysia is controlling production and distribution by license requirements, curbing hours and days of trade, setting a minimum age of purchase, and the states enact prohibition of sales to Muslims. These measures may interact, support, or may even leave a gap between each other.

### 6.3.1. Limiting availability to Muslims

Malaysia, a country with Islam as its official religion has a prohibition of alcohol which is only applicable to the Muslims community. This prohibition is not regulated in federal law. Instead, these provisions on drinking alcoholic beverages is stipulated in the State's Act or Enactment of Syariah Criminal Offenses. Department of Islamic Development Malaysia (JAKIM) claimed that each of the states in Malaysia has had provisions relating to the offense of drinking intoxicating liquors in their respective State Syariah Criminal Offenses (*Jenayah*) Act or Enactment.

Enforcement is required on both state and local levels. Through Licensing Boards authorities can restrict licensing upon certain measures, e.g. premises cannot be located in areas in which Muslim majorities live. These measures are, again, specific to each state in question. In the State of Selangor, the provision includes offenses for making, selling, offering, displaying (for sale), buying or storing any intoxicating drinks<sup>67</sup>. Sellers are obliged to put a poster informing prohibition to sell alcoholic drinks to Muslims and underage people on their premises (Jamal &

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<sup>65</sup> The taxation system being analyzed in this thesis does not consider the amount of sales tax levied.

<sup>66</sup> Babor *et al.*, pg. 127.

<sup>67</sup> Enactment of Syariah Criminal Offenses (Selangor) 1995, section 18.



Anuar, 2012). While drinking in public is also an act of violation to the following article in Selangor.

*“[...] drinking any kind of intoxicating liquor in the shop or other public places is a violation and shall be punished with a fine not exceeding three thousand Ringgit or imprisonment for a term not exceeding two years or both”<sup>68</sup>.*

Albeit the constraints of Syariah law upon alcohol, there is no specific restriction on selling liquor to Muslims in the state civil law. This fact suggests that there is no legal basis for civil enforcement on this matter, as long as it does not injure a person or when not driving (Jamal & Anuar, 2012). Efforts to overcome the gap are made through indirect path, for instance the strict requirement of business license in the local Subsidiary Legislations.

### 6.3.2. Alcohol business license

Overall, any license is applicable to all business operator in alcohol trade under the authority of the Minister of Finance. Types of license referred to herein are importing license, manufacturing (to distil, ferment or otherwise manufacture) license, distribution (retail and wholesale) license, and direct sales licenses<sup>69</sup>. However, Malaysia uses a different approach than the Indonesian counterpart, in which the Malaysian Minister (of Finance) is given the authority to issue a license in ‘any deserving case’, to establish Licensing Boards, and to make regulations regarding licensing issue. Any person in Malaysia is obliged to have a license prior to do alcohol trade<sup>70</sup>, but the requirements of obtaining the license are not written down in the Excise Act 1976.

Under the authority of the Minister of Finance, the Royal Malaysian Customs Department mainly govern matters upon import and licensing on intoxicating liquor<sup>71</sup>; distillation or manufacture of intoxicating liquor inside the country<sup>72</sup>, and; sales of intoxicating liquor by either wholesale or retail<sup>73</sup>. In the purpose of sales license, the power is given to the Licensing Board for such areas or districts<sup>74</sup>. The Licensing Board have the authority within its designated area or district to issue or transfer public house licenses, beer house licenses, retail shop licenses, and wholesale dealer’s license<sup>75</sup>. For a business entity, aside from the District’s permission applicants must apply for a license according to the Subsidiary Legislations provided by the local authority. Section 32 of Excise Act 1976 about retail sales license lays some exceptions to beer, toddy or native liquor within the defined limit of quantity is allowed for sales at the shop without any licensing required under this act.

According to Subsidiary Legislation of some districts in Selangor, local governments have the indirect authority to impose any additional licensing requirements or restrictions pertaining to

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<sup>68</sup> Enactment of Syariah Criminal Offenses (Selangor) 1995, section 18(1).

<sup>69</sup> Excise Act 1976, ss. 20-40.

<sup>70</sup> Excise Act 1976, ss. 32(1) & 33(1).

<sup>71</sup> Customs Regulations 1977, Art. 18.

<sup>72</sup> Excise Act 1976, ss. 20.

<sup>73</sup> Excise Act 1976, ss. 32 & 33.

<sup>74</sup> Excise Act 1976, ss. 31.

<sup>75</sup> Excise Act 1976, ss. 35.

liquor sale premises. Most of the districts in Selangor established that this activity is only allowed in commercial area, with a minimum distance of 200 meters to residential area, places of worship, educational institution and government buildings (Jamal & Anuar, 2012).

### 6.3.3. Setting a minimum age for purchase

Minimum age of purchase is 21 according to Food (Amendment) Regulations 2016, effective per December 1<sup>st</sup> 2017, amending Food Regulations 1985 and Art. 5, 6, and 7A of Excise Regulation (Sales of “intoxicating liquor”) 1977. The minimum age of purchase was previously 18. The raise of minimum age aim to stem underage drinking and alcohol abuse that is in line with the Global Strategy to Reduce Harmful Use of Alcohol by WHO, stated the current Health Minister S. Subramaniam<sup>76</sup>. Increasing the minimum purchasing age is shown to have substantial effects on youth drinking, however, the benefits are achieved if the law is enforced<sup>77</sup>. In support of the increased minimum purchasing age, the new regulations included obligation to put health warnings to the product labels and in the store premises. How the Malaysians deal with these changes are yet to be seen. On a side note, some local authorities in Selangor have had restrictions upon minimum age of seller to be 21, but there have been few to none of evaluations about effects of controlling the minimum age of sellers.

## 6.4. Monitoring and enforce legislation and policy

Enforcement of all excise-related alcohol legislations is supervised by Director General or the Chief Officer of Excise with subject to control of the Minister, and enforced by every officer of excise<sup>78</sup>. Working closely with the civil law, Syariah enactments regarding alcohol is enforced by the agencies for planning and development of Islamic Affairs such as Department of Islamic Development on the federal level, and State Islamic Religious Department on the state level. The Malaysian Department of Islamic Development has been working to coordinate and standardize the provisions of alcohol-related laws throughout the country (“*Arak musuh global*,” 2011).

Offences and penalties may be imposed against these matters, where any offences shall be liable to a fine or to imprisonment or to both.

- Making incorrect statements and falsifying documents;
- Evasion of excise duty and on illegal manufacture of dutiable goods;
- Possession of still, etc.;
- Sale of liquor without license; and
- Non-payment of fine.<sup>79</sup>

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<sup>76</sup> It's official! Legal drinking age now 21. (2016, June 1). Retrieved from [link](#).

<sup>77</sup> Babor *et al.*, pg. 140-141.

<sup>78</sup> Excise Act 1976, ss. 3-5.

<sup>79</sup> Excise Act 1976, Part XII.

## 6.5. Regulating alcohol marketing

In Malaysia there is no Law on federal level regulating advertising matters, but it is written in the Malaysian Code of Advertising Practice issued by Advertising Standards Authority Malaysia. The Code of Advertising Practice is made specifically for general media and advertising agencies, as for electronically-communicated advertisements the Communication and Multimedia Content Forum of Malaysia conducts a separate Code.

The latest edition from Code of Advertising Practice in 2014 lays strict regulations about advertising for alcoholic drinks – stating that the advertisement shall be socially responsible and should not seek to exaggerate the effects of drinking alcohol, should not portray alcohol as a challenge or relate them to success or has therapeutic qualities, should never associate drink with driving, and so forth (Advertising Standards Authority Malaysia, 2014). Meanwhile, The Malaysian Communications and Multimedia Content Code issued in 2004 prohibits advertising alcoholic drinks and liquor in electronic media and includes television, radio, online services and audio text services (“The Malaysian Communications and Multimedia Content Code, 6th Version,” n.d.). Direct advertisement such as putting a liquor logo on the licensed premise is no longer allowed in several states, one to be mentioned is Malacca. Melaka City Council and Hang Tuah Jaya Municipal Council are few local authorities who set up the prohibition since 2014, affecting thousands of premises in the area (“*Tidak pernah beri kelulusan iklan arak*,” 2014).

Overall, advertisement of alcoholic drinks in Malaysia have some strict rules to follow and restrictions to abide. There is no mention about regulating sales and marketing promotions, such as happy hour. Further research is needed to review how the regulation affects the drinking behavior in the country.

## 6.6. Deterring drinking and driving

Drink-driving policy in Malaysia is set in Road Transport Act 1987 [Act 333]. Some of the offences may result in a rather severe penalty, depending on the degree of the offence and whether it is the first or second conviction. Driving and committing an offence while under influence, indicated with alcohol concentration in the breath, blood, or urine exceeds the prescribed limit, on first conviction shall be liable to a fine not more than RM6,000 (six thousands ringgit) and shall also be liable to an imprisonment for not more than one year, however, if it is on second conviction or later, shall be liable to a fine not less than RM2,000 (two thousands ringgit) and shall also be liable to an imprisonment for not more than two years (Section 45A)<sup>80</sup>.

In a serious offence where driving under influence or driving while impaired caused injury or death of another person, shall be liable for imprisonment between three to ten years and shall be liable to a fine<sup>81</sup>. The prescribed limit of body alcohol concentration is 35 microgram of alcohol per 100 milliliter of breath, or 80 milligram of alcohol per 100 milliliter of blood, or 107 milligram of alcohol per 100 milliliter of urine.

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<sup>80</sup> Further provisions for second or later conviction is laid down in Road Traffic Act 1987, s. 45A(3).

<sup>81</sup> Road Traffic Act 1987, s. 44.

Malaysian police have the legal authority to perform a breath test if they suspect an offence according to Section 44 or 45, or 45A. Blood test or urine test may only be conducted if needed aside from the breath test, or if there is a technical problem in doing a breath test<sup>82</sup>. Since breath test in Malaysia currently can only be done in a police station, random breath testing along the road is still not an option for enforcement. Random breath testing or compulsory breath testing is one approach to strengthen enforcement, since evidence shows some significant reduction in drinking-driving, and associated injuries in mostly Western countries (Babor et al., 2010). It is still a question, whether random breath testing in Malaysia would result in the same level of efficiency in deterring drink and driving.

## 6.7. National plans

Harmful use of alcohol is one of the governmental plans in controlling non communicable diseases. In 2013, Malaysia's Alcohol Action Plan of 2013-2020 was issued as a subset to National Strategic Plan for Non-communicable Disease under the Ministry of Health. The target is 10% relative reduction in harmful use of alcohol (according to WHO's NCD global indicator), and heavy episodic drinking to be less than 1.2% in 2025. The NCD Prevention and Control Unit adapted policy options and interventions stated in WHO Global Strategy, supported by opinions from relevant ministries and agencies. Seven main strategies are implemented, i.e. Prevention and Promotion; Clinical Management; Increasing Patient Compliance; Action with NGOs and Other Stakeholders; Monitoring, Research and Surveillance; Capacity Building; and Policy and Regulatory Interventions.

Malaysia targets particularly the community and their behavior against alcohol-related harms. Targeting the community, there is an initiative project aiming to screen the pattern of drinking in community called Alcohol Screening, Brief Intervention, early Referral for Treatment (Alcohol-SBIRT). The tool used for screening is The Alcohol Use Disorder Identification Test (AUDIT) designed by WHO. Alcohol-SBIRT project has studied the heterogeneity of alcohol use based on socio-demographic variables and socioeconomic status including ethnicity comprised of Malay, Chinese, Indian, *Bumiputera* Sabah and Sarawak (native Borneo), and other ethnicity groups, sex, urban or rural, education, income status (Kamarudin, 2014). The heterogeneity issue includes recognition of cultural use, i.e. traditional alcohol drinks typically used in the region of concern.

In principle, Malaysia values early screening and focused intervention to reduce alcohol-related harm. The Alcohol-SBIRT program was later followed by several research in the country exploring the high-risk drinking pattern (Hatta, Balkish, Rozanim, Hamizatul, & Norsiah, 2013, Lasimbang et al., 2015, Shoesmith, Oo Tha, Naing, Abbas, & Abdullah, 2016). Some of the studies were carried out in the Ministry of Health and the regional Health Department. Aimed, among others, to formulate the policy and assess the ongoing intervention (Mutalip, Kamarudin, Manickam, Abd Hamid, & Saari, 2014).

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<sup>82</sup> Road Traffic Act 1987, s. 45C.

## 7. Comparative Analysis

In the previous chapters we have discussed alcohol regulations in Indonesia and Malaysia, particularly most effective and cost-effective policies identified by the WHO and supporting studies (Babor et al., 2010; Babor et al., 2003; Holder & Edwards, 1995; World Health Organization, 2002). This thesis simply reviews the existing legislations based on the WHO “best practices” rather than assessing its implementation in the respective countries. In this chapter a comparative analysis is conducted between the three regulatory schemes, taking into account each national circumstances.

### 7.1. Scope of the definition

#### 7.1.1. Definition of alcoholic beverages

The legal definition of alcoholic beverages in Indonesia and Malaysia are similar, only Malaysia have an additional term. Indonesia calls it plainly as ‘alcoholic beverages’ while Malaysia recognizes it as ‘alcoholic beverages’ and/or ‘intoxicating liquor’.

The two countries classified alcoholic beverages with different concepts. Indonesia defines three classes based on the alcohol content (alcohol by volume, abv%), low (up to 5%), medium (5-20%), and high (20-55%). Aside from these definitions, alcohol above 55% is stipulated in regulations from the Ministry of Finance on import duty (Regulation No.6/PMK.010/2017) and on excisable goods (Regulation No.226/PMK.04/2014). The import duty regulation classified alcoholic strength above 55% and less than 80% as ‘spirits, liqueurs and other spirituous beverages’; while separating alcoholic strength of 80% or higher as ‘ethyl alcohol and other spirits, denatured, of any strength’, or in other words, absolute alcohol. This regulation was established in accordance with HS and ASEAN nomenclature, which means it follows a different concept of classification from the current alcohol regulation. Consequently there is a legal uncertainty, despite the two regulations may be seen as to serve different arena. A slight change is proposed by the APB for low alcoholic strength class to be 1%-5%, yet it has not been mentioned how beverages containing alcohol of less than 1% or non-alcoholic beer will be regulated.

Malaysia does not have the same style of classification, instead they tend to group alcoholic beverages according to the type (beer, *samsu*, wine, etc.) and subsequently the alcoholic strength (measured in proof). Each type of alcoholic beverages is further standardized in Food Regulations 1985.

#### 7.1.2. Definition of traditional beverages or native liquors

Unrecorded alcohol consumption is a problem commonly found in lower-income countries, credits to higher production of informal traditional alcoholic beverages and lower tax enforcement in low- and middle-income countries; which remains true for Indonesia and Malaysia (Rehm & Poznyak, 2015). Local alcoholic beverages have been known in the archipelago for hundreds of years and has affinity to tradition in some regions (Pribadi, 2017). For this reason traditional alcoholic beverages are tolerated; in both countries some brands are legally produced,

but some are home-produced and distributed in small scale which make them largely uncontrolled - outside of the governmental control. These traditional beverages are so significant for Indonesia and Malaysia that they serve a dedicated provision in the laws, also as a government effort to put them under formal controls.

In Malaysia's regulation traditional beverages is known as "*native liquor*" means any of the intoxicating liquors customarily fermented, made or prepared by natives in Sabah and Sarawak for their own consumption."<sup>83</sup>

While in Indonesia's current regulation it is termed as "traditional alcoholic beverages" and defined as "*alcoholic beverages made in traditions and based on inheritance which packaged as simple and the production is done at any time, and used for customary needs or religious ceremonies.*"<sup>84</sup> In the proposed APB, traditional alcoholic beverages definition becomes more specific, "*alcoholic beverage produced from the sap of a palm tree, sugar palm or other blends, namely: sopi, bobo, ballo, tuak, arak, saguer or other names.*"<sup>85</sup> The APB also proposed another term categorized as "concoction" or surrogate alcohol as known among international academia (Rehm & Poznyak, 2015), in Indonesian known as "*campuran atau racikan*" meaning "[...] alcoholic drinks made of and/or mixed with hazardous materials, inter alia, technical alcohol, methanol, propanol, pentanol, hexanol, bio-ethanol, medicines, herbal medicines, toxins, and antiseptics"<sup>86</sup>. Concoction or surrogate alcohol is recognized as unrecorded alcohol. In the case of Indonesia, the terms traditional alcoholic beverages and concoction often used interchangeably - as the unrecorded alcohol. These two categories should be separated clearly in the law as a step forward in controlling traditional alcoholic beverages.

## 7.2. Objectives of the regulation

In light of global strategy to address harmful use of alcohol that require legislative action, the WHO-WPR guide emphasize the importance of putting public health objectives in the alcohol control legislation.

Since there is no national legislation specifically for alcohol in Malaysia, the public health objective is not yet included here. Neither Excise Act 1976 nor Customs Act 1967 places any objective in the text. It is, however, written in the National Action Plan for Alcohol Control 2013-2020 that the main objective is "*to raise public awareness about the harm of alcohol, to be responsible for their own health, and to prevent and reduce harmful use of alcohol*". This objective is categorized as broad goals, according to the WHO-Western Pacific Region guide, and is often followed by more specific sub-goals. In this case, Malaysia focuses on a target of 10% reduction in 'harmful use of alcohol', and reduction of Heavy Episodic Drinking to below 1,2% is put as the overall outcome. The term reducing 'harmful use of alcohol' refers to drinking behavior and drinking pattern that is detrimental to health and social situations. Furthermore, in order to make

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<sup>83</sup> Excise Act 1976, Part I Preliminary.

<sup>84</sup> Art.1(2) Presidential Regulation No. 74 of 2013 on *Pengendalian dan Pengawasan Minuman Beralkohol*.

<sup>85</sup> Elucidation of Art.4(2)(a) *Rancangan Undang-Undang Larangan Minuman Beralkohol 2015*.

<sup>86</sup> Elucidation of Art.4(2)(b) *Rancangan Undang-Undang Larangan Minuman Beralkohol 2015*.

impacts as a whole, this target is attempted with Alcohol-SBIRT program in extended as a strategy to cope with heterogeneity of drinking behavior and drinking pattern in the community.

Reflecting to the current regulation in Indonesia, the objectives are laid down in the preamble of Presidential Regulation No. 74 of 2013 that it is “[...] *deemed necessary to re-regulate the control and supervision of .... alcoholic beverages in order to provide protection and to maintain the public health, public order and tranquility of the community from the adverse effects of alcohol abuse*; [...]”. This objective is passed down to the regulations under (in the hierarchical order), implying that it can be taken as test object of appeal to higher courts. On one hand this objective reflects the broad goal of public health, but on the other hand WHO-WPR argues that clause such as ‘reducing liquor abuse’ or ‘reducing misuse’ may be deemed as inadequate on their own because it focuses on individual behavior rather than a whole community intervention. However, the overall objective did refer to ‘provide protection .... from the adverse effects of alcohol abuse’, indeed it does not directly aim to reduce alcohol abuse (individual) but for the sake of protecting the community from it. Then the question would be how this objective is then implemented in the provisions, or what measures do they take to protect the community; which will be addressed in the following subchapter.

In the newly proposed APB the objectives are similar, but framed in different manner<sup>87</sup>. Public health, order, tranquility, and security reasons are used for justifying the need of alcohol prohibition. Apart from the matter of public health objectives, the Bill preamble also highlights that the current alcohol-related legislations are still ‘dispersed and is not regulated in an integrated and comprehensive manner’. The explicit health objectives in the Bill can be considered as a positive progress from previous Presidential Regulation on alcohol, in which public health is briefly mentioned but not explicitly as the broader objectives of the regulation itself<sup>[2]</sup>.

Overall, these three broad objectives of the APB can be interpreted into many types of intervention. The second objective - to ‘raise public awareness’ commonly use educational approach towards individual rather than impacts on the community as a whole. Although the implementation of this particular objective in the provisions is unclear, any individual-based objective is considered as insufficient for national alcohol policy (Regional Office for the Western Pacific, World Health Organization, Hill, Clarke, & Casswell, 2011). The first and the third objectives can be considered to serve a common goal, the main ideas being “to protect public from negative effects” and “to create public order” might be considered suitable to arrest the spread of drinking (Regional Office for the Western Pacific, World Health Organization, Hill, Clarke, & Casswell, 2011).

### 7.3. Strategy to curb harmful use of alcohol

We have grasped the cultural differences between Malaysia and Indonesia, and how they framed alcohol in the legislation objectives and definitions. Also alcohol-related regulations are presented in chapter 5 and 6. Now we will list the strategies used in each regulation (Chapter 7.3.1), then elaborate the stringency of the measures taken to reduce alcohol use and/or alcohol harms (Chapter 7.3.2) and afterwards to compare the most notable issues (Chapter 7.3.3).

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<sup>87</sup> See footnote 19. Art.3 *Rancangan Undang-Undang Larangan Minuman Beralkohol 2015*.

### 7.3.1. Comparing regulatory framework

No.	Legal Framework	Indonesia Alcohol Prohibition Bill	Indonesia Current Regulations	Applicable Law	Malaysia	Applicable Law
1.	Umbrella/main legislation	Alcohol Prohibition Law	Presidential Regulation No. 74 of 2013 on Alcoholic Beverage Control and Supervision		Customs Act 1967 and Excise Act 1976	
2.	Stakeholder roles	Supervisory function of the alcohol ban (two levels, national and regional):  Ministry of Industry, Ministry of Trade, Ministry of Finance, NADFC, National Police, Attorney General, representatives of community/religious leaders.	a. National level: <ul style="list-style-type: none"> <li>Ministry of Industry (business operation license and production surveillance)</li> <li>Ministry of Trade (trading license and permit)</li> <li>Ministry of Finance (duty and customs collection)</li> <li>NADFC (commodity license and quality)</li> <li>National Police (criminal enforcement)</li> </ul> b. Regional government enforce regional regulations.	National level each role is delegated by Presidential Regulation No. 74 of 2013.  Regional level is delegated by relevant regional regulations.	a. Federal level: Minister of Finance and The Royal Malaysian Customs Department (license, import, manufacturing, sales). b. State level: Excise Licensing Board (sales), State Legislative Body (Syariah law enactment). c. Local government enforce subsidiary legislations.	a. Federal level: Customs Act 1967 and Excise Act 1976 b. State level: Federal legislations and State Syariah Criminal Offences Act or Enactment c. Local level: subsidiary legislations.
	Type of Policy					
3.	Reducing affordability	n/a	Taxation system: import duty and excise duty.  Various tax rates for different alcoholic categories.	Ministry of Finance Regulation No.6/PMK.010/2017 and	Taxation system: import duty and excise duty.  Various tax rates for different alcoholic categories.	Customs Duties Order 2017 and Excise Duties Order 2017.



				No.226/PMK.04/2014		
4.	Regulating availability	Total country-wide prohibition of alcohol.	<p>a. National level: licensing systems, limiting zones of trade, minimum purchasing age, limiting traditional alcohol production on daily basis.</p> <p>b. Regional level: business permit, hours and days of trade, possibilities to tighten national limitation.</p>	<p>Presidential Regulation No. 74 of 2013 and its subsidiary legislations.</p> <p>Regional level, e.g. Province of Yogyakarta Ordinance No.12 of 2015, City of Cirebon Ordinance No. 4 of 2013.</p>	<p>a. Federal level: licensing systems, minimum purchasing age.</p> <p>b. State level: some states put alcohol bans on its Syariah law valid for Muslims.</p> <p>c. Local level: areas of trade, hours and days of trade.</p>	<p>a. Federal level: Customs Act 1967, Excise Act 1976, and the subsidiary legislations.</p> <p>b. State level: e.g. Enactment of Syariah Criminal Offences (Selangor) 1995, Syariah Criminal Offences (Federal Territories) Act 1997.</p> <p>c. Local level: e.g. Subsidiary Legislation on Hotel (Majlis Perbandaran Subang Jaya) 2007.</p>
5.	Monitoring and enforcement	<p>Enforcement and supervisory function of the alcohol ban: Integrated Team (two levels, national and regional) consisted of all stakeholders and coordinated by National Police.</p> <p>Monitoring nationwide</p>	<p>Supervisory function: Integrated Team consisted of all stakeholders and supported by National Police.</p> <p>Monitoring: Business operator's realization reports once in every three months to Ministry of Trade.</p>	Presidential Regulation No. 74 of 2013 and Ministry of Trade Regulation No.20/M-DAG/PER/4/2014.	<p>Enforcement:</p> <ul style="list-style-type: none"> <li>- Excise-related legislation is supervised by Director General or the Chief Officer of Excise and supported by Royal Malaysia Police.</li> <li>- Syariah alcohol legislation is enforced by Department of Islamic Development (federal) and State Islamic Religious Department (state).</li> </ul>	Excise Act 1976 and State's Enactment or Act on Syariah Criminal Offences.

		compliance at least 4 times a year.			Monitoring: Control through business license by Chief Officer of Excise.	
6.	Alcohol marketing	n/a	All forms of marketing is strictly regulated. No broadcast on any mass media is allowed.	Ministry of Trade Regulation No.20/M-DAG/PER/4/2014.	Broadcast on mass media is strictly regulated. Direct advertisement is subject to law of each state.	Malaysian Code of Advertising Practices.
7.	Deterring drinking and driving	n/a	Zero tolerance	Undang-Undang no.22 of 2009 on Traffic and Road Transport.	Blood Alcohol Concentration limit 0.08%.	Road Transport Act 1987
8.	National plans for community action	-	-	-	Alcohol Action Plan 2013-2020	Ministry of Health National Strategic Plan for Non-communicable Diseases

### 7.3.2. Strictness of the interventions

Just like any ordinary commodity alcohol responds to control measures. Babor et al. (2010) summarized theoretical assumptions and impact evidence of the most favored policy options. The following passage uses their analysis in the context of Indonesia and Malaysia.

- Reducing affordability through taxation

Different structures of taxation policy can have different impacts on different socioeconomic situation of the group (Mäkelä, Herttua, & Martikainen, 2015). The taxation systems being taken into account here are import duty and excise duty, leaving out the goods and service taxes. Import duty in Indonesia is much higher than the excise, which means imported alcoholic drinks are several times more expensive than domestically produced ones, or illegal ones. This taxation structure put well restriction to the formal markets, but will not impair the informal markets which found in many developing countries (Babor et al., 2010). Meanwhile, Malaysia focus the load more on the excise duties rather than the import tariffs. Some categories of traditional alcohol is also taxed when produced formally. There is an increased rate of tax implemented in 2017, with estimated price of liquor with 20-40% alcohol including the traditional ones will be doubled by ten times from the average of RM5 to RM50 per 700ml bottle. With this structure, Malaysia can raise the average price of both imported and local alcohol drinks at once.

- Regulating availability

Most measures commonly used to regulate availability are state monopolies, retail availability, and restriction on purchase and sell eligibility. Indonesia and Malaysia do not exert state monopoly on production and retail, but they have strict regulations on availability. First and foremost, Indonesia and Malaysia are majority Muslim countries, meaning that alcohol consumption is not commonly acceptable. This norm is probably the most restricting factor. Aside from that, both countries have partial and (potential) total bans that will be evaluated later in this chapter. Indonesia and Malaysia have licensing system, limitations of hours, days, and location of trade. Both Indonesian and Malaysian laws give room for regional legislations to strengthen the limit. Some Malaysian states have bans of alcohol trade involving a Muslim. Combination of these strategies can contribute to the reduction of alcohol consumption (Babor et al., 2010).

- Alcohol marketing

Marketing and broadcast on mass media is strictly regulated in Indonesia and Malaysia. It is stipulated in the statutory control in Indonesia, and in voluntary code in Malaysia. In marketing, again, norms play an important role in the prevention.

- Deterring drinking and driving

The current Indonesian law does not specify the minimum level BAC, yet claims to have a zero tolerance to drinking and driving. There is indeed a severe sanctions for drinking and driving,

and additional sentences to follow including jail sentences if causalities occur. However, absence of legal BAC limits constitute a flaw in the system as establishment of BAC has a strong deterrent impact (Babor et al., 2010). In practice there is still no random breath testing practiced in Indonesia, hence the current regulation can only be enforced during traffic police raid or at times of accident (“Antisipasi Pengemudi Mabuk Narkoba, Perlu Digalakkan Breath Test,” n.d.). On the contrary, Malaysia have measures of BAC legal limit, and enforced through random breath testing and urine and/or blood testing if deemed necessary.

### 7.3.3. Notable issues: Alcohol bans

There are at least two theories of policy framework applicable to the situation of Indonesia and Malaysia: first is the WHO and Babor et al. (2010) concept of alcohol policy which is mainly used in this thesis, second is alcohol policies typical in MMCs as discussed by Al-Ansari and his colleagues (Al-Ansari, Thow, Day, & Conigrave, 2016).

According to Babor et al. (2010), both Indonesia (in the APB) and Malaysia have alcohol bans in place to restrict physical availability of alcohol. These alcohol bans are defined plainly as total (Indonesia’s APB) and partial (Malaysia), as there’s lack of research on countries who have these bans in place. Meanwhile, Al-Ansari and colleagues use a framework from an MMC point of view and are able to clarify the function of alcohol bans further. Al-Ansari divided alcohol policy in MMCs into three broad categories prohibition, restriction, and regulation. The report defines these categories respectively as: *prohibition* where total prohibition of alcohol is enacted in the country or *prohibition with concessions* where there are separate alcohol policies for non-Muslim groups, *restriction* use of different laws on alcohol for specific population or districts, and *regulation* where there is no alcohol bans yet regulatory policies on alcohol exist. Due to the national policies-oriented nature of this thesis, Indonesia is categorized here as *regulation* (current policies) with probability to shift into *prohibition* (APB), and Malaysia is categorized as *restriction*. From this vantage point, Malaysia is seen to have embraced the heterogeneity aspect of MMC, while Indonesia seems to take a step backwards by taking prohibition approach.

Indonesia’s prohibition approach can be motivated either by public health issues and/or Islamic norms. Every article in the APB refers to public health and public order, but there is a lack of data on alcohol-related harms and the APB’s academic draft could not prove any better. In addition to the public health concerns, the legislator wrote about empirical practices of local alcoholic drinks and a sample case of illegal production in the academic draft. Yet the facts the legislator used to prove negative alcohol impacts in Indonesia are normative statements - more general approach to alcohol problem, instead of pointing at numbers and country’s evidence. It is not accompanied by data prevalence of alcohol consumption or alcohol-related harms, or in other words, there is a lack of evidence-based consideration used in the report (Budiharsana, 2018). On the other hand, the APB is proposed by a Muslim political party which makes the prohibition approach seemed to be motivated by Islamic laws. If it is driven by public health, proved by a systematic data of alcohol harms that indicates an urgency, then there’s an actual call for prohibition in the country. But if it aims to put a strict Islamic values on national policy, then it is stepping away from acknowledging cultural heterogeneity.

Aside from ignoring cultural and religious heterogeneity, a total prohibition seems to be unsubstantiated. The alcohol-related harm in Indonesia mainly resulted from illegal alcohol consumption, including counterfeit traditional alcohol (Uddarojat, 2016b). The same study also

proves a correlation between alcohol prohibition, which has already been applied by several cities in Indonesia, and unrecorded alcohol consumption. The alcohol prohibition in those cities are evidently causing adverse effects by facilitating the growth of black markets. In the survey there seems to be an increase of illegal alcohol stores by 75% compared to when legal alcohol was widely available in the regions (Uddarojat, 2016b).

#### 7.3.4. Notable issues: Regulation on traditional alcohol

Availability of traditional alcohol in Malaysia and Indonesia have similar characteristics, that is these beverages are made in small-scale for own consumption or commercial (Shoesmith *et al.*, 2016 and Uddarojat, 2016). Traditional alcohol in Malaysia is mostly consumed in social situations, while in Indonesia it is consumed for both social situations and religious or customary needs. The main problem of home-made traditional alcohol is that the nature of small-scale put them outside the scope of formal controls, such as taxation. Commercial traditional alcohol is a subject of regulation in Indonesia and Malaysia. Indonesia APB allows production of traditional alcohol, treating it as a part of the culture; however, it is still not clear how the provisions will put into force neither the subsidiary law(s) that will follow. Indonesia, through APB or current regulations, uses a centralized approach in controlling traditional alcohol. Rather interestingly, in Malaysia most of traditional alcoholic beverages fall into taxation scheme of fermented category or spirituous beverages.

Current regulations of Indonesia can be a proper example for traditional alcohol controls with such consumption characteristics. Business operators are obliged to register and report to local authority. The commercial production therefore must comply with the regulations and fulfil technical requirement of the raw materials, production, and equipment. The drinks can only be produced maximum of 25 liter per day and can only be distributed for sale inside the registered areas/districts for cultural, customary, and religious rituals<sup>88</sup>. This regulation enables a strict measure to commercial traditional alcohol, but it has not yet included home brewing/distilling or the penalties of such practice.

Malaysia have a different approach in this situation. In Malaysia it is illegal to distillate without a license, and the formal production is subject to taxes<sup>89</sup>. Although it is a common practice to do among small circle of neighborhood and friends, making it hard to control via centralized system (Shoesmith *et al.*, 2016). To curb the problem, Malaysia have been effectively using community empowerment approach through local authority and activists (Lasimbang et al., 2015). The idea was to have support group and early intervention at community level, especially within minority groups, to find solutions sensitive to their respective culture. Multilevel intervention is adapted into national Alcohol Action Plan 2013-2020. The program is still ongoing by the time this thesis is written, its effectiveness is still being evaluated although some success stories have been reported.

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<sup>88</sup> Art.14 Ministry of Industry Regulation No.63/M-IND/PER/7/2014.

<sup>89</sup> The Excise Act 1976.

#### 7.4. The similarities and differences between Indonesia and Malaysia

Both Indonesia and Malaysia are MMCs with many cultural and religion identities. Multi ethnicity is reflected in Indonesian and Malaysian alcohol-related legislations, albeit being captured differently. Malaysia addresses alcohol in both secular laws and Syariah criminal laws. In secular laws alcohol is regulated to certain extent in all governmental level. In Syariah laws some states exert ban on alcohol in Muslim communities, which is typical of Malaysian religious- and ethnicity-based policy (Haque, 2003). However, in practice the two types of law may overlap and create contradiction (Jamal & Anuar, 2012). Alcohol in Indonesia is a subject to the criminal and civil laws, but it is not regulated in religious law. Multi ethnicity is addressed in Pancasila as “a unified Indonesia” principle, which serves as moral standard and internalized in each legislation (Notonegoro, 1974). That being said, the alcohol regulation is applicable to every citizen of Indonesia regardless of religion. To conclude, Indonesia and Malaysia have similar problem characteristics in relation to drinking culture and ethnic groups, yet these two countries have different policy approaches.

## 8. Conclusion

### 8.1. The present

The study is performed to answer the main question “*how can alcohol be regulated in Indonesia?*” through doctrinal and comparative analysis. There are two alcohol issues identified similarly in Indonesia and Malaysia, i.e. multicultural and unrecorded alcohol. Indonesia and Malaysia have different perspectives hence approach to the aforementioned issues in lights of reducing alcohol-related harm. Although there is no research on drinking patterns in different groups in Indonesia, it is reflected through the provisions of traditional alcohol where it is recognized to be part of some cultures. Indonesia is currently focusing to put most stringent alcohol legislation on the top hierarchy while Malaysia is developing interventions on focus target groups. In other words, Indonesia is using only centralized intervention in policy implementation while Malaysia is using the resources to have centralized (increased tax and minimum age) and decentralized (focused community intervention) in tackling the harms of alcohol consumption.

#### *What does alcohol consumption in Indonesia look like?*

Indonesia is a largely diverse country. The majority (approximately 87.2% or 230 million) population of Indonesia are Muslims, and the rest 30 million people are of different religions and cultures. For this reason, any nation wide data would show that alcohol consumption is low – the WHO report from 2014 shows a total alcohol consumption is 0.6 liter of pure alcohol per capita. If the focus is shifted on the rest of population who actually drink and you may look in detail how drinking cultures are embedded in the society. Recorded and unrecorded alcoholic beverages are widely accessible in the market, although the national data on alcohol availability are still very much lacking. WHO estimated that from the total alcohol consumption, 0.5 liter of which is categorized as unrecorded alcohol.

This study provides a brief look upon the characteristics of unrecorded alcohol in Indonesia. Traditional alcoholic beverages are often intermixed with one or another type of unrecorded alcohol. As mentioned in Sub-chapter 4.3, there are four types of illegal or unrecorded alcohol, i.e. informally produced alcohol, smuggled alcohol (including alcohol bought in cross-border shopping), surrogate alcohol which is not intended for human consumption, and counterfeited alcohol. Production of traditional alcoholic drinks are subject to mandatory registration, so to have formal controls on the product safety and quality; however, it is not easy to enforce. In turn, these drinks are often produced informally (Type 1 of unrecorded alcohol) and often producers make surrogate alcohol (Type 3). The latter may be done with intention or merely because the producers are uninformed.

#### *What does the Prohibition of Alcoholic Beverages Bill aim to regulate?*

The initial idea is about structure and hierarchy; to create an umbrella law on the highest level of the legislation hierarchy, a step higher than the presidential regulation as it is now. In this sense, a higher law may be appropriate to provide an enabling framework stronger than the current regulation. However, the total prohibition on nationwide basis may not be necessary.

The Alcohol Prohibition Bill aims to prohibit any activity involving alcoholic beverages and the use of alcohol substance not intended for human consumption in the product (concoction), and to restrict traditional alcoholic beverages use only for customary and religious reasons. The stringency of alcohol prohibition in Indonesia is shifting from regulation (current policies) with probability to shift into prohibition (APB) (Al-Ansari et al., 2016). From this vantage point, Indonesia seems to take a step backwards in embracing heterogeneity as an MMC by taking a prohibition approach. The APB seems to be motivated by Islamic norms and Islamic political reasons, the latter is out of the scope of this study. In conclusion, however sugar-coated with protection of public health and order, there is no urgency to shift the current regulation to prohibition. Indonesia is an MMC, but bluntly forcing Islamic values means compromising heterogeneity and diversity in the country. The main issue of alcohol harms that needs to be considered is the illegal alcohol.

#### *What is the current alcohol regulation in Indonesia?*

Alcohol is regulated through many policy areas which are known to be effective, i.e. taxation, regulating availability (e.g. strict licensing system), minimum purchase age, restricting alcohol marketing, deterring drinking and driving, and monitoring scheme. Currently Indonesia have the Presidential Regulation No. 74 of 2013 on *Pengendalian dan Pengawasan Minuman Beralkohol* as the main law, herein order a power distribution to relevant ministries and local governments to regulate alcohol in view of each respective policy area. The registration and surveillance system for traditional alcohol is already established under the Ministry of Industry. Unfortunately, there is almost no literature about impact assessment or enforcement of these current regulations - a knowledge gap that needs to be filled. Altogether these regulations are focused on controlling alcohol use with the centralized approach, with the government as the main actor.

#### *What measures does Malaysia have taken to tackle similar issues?*

Malaysia has a prohibition of alcohol use for Muslims laid down in the State's Act or Enactment of Syariah Criminal Offences. This prohibition is categorized as restriction, where different laws (civil and Syariah) apply for specific population.

In the civil law, Malaysia use centralized and decentralized approach in the implementation. The centralized alcohol regulations are mainly laid down in Excise Act 1976 and Customs Act 1967 along with other excisable goods. Policy areas on the federal level covered the same extent as the Indonesian counterpart, namely taxation, licensing business, restricting minimum age of purchase, restricting alcohol marketing, deterring drinking and driving, monitoring, and enforcement. Policy in relation to the availability of alcohol is extensible to the scope of state Syariah criminal law and municipality regulation upon the business license requirements. In the national plan, Malaysia's Alcohol Action Plan 2013-2020, the target interventions are both centralized and decentralized. The main strategies are prevention and promotion, clinical management, increasing patient compliance, action with NGOs, professional bodies and other stakeholders, monitoring, research and surveillance, policy and regulatory interventions (centralized); and capacity building (decentralized). The heterogeneity in alcohol use particularly traditional alcohol is also being considered in these strategies, hence the



community approach is being adopted. The national plan is still a halfway to go, but interim reports of Alcohol-SBIRT shows most positive result in reducing alcohol-related harms (Kamarudin, 2014 and Shoesmith et al., 2016).

*What would be the advantages and the disadvantages for applying those measures in Indonesia?*

Regarding the alcohol bans, restriction type of prohibition may not be an option for Indonesia because the country does not have Syariah criminal laws in place (with exception Aceh province). This topic is a subject of Islamic political debate which is out of the scope of this study.

In general, centralized and decentralized approaches differ in the structure and utility, it cannot be separated from the nature of each policy. Implementing WHO Global strategy to reduce the harmful use of alcohol may be the option to go for in current situation. Combination of centralized and decentralized policy is complementary to each other; centralized to provide the regulatory structure, public health objectives, and policy outcomes, while decentralized approach is used to enable adjustment with local characteristics and community development. This strategy brings about stringency of the alcohol regulations and empower society as a part of participatory democracy. Nevertheless, putting community action into practice in Indonesia is a challenge in itself. Feasibility studies of this option must be done with careful consideration.

## 8.2. Looking forward

Based on this study, there are a number of reflections and recommendations for Indonesia to put in research and practice. The fundamental cause is that policy design in Indonesia often does not reflect nor rely on the data basis.

### **Research**

Currently, there is barely any research about alcohol aside from general and national data to begin with. At this point any kind of study about alcohol in Indonesia is needed. Research infrastructure is valued as important in controlling the availability of alcohol especially in MMCs (Al-Ansari, Thow, Day, & Conigrave, 2016). It is important to do empirical research and empirical legal research related to alcohol in Indonesia. The research should aim to elaborate data of alcohol use, alcohol-related harm, and assessment of current intervention. That is, for instance, quantify the percentage of which consumed alcohol is home-made, study on the enforcement of business to register and therefore on how to formalize overall control.

### **Alcohol regulation**

The current alcohol policies of Indonesia are consisted of several stringent measures and in accordance with most favorable and effective interventions (Babor et al., 2010). Therefore it is recommended to keep current regulation framework, however some aspects can be improved. Policies like taxation, strict licensing system, and alcohol marketing do not have significant deterring effect to informal market which should be the main concern. First, Indonesia's scheme result in high priced imported alcohol and ultimately cheap traditional or informal alcohol

(Uddarojat, 2016b). In comparison to Malaysia, the taxation scheme is slightly different with higher excise duties and lower import duty. It is for Indonesia to consider higher excise duty than import duty, and to impose tax on formally produced traditional alcohol. Putting equal taxes on imported, locally produced, and traditional alcohol drinks can reduce the consumption altogether.

Second, it is important to introduce a legal BAC system to prevent drinking and driving. The establishment of BAC can give an objective measurement to ascertain whether the driver is impaired and to strengthen enforcement of the law. Said enforcement include random breath testing and sobriety check points, which will make certain of deterring effect of punishment.

Third, regarding the proposed total ban of alcohol, the lawmakers should consider heterogeneity of its own culture in designing alcohol policies (Bahelah, 2016). For instance, alcohol prohibition in some States of Malaysia is stipulated under criminal Islamic law and only applicable for Muslims. However, this option may not be possible for Indonesia because there is no national criminal Islamic law. Another option to consider, Malaysia have realized the connection between alcohol and different culture, which they later use in more community targeted intervention. This option is adaptable to Indonesia. It is recommended to form an enabling framework for community action with main objectives to detect and to reduce high-risk drinking behavior in communities. As a first step, Indonesia need to consider implementing an early screening tool The Alcohol Use Disorder Identification Test (AUDIT) designed by WHO.

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## Appendices

*Appendix 1* List of import duties imposed to alcoholic beverages in Malaysia according to Customs Duties Order 2017

HS/AHTN Code	Description of Goods	Import Duty
<b>22.02</b>	<b>Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter nor flavoured, and other non-alcoholic beverages, not including fruit or vegetable juices of heading 20.09.</b>	
2202.91.00	Non-alcoholic beer	20,0%
<b>22.03</b>	<b>Beer made from malt of an alcoholic strength by volume not exceeding 5.8% vol.</b>	RM5.00
<b>22.04</b>	<b>Wine of fresh grapes, including fortified wines; grape must other than that of heading</b>	

	<b>20.09.</b>	
2204.10.00 00	Sparkling wine	RM23.00
2204.21	- Other wine, grape must with fermentation prevented or arrested by the addition of alcohol	RM7.00
<b>22.05</b>	<b>Vermouth and other wine of fresh grapes flavoured with plants or aromatic substances.</b>	RM7.00
<b>22.06</b>	<b>Other fermented beverages (for example, cider, perry, mead, saké); mixtures of fermented beverages and mixtures of fermented beverages and non-alcoholic beverages, not elsewhere specified or included.</b>	
2206.00.10 00	- Cider and perry	RM7.00
2206.00.20 00	- Saké	RM25.50 per 100% vol. per liter
2206.00.31 00 2206.00.39 00	- Coconut palm toddy: - - In container holding 2 l or less - - Other	RM4.00  RM108.50 per 100% vol. per liter
2206.00.41 00 2206.00.49 00	- Shandy: - - Of an alcoholic strength by volume not exceeding 1.14% vol. - - Other	RM3.00  RM64.50 per 100% vol. per liter
2206.00.91 00	Other rice wine (including medicated rice wine)	RM25.50 per 100% vol. per liter
2206.00.99 00 2206.00.99 10	- - Other: - - - Mead	RM23.00

2206.00.99 20	- - - Wines obtained by the fermentation of fruit juices, other than juice of fresh grapes (fig, date or berry wines) or of vegetables juices	RM108.50 per 100% vol. per liter
2206.00.99 90	- - - Other	RM108.50 per 100% vol. per liter
<b>22.07</b>	<b>Undenatured ethyl alcohol of an alcoholic strength by volume of 80% vol. or higher; ethyl alcohol and other spirits, denatured, of any strength</b>	RM60.00 per 100% vol. per liter
<b>22.08</b>	<b>Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80% vol.; spirits, liqueurs and other spirituous beverages.</b>	
2208.20	- Spirits obtained by distilling grape wine or grape marc	RM58.00
2208.30.00 00	- Whiskies	RM58.00
2208.40.00 00	- Rum and other spirits obtained by distilling fermented sugar-cane products	RM55.00
2208.50.00 00	- Gin and Geneva	RM55.00
2208.60.00 00	- Vodka	RM55.00
2208.70.00 00	- Liqueurs and cordials:	
2208.70.10 00	- - Of an alcoholic strength by volume not exceeding 57% vol.	RM93.50 per 100% vol. per liter
2208.70.90 00	- - Other	RM64.50 per 100% vol. per liter
2208.90	- Other:	
2208.90.10 00	- - Medicated samsu of an alcoholic strength by volume not exceeding 40% vol.	RM26.50 per 100% vol. per liter
2208.90.20 00	- - Medicated samsu of an alcoholic strength by volume exceeding 40% vol.	RM26.50 per 100% vol. per liter

2208.90.30 00	- - Other samsu of an alcoholic strength by volume not exceeding 40% vol.	RM26.50 per 100% vol. per liter
2208.90.40 00	- - Other samsu of an alcoholic strength by volume exceeding 40% vol.	RM26.50 per 100% vol. per liter
2208.90.50 00	- - Arrack or pineapple spirit of an alcoholic strength by volume not exceeding 40% vol.	RM20.00
2208.90.60 00	- - Arrack or pineapple spirit of an alcoholic strength by volume exceeding 40% vol.	RM20.00
2208.90.70 00	- - Bitters and similar beverages of an alcoholic strength by volume not exceeding 57% vol.	RM30.00
2208.90.80 00	- - Bitters and similar beverages of an alcoholic strength by volume exceeding 57% vol.	RM30.00
	- - Other:	
2208.90.91 00	- - - Of an alcoholic strength by volume not exceeding 1.14% vol.	RM3.00
2208.90.99 00	- - - Other	RM64.50

Appendix 2 Excise duty of alcoholic beverages on domestic and imported products in Malaysia

HS/AHTN Code	Description of Goods	Rate of Duty
<b>22.03</b>	<b>Beer made from malt</b> of an alcoholic strength by volume not exceeding 5.8% vol.	RM175.00 per 100% vol. per liter
<b>22.04</b>	<b>Wine of fresh grapes, including fortified wines; grape must other than that of heading 20.09.</b>	
2204.10.00 00	Sparkling wine	RM450.00 per 100% vol. per liter
2204.21	- Other wine, grape must with fermentation prevented or arrested by the addition of alcohol	RM150.00 per 100% vol. per liter
<b>22.05</b>	<b>Vermouth and other wine of fresh grapes flavoured with plants or aromatic substances.</b>	RM150.00 per 100% vol. per liter
<b>22.06</b>	<b>Other fermented beverages (for example, cider, perry, mead, saké); mixtures of fermented beverages and mixtures of fermented beverages and non-alcoholic beverages, not elsewhere specified or included.</b>	
2206.00.10 00	- Cider and perry	RM60.00 per 100% vol. per liter
2206.00.20 00	- Saké	RM60.00 per 100% vol. per liter
2206.00.31 00	- Coconut palm toddy: - - In container holding 2 l or less	RM40.00 per 100% vol. per liter
2206.00.39 00	- - Other	RM40.00 per 100%

		vol. per liter
2206.00.41 00	- Shandy: - - Of an alcoholic strength by volume not exceeding 1.14% vol.	RM60.00 per 100% vol. per liter
2206.00.49 00	- - Other	RM60.00 per 100% vol. per liter
2206.00.91 00	Other rice wine (including medicated rice wine)	RM60.00 per 100% vol. per liter
2206.00.99 00	- - Other:	
2206.00.99 10	- - - Mead	RM40.00 per 100% vol. per liter
2206.00.99 20	- - - Wines obtained by the fermentation of fruit juices, other than juice of fresh grapes (fig, date or berry wines) or of vegetables juices	RM60.00 per 100% vol. per liter
2206.00.99 90	- - - Other	RM40.00 per 100% vol. per liter
<b>22.07</b>	<b>Undenatured ethyl alcohol of an alcoholic strength by volume of 80% vol. or higher; ethyl alcohol and other spirits, denatured, of any strength</b>	
2207.10.00 00	- Undenatured ethyl alcohol of an alcoholic strength by volume of 80% vol. Or higher	
2207.20	- Ethyl alcohol and other spirits, denatured, of any strength:	
	- - Denatured ethyl alcohol, including methylated spirits:	
2207.20.11 00	- - - Ethyl alcohol of an alcoholic strength by volume of exceeding 99% vol.	RM1.10 and 15%
2207.20.19 00	- - - Other	RM1.10 and 15%

2207.20.90 00	- - Other	RM1.10 and 15%
<b>22.08</b>	<b>Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80% vol.; spirits, liqueurs and other spirituous beverages.</b>	
2208.20	- Spirits obtained by distilling grape wine or grape marc	RM150.00 per 100% vol. per liter
2208.30.00 00	- Whiskies	RM150.00 per 100% vol. per liter
2208.40.00 00	- Rum and other spirits obtained by distilling fermented sugar-cane products	RM150.00 per 100% vol. per liter
2208.50.00 00	- Gin and Geneva	RM150.00 per 100% vol. per liter
2208.60.00 00	- Vodka	RM150.00 per 100% vol. per liter
2208.70.00 00	- Liqueurs and cordials:	
2208.70.10 00	- - Of an alcoholic strength by volume not exceeding 57% vol.	RM60.00 per 100% vol. per liter
2208.70.90 00	- - Other	RM60.00 per 100% vol. per liter
2208.90	- Other:	
2208.90.10 00	- - Medicated samsu of an alcoholic strength by volume not exceeding 40% vol.	RM60.00 per 100% vol. per liter
2208.90.20 00	- - Medicated samsu of an alcoholic strength by volume exceeding 40% vol.	RM60.00 per 100% vol. per liter
2208.90.30 00	- - Other samsu of an alcoholic strength by volume not exceeding 40% vol.	RM60.00 per 100%

		vol. per liter
2208.90.40 00	- - Other samsu of an alcoholic strength by volume exceeding 40% vol.	RM60.00 per 100% vol. per liter
2208.90.50 00	- - Arrack or pineapple spirit of an alcoholic strength by volume not exceeding 40% vol.	RM60.00 per 100% vol. per liter
2208.90.60 00	- - Arrack or pineapple spirit of an alcoholic strength by volume exceeding 40% vol.	RM60.00 per 100% vol. per liter
2208.90.70 00	- - Bitters and similar beverages of an alcoholic strength by volume not exceeding 57% vol.	RM40.00 per 100% vol. per liter
2208.90.80 00	- - Bitters and similar beverages of an alcoholic strength by volume exceeding 57% vol.	RM40.00 per 100% vol. per liter
	- - Other:	
2208.90.91 00	- - - Of an alcoholic strength by volume not exceeding 1.14% vol.	RM60.00 per 100% vol. per liter
2208.90.99 00	- - - Other	RM60.00 per 100% vol. per liter