

## CHAPTER ONE: About the Review

**Contents:** *About the review, The 10<sup>th</sup> Malaysia Plan: Modernizing Business Regulation, What the MPC has been asked to do, Approach and rationale of this review, Conduct of the study, Structure of the report*

### Key points:

1. The purpose of this review is to assess unnecessary regulatory burdens on logistics businesses with the aim of formulation options for mitigating them. Reducing unnecessary regulatory burdens will facilitate the ease of doing business and improve firms' productivity thereby improving their competitiveness. The final outcome would be enhanced economic growth and at the same time achieving national policy objectives.
2. The 10<sup>th</sup> Malaysia Plan (2011-2015) calls for the modernisation of business regulations. The objective is to achieve sustainability and to ensure a comprehensive environment for ease of doing business. The main focus is the process of intensive reviews of business regulations, starting with regulations that have significant impact on the NKEAs.
3. On this the Plan has mandated MPC on:
  - Review existing regulations with a view to removing unnecessary rules and compliance costs. Regulations affecting NKEAs will be prioritised;
  - Undertake a cost-benefit analysis of new policies and regulations to assess the impact on the economy;
  - Provide detailed productivity statistics, at sector level, and benchmark against other relevant countries;
  - Undertake relevant productivity research (e.g. the impact of regulations on growth of small-medium enterprises (SME));
  - Make recommendations to the Cabinet on policy and regulatory changes that will enhance productivity; and
  - Oversee the implementation of recommendations.
4. The investigations have involved collection, review and analysis of data and information from two sources: secondary data from literature reviews and primary data from interviews with key stakeholders. A significant part of this study will be based on literature reviews of laws and regulations in the country, studies made by other regulatory review agencies, national plans, policy papers and reports, statistical reports and research literature within the country and official web-sites of relevant professional bodies, non-governmental organisations, regulatory agencies and business organizations.
5. Primary data were collected through the interviews of key stakeholders comprising the business players, representatives of trade associations and the regulators. The study is being carried out in two stages: the fact-finding stage to prepare this draft report with possible options and the public consultation stage to improve on and identify the best options for recommendation.

6. For the fact-finding stage, a call-for-information paper or issues paper was prepared and disseminated through the MPC website and also sent to selected business stakeholders who comprise the shippers and the logistics players.
7. In the preparation of the draft report, reviews are carried out for every chapters by an external experts engaged for the purpose. This is to ensure quality output and adequacy of the study. The completed draft report will follow an established protocol for its release for public consultation before the final report is published.
8. The draft report is structured into six chapters as follows:
  - 1) About the review
  - 2) Logistics economy
  - 3) Regulatory burdens – Core concept
  - 4) Logistics value chain
  - 5) Logistics stakeholders
  - 6) Regulatory issues in freight logistics

## **1.0 About the Review**

Malaysia has embarked on the journey to modernise its business regulations with the aim of improving the institutional framework for business competitiveness and performance. This is in line with the trend taking place in most developed economies.

There are regulations that were formulated way back even before independence which are still being enforced. New regulations are being introduced at an unprecedented pace in Malaysia over the past few years. Policy makers are still stuck with the paradigm that control and command regulation is the solution for any problems affecting the public, the economy or the environment

Good and well implemented regulations deliver economic, social and environmental benefit but they also impose substantial costs. Some costs are the unavoidable secondary impact of pursuing legitimate policy objectives although a significant proportion is not. In many cases, the costs have exceeded the benefits. Moreover, regulations have not always been effective in addressing the objectives for which they were designed, including some regulations designed to reduce risk<sup>1</sup>.

Until recently no systematic effort has been made to review the relevance and effectiveness of existing regulations, even though new regulations are being formulated. The growing recognition of these costs and other deficiencies of regulation has led the government to decide that major reforms have to be made. An early focus of such efforts was the removal of many regulations that are obsolete and not relevant anymore. Further waves of reform will follow, and this review is one of such that is

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<sup>1</sup> AGPC 2011, *Identifying and Evaluating Regulation Reforms, Research Report*, Australia Government Productivity Commission

focused on the regulation of key economic initiatives and regulatory compliance burdens generally.

### **The 10<sup>th</sup> Malaysia Plan: Modernising Business Regulation**

The trend today is to relook at the role played by Government in achieving economic growth in a competitive global environment. Much government policy intervention is made through regulations. As such, Malaysian businesses are faced with a tangle of regulations and regulatory regimes that have accumulated over the years, many of which can constrain growth.

As a developing economy, Malaysia is in an enviable competitive position, ranking in the top twenty among 180 over economies. It is in 18<sup>th</sup> position in the World Bank Doing Business Report (DB) 2015 up from 20<sup>th</sup> position in 2014. However, this enviable position should not lull the country into thinking that everything is hay and sunshine at the ground level. The Doing Business Methodology is merely “case studies” representations on 10 key aspects of the legislative and institutional framework of the country.

To achieve sustainability and to ensure a comprehensive environment for ease of doing business, the Government has begun the process of intensive reviews of business regulations, starting with regulations that have significant impact on the NKEAs. Regulations that contribute to improved national outcomes will be retained, while redundant and outdated regulations will be eliminated. The reviews are being led by the Malaysia Productivity Corporation (MPC), which was restructured in 2010 to ensure it has strong capabilities and resources for this effort. MPC capacity is complemented by out-sourcing with relevant expertise from business and academia. Its work will complement the efforts of PEMUDAH.

### **What the MPC has been asked to do**

The 10<sup>th</sup> Malaysian Plan has mandated MPC to carry out regulatory reviews to facilitate the ease of doing business in Malaysia. These reviews will draw on the expertise and perspectives of different representative stakeholders from the public and the private sectors. These stakeholders will help identify issues and assist in the formulating of appropriate solutions. Figure 1.1 below illustrates the regulatory review framework in MPC. Mandated in the 10<sup>th</sup> Malaysia Plan specifically, MPC will<sup>2</sup>:

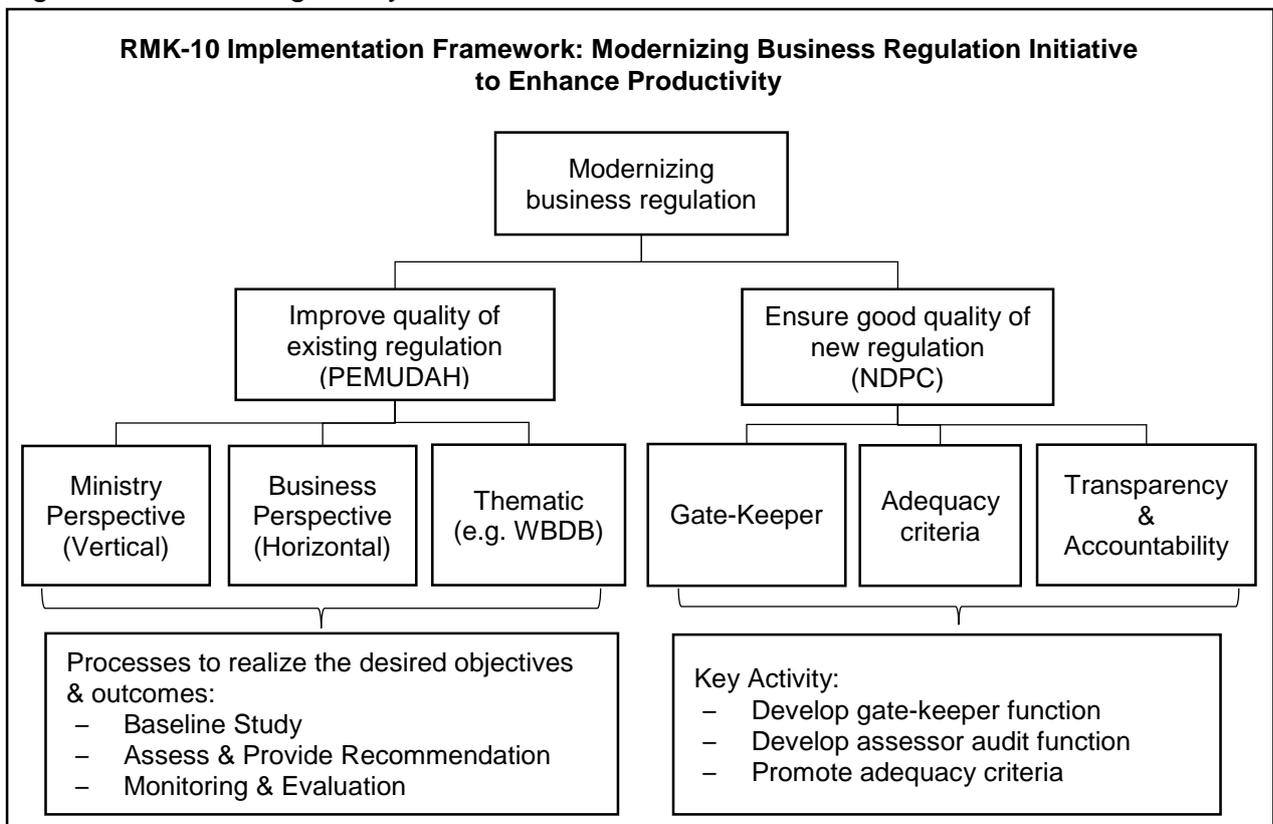
- Review existing regulations with a view to removing unnecessary rules and compliance costs. Regulations affecting NKEAs will be prioritised;

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<sup>2</sup> Malaysia 2010, *Tenth Malaysia Plan: 2011-2015*, The Economic Planning Unit, Prime Minister’s Department, Government of Malaysia

- Undertake a cost-benefit analysis of new policies and regulations to assess the impact on the economy;
- Provide detailed productivity statistics, at sector level, and benchmark against other relevant countries;
- Undertake relevant productivity research (e.g. the impact of regulations on growth of small-medium enterprises (SME));
- Make recommendations to the Cabinet on policy and regulatory changes that will enhance productivity; and
- Oversee the implementation of recommendations.

Figure 1.1: MPC Regulatory Review Framework



Source: Malaysia Productivity Corporation (2013) [www.mpc.gov.my](http://www.mpc.gov.my)

The government formalized and institutionalized the mandate given to MPC with the introduction of a national regulatory policy through the policy document National Policy on the Development and Implementation of Regulations (NPDIR). This document was formally launched by the Chief Secretary of the Government of Malaysia in July 2013. The objective of the national policy is to ensure that Malaysia's regulatory regime effectively supports the country's aspirations to be a high-income and progressive nation whose economy is competitive, subscribes to sustainable development and inclusive growth. The policy is to ensure a regulatory process that is effective, efficient

and accountable as well as to achieve greater coherence among policy objectives of government (Malaysia 2013)<sup>3</sup>.

### **Approach and rationale of this review**

The government has identified 12 National Key Economic Areas (NKEAs) to focus the economic growth towards a high-income nation. The NKEAs will be the drivers of economic activity that has the potential to directly and materially contribute a quantifiable amount of economic growth to the economy<sup>4</sup>.

The NKEAs were chosen on the basis of their contribution to high income, sustainability and inclusiveness. An initial set of 12 potential NKEAs have been identified comprising 11 sectors and one geographic area - Kuala Lumpur. Kuala Lumpur was chosen because it accounts for almost one-third of Malaysia's total GDP and urban agglomeration can be a major driver of economic growth. As the NKEAs involve export-oriented industries, the logistics sector will affect their growth. Hence, this sector is viewed as a significant cross-cutting component for regulatory review. Regulations that stifle the competitiveness of logistics will invariably adversely impact on the NKEA sectors.

A significant part of this study will be based on literature reviews of laws and regulations in the country, studies made by other regulatory review agencies such as the Australia Government Productivity Commission (AGPC), national plans, policy papers and reports, statistical reports and research literature within the country and official websites of relevant professional bodies, non-governmental organisations, regulatory agencies and business organizations.

The other part of the study will involve the analysis of primary data obtained from direct interviews and consultations with logistics players, businesses, professional bodies, trade associations and regulatory agencies involved in the sector. The study will establish the key regulatory issues which the logistics business views as the more burdensome. Their views, experiences and evidence of will help identify unnecessary regulatory burdens for options for improvement will be formulated and publish in a draft report. This draft report addresses issues and options for public consultation. This consultation will be carried out across businesses and user along the logistics chain, their associations, professional bodies and the regulatory agencies. The consultation outputs is analysed and used for the final report.

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<sup>3</sup> Malaysia 2013, *National Policy on the Development and Implementation of Regulations*, Malaysia Productivity Corporation

<sup>4</sup> ETP, Economic Transformation Programme, <http://etp.pemandu.gov.my>

## **Conduct of the study**

The investigations have involved collection, review and analysis of data and information from two sources: secondary data from literature reviews and primary data from interviews with key stakeholders. Secondary data which were reviewed and used as inputs for this study are from many sources and are grouped as follows:

- Research papers published by international agencies and other countries such as the OECD, World Bank, the Australian Government Productivity Commission and international logistics agencies and associations.
- Local research papers and reports commissioned by the government such as Economic Planning Unit (EPU), Ministry of International Trade and Industry (MITI), Ministry of Transport (MOT) and Ministry of Domestic Trade, Co-operatives and Consumerism (MDTCC) among others. Reference to these inputs are cited in this report.
- Laws of Malaysia, the various Acts and Regulations relevant to logistics players and users.
- Statistical data relating to the logistics sector are from international sources and local sources, primarily the OECD, World Bank, Malaysian publications, Department of Statistics Malaysia publications, logistics web-sites and trade associations.
- Information from local government agencies, quasi government bodies, professional bodies, private businesses and the relevant associations on policy matters, news, reports and statistics for analysis are input into this study. Much of these were accessed from their web-sites and the sources are listed in the final report.

Primary data were collected through the interviews of key stakeholders comprising the business players, representatives of trade associations and the regulators. The study is being carried out in two stages: the fact-finding stage to prepare this draft report with possible options and the public consultation stage to improve on and identify the best options for recommendation.

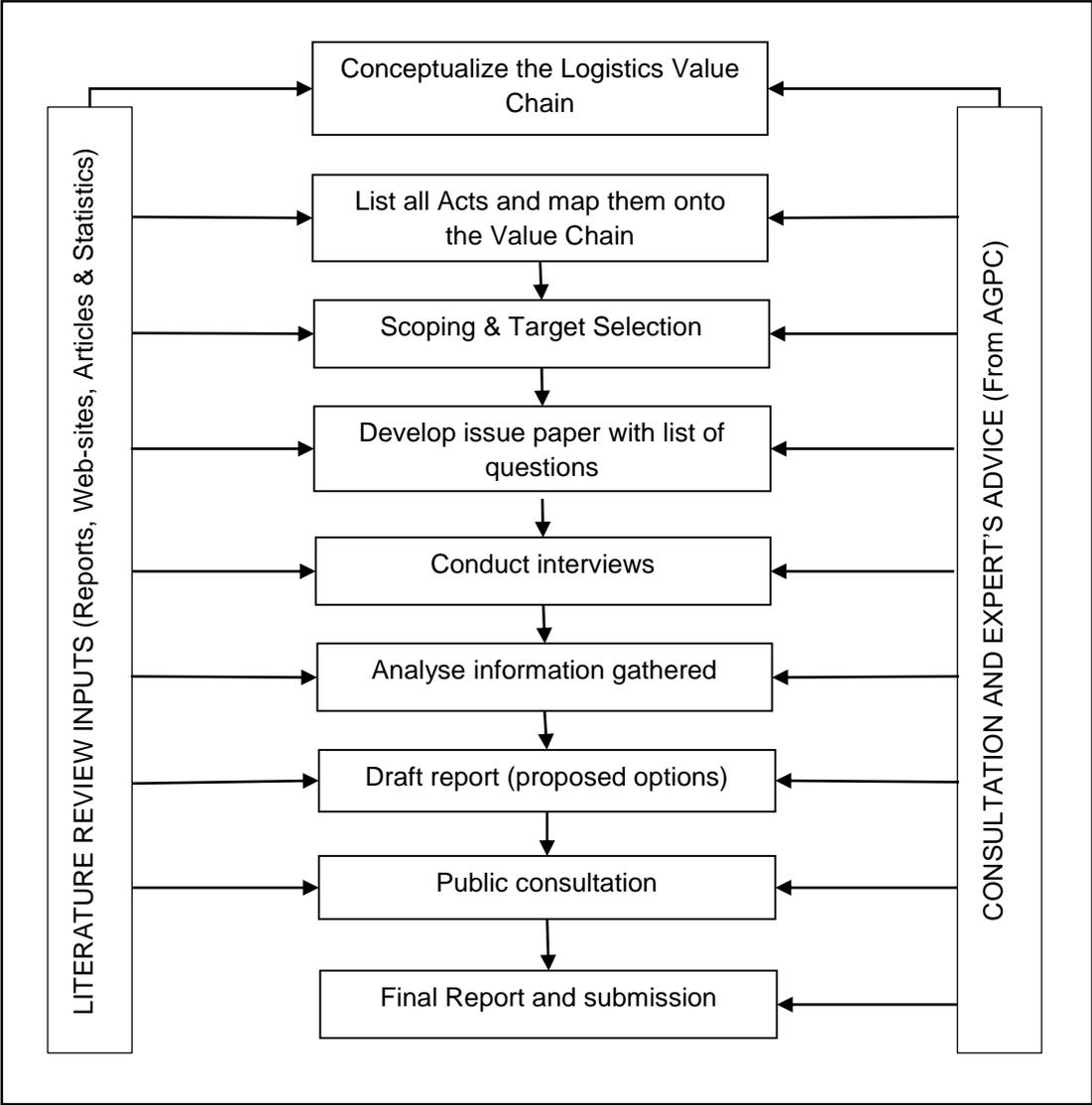
For the fact-finding stage, a call-for-information paper or issues paper was prepared and disseminated through the MPC website and also sent to selected business stakeholders who comprise the shippers and the logistics players. The stakeholders met and interviewed are members of the logistics and trade associations and individual companies. The associations include the Federation of Malaysian Manufacturers (FMM) representing the shippers, the Malaysian Associations of Freight Forwarders (MAFF) and the Selangor Freight Forwarders and Logistics Association (SFFLA), the Malaysian Hauliers Association (MHA) and a Port operator and a Free Zone operator. These interviewees were represented by their executives and trade members.

This paper identified some initial issues and listed a set of relevant questions for fact-finding. The respondents were selected from the members various logistics

associations and businesses. The interviews were carried out until no new issues were being raised. From these inputs, detailed analysis was made at three levels:

1. at the individual level where the principal researcher carried out his analysis on the inputs and drafted discussion paper for further deliberations
2. at the team level (various researchers) where the inputs and discussion paper were deliberated and analysed to achieve further insights
3. from the adviser, Ms. Sue Holmes who provided her expertise inputs and insights derived from working in the AGPC

Figure 1.2 Summary of Study Process.



Source: Malaysian Productivity Corporation

After the analysis, the draft report was prepared by the principal researcher and was subjected to review by the research team before submission to MPC management.

The feedback from the public consultation on this draft report will be incorporated into a final report. Figure 1.2 summarizes the study process for this research.

The release of the draft report in the public consultation process will follow an established protocol to ensure that stakeholders are kept in the loop and will not be surprised by any outcomes. The established protocol is as follows:

1. Clarify outstanding issues with regulators
2. Finish review on the draft report (including overview, recommendation, key points)
3. Circulate the draft report internally in MPC and draw attention on sensitive issues; and meet and brief the Board of Management of MPC
4. Respond to all comments
5. Clear media release with Director General MPC
6. Brief government bureaucrats and politicians
7. Prepare Report Release Note to BOD member
8. Prepare the launch on the MPC web site with the media release and contact (with officer appointed to take questions and Invite interested parties to comment via email)
9. Email all participants (in the study) and provide web-link to the published draft report
10. Organize and implement consultation workshops with key stakeholders (to be chaired by top management of MPC)

### **Structure of the report**

This report on the Review of Unnecessary Regulatory Burdens (RURB) on the logistics sector has been organized into six chapters, starting with Chapter One – **About the review**. Here, the rationale of the review is highlighted and the approach to the study emulates the Australian Government Productivity Commission (AGPC) methodology. An Australian expert previously with the AGPC was engaged by MPC to provide the advisory input to the study team throughout the study duration.

Chapter Two – **Logistics economy**, dwells on the logistics economy of Malaysia. It looks into the growth trends of the country trade and on the contributions from logistics. It also briefly shows the growth trends of logistics capacities over the last few years. This analysis reflects the importance of logistics in the national economy.

Chapter Three - **Regulatory burdens: Core concepts**, deals with the rationale of best practice regulation. This chapter looks at regulatory burdens and the potential sources of unnecessary regulatory burdens. It also highlights the complexity of regulations in the logistics chain.

In Chapter Four - **Logistics value chain**, the overview of the logistics sector is analyzed via the value-chain concept. The logistics chain is mapped out and this is

used as the guide to identify which businesses are involved. Reference is made to the *Malaysia Standard Industrial Classification 2008 Version 1* on this.

This is followed by Chapter Five - **Logistics stakeholders**, looks at the different stakeholders involved across the logistics chain. The chapter identifies the businesses, their intermediaries or the voice of the logistics trades, the regulators and their intermediaries or out-sourcing partners and highlights their roles in the logistics activities. The chapter looks at the national policy on logistics and the governing Acts and regulations. This chapter gives some background on the overarching intent of the government in regulating this sector.

Chapter Six - **Regulatory issues in freight logistics**, concentrates on the outcome of the reviews. It captures the issues faced by the main logistics businesses in sea freight logistics, starting from the importers and exporters to the forwarders and haulage operators to the ports and free zones. The chapter gives the analyses of the issues raised by the businesses across the logistics chain. From the analyses, various feasible options are formulated for the next stage consultations with businesses, regulators and other interested parties prior to publishing the final report.

With the completion of these six chapters, this draft report is ready for tabling to the management and Board of MPC for their decision on the next stage, that is, to publish the draft report following the established protocol mentioned above.