

CHAPTER SIX: Regulatory issues in freight logistics

Contents: Introduction, Regulatory issues from shippers, Issues from freight forwarders, Issues from containers hauliers, Issues from Port Operator and Free Zone Operator, Concluding remarks

Key Points

1. This chapter explains and analyses the issues raised by the key businesses in sea freight logistics value chain. With the feedbacks from these businesses and other background information and evidences, various options to mitigate them are formulated for consideration. A total of nineteen issues are analysed and various options are formulated.
2. The first section – Introduction, discusses the aspects of flow, effectiveness and efficiency in logistics value chain. The inability to achieve uninterrupted flow of goods in the logistics chain invariably reduces the effectiveness and efficiency of logistics performance. The focus is on causes arising from logistics regulations that result in unnecessary regulatory burdens.
3. The second section focuses on the issues raised by the shippers, representing both importers and exporters of goods. Five main issues raised are analysed here are:
 - i. Ever increasing logistics costs
 - ii. Regulations not keeping up with technology
 - iii. Exemption applications for export-oriented manufacturers
 - iv. Application for Certificate of Origin (COO) for ASEAN trade
 - v. Inadequate consultation and short notification on new ruling
4. The third section focuses on and analyses the issues raised by the freight forwarders. The forwarders have raised many concerns but the four main regulatory issues of concern are on:
 - i. Customs Brokerage Licence (CBL)
 - ii. Customs operations and enforcement
 - iii. Inspection Agencies (Other Government Agencies, OGA)
 - iv. Trucking and haulage activities
5. The fourth section analyses the issues raised by the containers hauliers. There are seven key issues of concern and some of them are also raised by the shippers. The issues analysed are:
 - i. Shortage of heavy vehicle drivers
 - ii. Road-ban
 - iii. Application for renewal of business licence
 - iv. Approval for (purchase of) new vehicles
 - v. Safety inspections of prime-movers and trailers
 - vi. Unregulated containers depot
 - vii. Dealing with Permit Issuing Agencies (PIA)
6. This section deals with the issues raised by one major port operator and the free zone operator at Port Klang. The issues of concern are:

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| <ol style="list-style-type: none">i. Port Klang Free Zone operationii. Port Operator's regulatory constraints to business expansioniii. Verbal commitment by the authorities |
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Introduction

The nature of business in general is centred on the total purchase cost or the price of the goods sold to the consumer. This total cost will depend on the factors of production and the logistics involved for the goods to reach the consumer at the right time and place. The factors of production add value in the transformation of raw materials to the final products – the goods purchased by the final consumer. The availability of the key factors of production and their costs together with the availability of good logistics systems are crucial considerations for where the goods will be produced. This means that the production may not necessarily be located where raw materials are available or where the market is located.

Logistics itself does not change the characteristics of goods but rather ensures they reach businesses and consumers efficiently at the right time and place. Logistics is *"...is the process of planning, implementing, and controlling the **efficient, effective flow and storage of goods, services, and related information from point of origin to point of consumption** for the purpose of conforming to customer requirements."* The key point here is *"efficient, effective flow from point of origin to point of consumption"*.

Effectiveness in logistics has to be viewed from the perspectives of the consignee (or the customer) and has four fundamental aspects. Effectiveness refers to the smooth and free flow of the goods along the logistics chain, which means that goods has to arrive at the intended destination – the **right place**, at the **right time** (according to the planned schedule) and in the **right condition** (fit for use). The logistics chain identifies the many different activities and the differently parties and entities (individuals, businesses, regulators and their intermediaries) involve and the complexity, which makes it difficult to perfectly match and synchronise the activities to ensure smooth uninterrupted flow.

The logistics chain involves many businesses, starting with primary producers and ending with final consumer. In between, intermediary businesses take inputs to supply an output which in turn is an input into the next business in the supply chain. While economic advantages derive from specialization and economy of scale, **fragmentation** presents a challenge to coordinating inputs and outputs. This interrupts the flow of goods. Skilful integration of the logistics services, such as 'just-in-time' delivery of inputs and outputs, improves effectiveness and reduces costs.

Efficiency refers to the efficient allocation of resources to achieve the smooth and free flow of goods along the logistics chain. Goods should flow smoothly with the minimum

of interruption at optimum cost or expected cost (cost efficiency). When businesses pay more than the minimum price it should be because they are getting a commensurate increase in the value of the service, such as faster delivery or products arriving in good condition. When the logistics chain is fragmented, total cost tends to go up. Some degree of integration and good management is important to achieve the optimum cost. Interruptions in the flow of goods, such as from additional inspection, handling, stoppage and waiting time, will usually increase costs, delays and require additional storage management. These interruptions can arise from the mismatch of transactions between businesses or from regulatory requirements (approvals, quarantine, inspections and clearance).

Unfortunately, “*rent-seeking*” takes advantage of the inefficiencies in logistics and the need of businesses for timely approval and delivery. These rent-seeking activities become *side* businesses which thrives on inefficiencies in the logistics chain. Probably the most significant cause for rent-seeking are regulatory controls which delays the flow of goods. Hence, it is important to ensure that any regulatory burdens are fully justified by the size of the risks and the benefits from the activities.

Reducing unnecessary regulatory burdens (RURB) requires the examination and evaluation of regulations and regulatory activities that have serious implication on the effectiveness and efficiency of the logistics chain. This Chapter Six captures the regulatory issues raised by the different business entities from the engagements made with them. These regulatory issues are assessed from the standpoint of unnecessary regulatory burdens that affects the effectiveness and efficiency of the logistics chain. There are many different types of goods and many different types of businesses involved in the logistics chain and as such the issues captured may not be exhaustive. The focus is on the common concerns as to be as practicable within the duration and scope of the study.

Unnecessary regulatory burdens frequently arose as a result of **conflicts of interests** or rather **conflict of objectives** between businesses and regulators which is a constant feature in regulatory governance. It is important that these conflicts of interests are mitigated to ensure the national objective of increasing prosperity for the country. The important consideration is to ensure that any unnecessary burdens are reduced and are not exacerbated when changes are made to regulations. Recognising this concern, the Government initiated the *Malaysia Incorporated Concept*¹ way back in 1983 to mitigate such problems. Unfortunately, in Malaysia, the dominant form of regulation is “command and control”. Regulators have not been exposed to nor encouraged to consider other approaches. Unnecessary burdens on business could

¹ International Trade Centre, *Public-Private Sector Collaboration For Improving The Business Environment In Malaysia*;
http://www.intracen.org/uploadedFiles/intracenorg/Content/Trade_Support_Institutions/Business_voice_in_policy_making/How_to_influence_trade_negotiations/Public_private_sector_collaboration_business_environment_Malaysia.pdf

be significantly reduced when regulators consider the adoption of **risk-based regulation**² and **responsive regulation**³.

Regulatory issues from shippers

The shippers are the parties who initiated the logistics process and represents the inputs into the logistics chain. As the main parties are those in the manufacturing sector, the focused shippers are represented by the Federation of Malaysian Manufacturers (FMM). The FMM is also the main intermediary and key collaborator between manufacturing businesses and the Government and thus is able to raise regulatory issues that impact on the effectiveness and efficiency of the logistics chain. These issues are further elaborated with specific case examples whenever the appropriate information is available.

Issue No. 1: Ever increasing logistics costs

Shippers complain that the costs of doing business are increasing because they face many different kinds of charges for moving goods along the logistics chain. They feel they are held ransom by the logistics players and have to entertain whatever payments (charges) as demanded. They also feel that many of these charges are over-lapping in nature (similar charge by different parties for the same activity, such as gate-entry charge into storage depot to pick up containers) which they consider as unnecessary for achieving business objectives. They also claimed that they are unable to discuss or question these charges on an Association-to-Association basis, citing the **Competition Act 2010** as the constraint. The FMM also claimed that the logistics associations are reluctant to discuss these charges with shippers. The only regulatory issue here is the presumption that the *Competition Act 2010* forbids collaborative engagement between businesses.

This will include the **specific issue on trade at Langkawi and Kuching Ports**. Shippers consider that the movement of cargo at these two ports are monopolised by a few forwarders and as a result these forwarders are able to impose higher than normal charges for services, thereby increasing logistics costs. However, the association has not been able to provide case evidences which can be brought to the attention of the Malaysia Competition Commission, MyCC.

When regulatory requirements interrupt the flow of goods along the logistics chain, many additional non-value adding activities result, such as temporary storage in depots, security gate-keeping, “errand-runner” services, additional handling and moving service, etc. The fragmentation of the chain results in many addition costs to

² World Bank, *Introducing a risk-based approach to regulate businesses: How to build a risk matrix to classify enterprises or activities*; <https://www.wbginvestmentclimate.org/advisory-services/regulatory-simplification/business-regulation/introducing-a-risk-based-approach-to-regulate-businesses.cfm>

³ John Braithwaite, *The Essence of Responsive Regulation*, https://www.anu.edu.au/fellows/jbraithwaite/documents/Articles/essence_responsive_regulation.pdf

shippers. As a result, businesses arise and resources are used up in providing services which may not be adding to Malaysia's economic growth.

Option No. 1: Do nothing on this and passed the costs to the customers

This is to let the economics of business takes its course as it moves toward some sort of equilibrium. However, the escalating costs with negatively impact short-term competitiveness in export manufacturing. Doing nothing here also will impact on the cost of import, which means that Malaysians will have to pay more for goods and services. The Government though will benefit from GST collection from the additional costs.

Option No. 2: Engaging the Malaysian Competition Commission (MyCC)

The intention of competition regulation is to prohibit businesses for collaborating to fix prices of goods and services to the disadvantage of the consumers. As such, the MyCC does not encourage the engagement between business associations to discuss charges and prices of goods and services. Currently, the FMM and its members are not able to provide details (assessments) on the excess impositions by logistics players for deliberations. This is something the FMM must address before they seek to engage with MyCC for solution. The option is to establish a platform for engagement between business associations that is facilitated or overseen by officials from MyCC. Such engagement platform is useful as there will always be issues between types of businesses across the logistics chain.

FMM as a representative of many manufacturers which are dependent on logistics services ought to seek assistance from MyCC should they feel that their members are subjected to abuse by the enterprise having dominant position in the logistics chain. FMM should do so with facts and figures of cases of such abuse so that MyCC can initiate investigation. MyCC has published guidelines such as *MYCC Guidelines on Complaint Procedures* and *Malaysian Competition commission Guidelines Chapter 2 Prohibition*⁴ which businesses can refer to for such purpose.

Option 3: Monitoring the cost of doing business in logistics

Issues on costs, delays and wastes continue to plague businesses in the logistics chain. Currently, RURB in logistics is done in a piece-meal manner. It may be important to consider a permanent mechanism to monitor logistics cost of doing business on a periodic basis from the regulatory aspect. MPC which represents one of the work group to the National Logistics Taskforce (NLT) in MOT may be mandated with this responsibility.

Under the Malaysia Incorporate Concept, many Government agencies have established consultative panels where businesses can engage with the agencies to

⁴ MyCC publications; <http://mycc.gov.my/guidelines/>

resolve issues. Such panels also provide the possibility for resolving business-to-business issues with the Government as the facilitating agent.

Recommendation

This study recommends **Option No. 3, i.e. to continue monitoring the costs of doing business in logistics** and report to the National Logistics Taskforce for improvement initiatives. **MPC** may be mandated with this responsibility.

Issue No. 2: Regulations not keeping up with technology

Shippers feel that regulation has not changed to keep pace with advances in haulage technology and as a result businesses are not able to achieve lower haulage costs. For example, it is claimed that new prime-movers are able to haul heavier loads but the current licensing regime does not allow carriage for heavier loads.

Shippers are also concerned with the many **old vehicles** being used in the haulage industry. Old vehicles cause a lot of inconvenience due to downtime from frequent breakdowns, accidents on the road, poor fuel efficiency, problems with enforcement agencies and frequent inspections, all of which result in reduced efficiency and unnecessarily higher cost to doing business. While the high cost of replacing haulage prime movers is a disincentive, regulatory inconveniences on purchasing of new vehicles, such as the difficulty in getting approvals, also constrains the replacement of prime movers even when hauliers consider worthwhile.

Another factor is the low grade diesel fuel available. Currently, Euro 2 grade diesel is the common fuel supply in the country. Euro 2 has a high sulphur content of 500 ppm while many developed countries have already adopted Euro 4 with 50 ppm sulphur and even Euro 5 (with only 10 ppm). Euro 2 grade is considered dirty fuel that pollutes the environment and has corrosive effect on engines resulting in higher maintenance and operation costs. It also means the newest prime movers Euro 4 specification cannot be fuelled in Malaysia as they cannot operate on Euro 2 grade.

It was reported in May 2015 that the Minister of MITI announced that Euro 4 RON 97 petrol will arrive first in September 2015, followed by Euro 4 RON 95 petrol in October 2018. Diesel fuel, meanwhile, will be upgraded straight to Euro 5 standard, but its introduction has now been delayed further to September 2020. The Minister said the government has been engaging with various oil companies in the last two or three years, but they are reluctant to implement the new standards as the costs involved are “quite exorbitant” for the oil companies. Since 2014, the oil companies have claimed that it’s going to cost them a lot of money to upgrade their system, factories and plants. They have asked for postponement and the Government through PEMANDU continues to pursue this.

However, with the removal of fuel subsidies for petrol and diesel, the reluctance to move to higher grades of diesel has reduced. It was reported that BHPetrol has since introduced Euro 5 diesel fuel in Johor, a good six years ahead of schedule. An expedited introduction in the southern region is required due to tightening emissions regulations in Singapore. The fully-imported (from Singapore) Infiniti Euro 5 Diesel is sold at a price of RM2.30 per litre which is 10 sen more than regular Euro 2M diesel.⁵ In August 2015, it was reported that imported Euro 5 grade diesel is now available at selected BHPetrol stations in the Klang Valley. It is priced at RM2.05 per litre, 10 cent higher than the Euro 2M grade diesel. Euro 5 grade diesel results in improved air quality due to its significantly lower sulphur content. The company representative reported that the Euro 5 is biodiesel blend B7 at the moment and will move to B10 when the government confirms its directives (Box 6.1). This development will encourage haulage companies to change to new high performance vehicles in due time and at the same time will be able to reduce their maintenance on their existing vehicles.

Box 6.1: BHPetrol Takes the Lead Once Again

BHPetrol Recent News, 6th August 2015

BHPetrol is proud to introduce Euro5 diesel to the Klang Valley for the first time ever, putting Malaysia on par with the world's most advanced countries

The introduction of Infiniti Euro5 Diesel in the Klang Valley comes after its November 2014 debut in Johor, where BHPetrol became the first petroleum company to offer Euro 5-grade fuel in Malaysia. It was an initiative we took to ensure that diesel-powered vehicles entering Singapore could comply with the country's tighter emission regulations that came into effect mid-2014.

Infiniti Euro5 Diesel is fully-imported, with advanced fuel specifications that meet the stringent Euro5 standard established in Europe. It is an ultraclean fuel, with an extremely low sulphur content of only 10ppm – the standard specification for this higher-grade fuel – as sulphur causes vehicles to emit harmful pollutants, while also causing damage to the engine and emission control systems.

With an ultra-low amount of sulphur, Infiniti Euro5 Diesel ensures your vehicle's advanced engine and emission control systems perform optimally, just as they were engineered to. The result is reduced emissions that are detrimental to our health and environment, extended engine life and improved vehicle performance.

To further protect modern diesel engines, the already powerful fuel is strengthened with superior German additives at the manufacturer's recommended maximum dosage, keeping your engine clean, with less engine problems and better fuel economy.

Source: Extracted from <http://bhp petrol.com.my/infiniti-diesel-euro5.html>

⁵ News 1: <http://paultan.org/2014/11/17/malaysia-get-euro-4-petrol-next-year-euro-5-diesel-delayed-2020-says-mustapa-mohamed/>

News 2: <http://paultan.org/2014/07/09/oil-companies-asking-euro-4-postponement-miti/>

Another case where existing regulations cannot cope with new ways of transportation relates to the use of B-double trailers⁶. Shippers claim that current regulation does not allow for the use of B-double trailers or road trains. Such issues could be raised in special platforms such as the National Logistics Taskforce (NLT) or the Malaysian Institute of Road Safety (MIROS) for further study. It would be important that any studies provide feasible options to be subject to regulatory review using Regulation Impact Analysis.

Option No. 1: Do nothing and continue with existing regulations

Doing nothing here need not necessarily mean that the industry competitiveness will not be progressing. What it means here is allowing the existing institutional and regulatory frameworks to work at their own pace towards greater progress. However, more pro-active options ought to be considered for the economy to progress faster towards the national aspiration of Vision 2020.

Option 2: Greater effort on the implementation of the National Policy on the Development and Implementation of Regulations (NPDIR)

Since the beginning of 2014, the NPDIR has been implemented at all Federal Agencies and Ministries. The implementation circular from the Chief Secretary to the Government has even stated that all **regulations need to be reviewed after every five years** of implementation. The basis is simple - to ensure that the regulation continues to be relevant and/or to update the requirements to meet the changing needs of the economy. However, to do this effectively, regulating agencies should have some institutional mechanism to continually monitor the changing needs of the industry. The institutional structure for private sector-Government collaboration for logistics is the National Logistics Taskforce (NLT) and the various work groups established to support its role. What is needed here is confirmed commitment to effectively implement the NDPIR through this established institutional framework. **MIROS** which is a member of the NLT may be mandated with the responsibility for monitoring the technology changes and regulatory relevance in road transport, thereby providing inputs for the necessary reviews.

Recommendation

This study recommends **Option 2: Greater effort on the implementation of the National Policy on the Development and Implementation of Regulations (NPDIR)**, i.e. to review existing regulatory regimes on a periodic basis and make changes to meet market demands and technology changes. **MIROS** may be mandated for this responsibility.

⁶ B-double trailer is made up of a prime mover which pulls two semi-trailers, which are linked by a fifth wheel and can be up to 26 metres long. The fifth wheel coupling can be found at the end of the first semi-trailer and provides more stability to the unit. <http://www.vintageroadhaulage.com.au/faq/what-is-a-road-train/>

Issue No. 3: Exemption applications for export-oriented manufacturers

Many companies need to apply for allowable exemptions on raw materials used for production of exports goods and on machinery spare parts used in production. The companies have to do these applications to MIDA on a regular basis. As the exemptions are always given, export businesses feel that these applications constitute regulatory burdens which unnecessarily increase the cost of doing business. Also, as MIDA has a fixed processing lead time of one week, this poses unnecessary problems when there is an urgent need for importing spare parts. It has to be noted that it may not be possible for the company to determine the requirements of importation to enable early application for exemption as many production requirements cannot be forecasted adequately such as machine breakdowns.

Option No. 1: Continue as it is

Manufacturers to continue with the required application for exemption, however, MIDA ought to improve its internal processing of such applications and shorten the waiting time to meet industry needs.

Option No. 2: Online application for exemption with immediate approval for repeated applications

Since such application is straight forward (from the regularity of the approvals), online application should be considered where immediate or automatic exemption given to repeated applications. The responsible agency can always check back later on the validity of the application on a random manner thereby eliminating the waiting time for the applicants.

Option No 3: Annual approval or permit be considered for registered exporting industries

MIDA in collaboration with Customs can considered changing the regulatory instrument for this purpose. Exporting industries needing such facility can be registered and given such permit on a fixed duration basis. Every importation with this facility can be reported to MIDA for record purpose and random checks. This will reduce the need for industry to apply for approval for every transaction.

Recommendation

This study recommends **Option No. 2: Online application for exemption with immediate approval for repeated applications.** MIDA should work on this option. Option No. 3 should also be considered to reduce the frequency of application.

Issue No 4: Application for Certificate of Origin (COO) for ASEAN trade

Another issue relates to applying for a Certificate of Origin (COO) from MITI. It is claimed that MITI takes up to a week to issue a COO whereas shipments from ASEAN ports takes less than three days. This means that goods often get stuck at the ports as they cannot be cleared. **The options raised for Issue No. 3** above are applicable for the issuance of COO.

Although Malaysia is a signatory to this agreement, shippers have experienced problems with clearing exports to Thailand and Indonesia where documents issued in Malaysia are rejected by Thai and Indonesian Customs. Shippers are concerned this problem on non-standard documents unnecessarily hinders the free flow of goods across borders. Together with this is the implementation of ASEAN Trade in Goods Agreement (ATIGA)⁷. According to FMM companies exporting to Thailand, Singapore or Brunei that are registered with MITI for the ATIGA Form D could opt for Self-Certification, a system that enables the certified exporter to make out an Invoice Declaration for the export of goods by their own. There were cases where Thailand Customs refuses to accept the self-certification invoices and requested company to apply for the normal Form D which MITI refused to authorise once the company is registered under the Self-Certification Scheme. Also, there is the requirement to submit hardcopy trade forms for endorsement although online systems are in place.

ATIGA is formulated and signed in 2009 with the objective *to achieve free flow of goods in ASEAN as one of the principal means to establish a single market and production base for the deeper economic integration of the region towards the realisation of the AEC by 2015*. The agreement is a comprehensive coverage of provisions to ensure the free flow and smooth flow of goods in ASEAN. With regards to Customs, the objectives are to:

- a. ensure predictability, consistency and transparency in the application of customs laws of Member States
- b. promote efficient and economical administration of customs procedures, and expeditious clearance of goods
- c. simplify and harmonise customs procedures and practices to the extent possible
- d. and promote cooperation among the customs authorities

For ASEAN-6 countries, 99.65% of duties have been eliminated since Jan 1, 2010 and for Cambodia, Laos, Myanmar and Vietnam, 93% duties have been eliminated since Jan 1, 2015 and the remaining 7% is expected by 2018. Although many goods have been exempted from duties, properly authentication of documents for Customs clearance still post challenges, particularly on other non-tariff barriers to trade such as technical standards. The ASEAN countries continue to work out issues on Technical

⁷ ASEAN Trade in Goods Agreement - ATIGA: <http://www.miti.gov.my/miti/resources/fileupload/Write-up%20on%20ASEAN%20Trade%20in%20Goods%20Agreement%20%28ATIGA%29.pdf>

Barriers to Trade between member countries according to the framework shown in Box below.

ASEAN also have established economic agreements and instruments in various areas in facilitating free flow of goods in the region, including the Agreement on ASEAN Preferential Trading Arrangements (1977), the Agreement on the Common Effective Preferential Tariff Scheme for the ASEAN Free Trade Area (1992), the ASEAN Agreement on Customs (1997), the ASEAN Framework Agreement on Mutual Recognition Arrangements (1998), the e-ASEAN Framework Agreement (2000), the Protocol Governing the Implementation of the ASEAN Harmonised Tariff Nomenclature (2003), the ASEAN Framework Agreement for the Integration of Priority Sectors (2004), the Agreement to Establish and Implement the ASEAN Single Window (2005).

More important is perhaps the **ASEAN Customs Cooperation Framework** which have formulated the ASEAN Customs Code of Conduct, which was first signed by the ASEAN Directors-General of Customs in 1983. The Code was subsequently revised in 1995 to reflect the latest developments in ASEAN, particularly AFTA. Through this Code of Conduct, member countries committed to facilitate intra-ASEAN trade by simplifying and harmonizing trade procedures and to enhancing regional cooperation in Customs. This Code of Conduct is to facilitate the implementation of the ASEAN Agreement on Customs.

One of the key points to ASEAN Customs Cooperation is to “Continuously simplify and harmonize customs procedures, so as to ensure the expeditious clearance of goods in order to cut the time taken and transaction costs at customs point. In this connection, customs procedures shall be aligned to standards and recommended practices of the Kyoto Convention on the simplification and harmonization of customs procedures.” To facilitate Customs procedures, MITI through ATIGA has established the *Self-Certification* scheme to facilitate goods clearance at importing member country. Box 6.2 shows the requirements of the scheme.

Box 6.2: MITI (ATIGA) Self Certification Requirements

Self-Certification

- The Self-Certification Scheme is a system which enables the Certified Exporter (CE) to make out an invoice declaration for the exports of goods. The CE will no longer be required to apply for ATIGA Form D. The invoice declaration is sufficient to obtain preferential tariff concession under ATIGA. The information in the invoice declaration is less than what appears in ATIGA Form D.
- The implementation of the Self-Certification Scheme is aimed at facilitating intra-ASEAN trade; reduce costs and time of doing business; and maximise the efficiency of the government limited resources.
- Currently, there are two pilot projects for the Self-Certification that has been approved by the ASEAN Economic Ministers and ASEAN Free Trade Area Council. The First

Self-Certification Pilot project (1st SCPP) is participated by Malaysia, Brunei Darussalam, Singapore and Thailand. Meanwhile Cambodia and Myanmar will be joining the 1st SCPP and are in the midst of getting their domestic approvals. The Second Self-Certification Pilot project (2nd SCPP) between Indonesia, Lao PDR and the Philippines was implemented beginning 1 January 2014.

- The criteria's for appointing Certified Exporters are:
 - Manufacturers who are also exporters;
 - Good past track record;
 - Not blacklisted by any agency i.e. Customs or MITI; and
 - Be able to comply with the Rules of Origin (ROO).
- Efforts are being undertaken by ASEAN Member States to implement a single ASEAN Wide Self Certification by 2015 towards facilitating intra-ASEAN trade.
- Companies are encouraged to apply to become a CE. Interested companies can contact:
 - Trade Cooperation & Industry Coordination Section
 - Trade Cooperation Division
 - Ministry of International Trade and Industry (MITI)
 - Tel : 03-6200 0140 / 133 / 131
 - Email : marissa.malek@miti.gov.my / aizul@miti.gov.my
 - Website : www.miti.gov.my

Source: <http://www.miti.gov.my/miti/resources/fileupload/Write-up%20on%20ASEAN%20Trade%20in%20Goods%20Agreement%20%28ATIGA%29.pdf>

Option No.1: Continue as it is

These seem to be teething problems in the implementation of ATIGA. Exporters facing problems with the self-certification need to continue sorting out the problems themselves with their counterparts at the importing countries.

Option No. 2: MITI monitoring and capturing the on-the-ground issues and ironed them out at the ASEAN level

As MITI is the trade facilitation body for the country the onus will be MITI to capture the issues experienced by Malaysian companies on the ground and iron them out with the ASEAN partners in trade. This will resolve systemic problems for the relatively young scheme. To improve the situation, some formal mechanism is needed for exporters, perhaps through their associations (e.g. FMM) to monitor and capture these issues for MITI to act upon.

Option No. 3: ASEAN Customs Code of Conduct.

This facility, first established in 1983 and then revised in 1995 and later incorporated into the ASEAN Agreement on Customs by the First ASEAN Finance Ministers' Meeting held on 1 March 1997. The institutional framework has been set up to deal with cooperation activities. For example, there is the ASEAN Directors-General of Customs forum that oversees all customs cooperation activities in ASEAN and is held

annually. There is also the ASEAN Secretariat that provides the necessary support for supervising, coordinating and reviewing the implementation of the cooperation activities. Problems arising from the self-certification scheme can be sorted out through this mechanism. The issue is whether there is a local monitoring mechanism for monitoring and capturing on-the-ground issues for such facilitation to work!

Recommendation

This study recommends **Option No. 2: MITI monitoring and capturing the on-the-ground issues and ironing them out at the ASEAN level**, i.e. industry through the business associations should provide evidence-based feedback to MITI so that issues can be ironed out through trade facilitation initiatives.

Issue No. 5: Inadequate consultation and short notification on new ruling

Permits Issuing Agencies (PIA) and Inspection Authorities frequently impose new rules with inadequate consultation and/or giving short notice businesses resulting in insufficient time to meet compliance. For import trade, transactions and shipping may take place months in advance, so when short notice of regulatory changes is given, imports transacted earlier may already arrive at the port which are not in compliance with the new ruling. MAQIS is cited as an authority that introduced a new rule for the import of processed leather which resulted in a company (previously compliance) leather import being fined for non-compliance.

This also include the issue of **exports permits** required by MAQIS. Shippers also questioned **why do MAQIS requires export permits when the importing countries do not**. However, respondents are unable to provide specific cases when these occurred.

This issue demonstrates the inconsistency in enforcement or administration of regulation even though the written regulation is clear. At times during the initial stage of preparing import documentation, the particular administrative official may be lax on the requirements. Some months later when the goods arrived at the port for clearance, a different and more diligent officer may be enforcing the full requirement for the imported goods. At other times, importers may experience lax enforcement over time until the day the regular officer is transferred or retired. The replacement may be a more diligent officer who will enforce what is correct but is then viewed as new requirement by the importers.

Option No. 1: Continue with existing situation

This occurrence may be a one-off occurrence or experience infrequently. Such experience is costly and frustrating to the importers. As such, enforcement agency ought to have some sort of “recovery” SOP to cater for such infrequent occurrences.

Option No. 2: Clear and transparent administrative guideline and SOP

Having a good SOP in place in the management system can provide greater assurance in practice consistency, particularly with a certified **ISO 9000 Quality Management System (QMS)**, which many agencies have in place. This has to be complemented with an easy-to-read and transparent guideline for the importers and exporters. These guidance must be made transparent to the users, both enforcement officers and business. The importance of a certified system ensures that the practices are periodically audited to ensure consistency over time.

Recommendation

This study recommends **Option No. 2: Clear and transparent administrative guideline and SOP**, i.e. **all PIAs** must ensure that their enforcement activities are consistently implemented and their processes are transparent to the business.

Issues from freight forwarders

Freight forwarders are firm specializing in arranging storage and shipping of merchandise on behalf of its shippers. It usually provides a full range of services including: tracking inland transportation, preparation of shipping and export documents, warehousing, booking cargo space, negotiating freight charges, freight consolidation, cargo insurance, and filing of insurance claims. Freight forwarders usually ship under their own bills of lading or air waybills (called house bill of lading or house air waybill) and their agents or associates at the destination (overseas freight forwarders) provide document delivery, deconsolidation, and freight collection services.⁸ Freight forwarders are particularly concerned with any hindrances to cross-border trade. They manage most of the logistics chain and have to deal with different businesses, intermediaries and authorities and the issues they raise appear to be interrelated to those raised by others.

Issue No. 6: Customs Brokerage Licence (CBL)

Freight forwarders cannot obtain a CBL unless the company has a 51% Bumiputera equity as required under Customs Orders No. 45 (Perintah Tetap Kastam – PTK),⁹ issued on 1 July 2014 to all Directors of State Customs. Forwarders without this facility are not able to carry out transactions with Customers such as clearance of goods. Hence, logistics entrepreneurs create low capital brokerage enterprises (shell

⁸ Freight forwarders definition: <http://www.businessdictionary.com/definition/freight-forwarder.html>

⁹ Customs-Private Sector Consultative Panel Meeting: *MINIT MESYUARAT PANEL PERUNDINGAN KASTAM-SWASTA BIL.2/2014*

companies¹⁰) with 51% Bumiputera equity to address this requirement. This is another example of how policy requirement when built into regulatory instrument results fragmentation the logistics chain.

The Customs-Private Sector Consultative Panel Meeting¹¹ No. 2/2014 was informed that a study on withdrawal of CBL and the 51 percent equity issue is being conducted by the Ministry of Finance (MOF), Customs and the Bumiputera Development Agenda Unit (TERAJU). Forwarders are concerned that convoluted regulation to achieve Bumiputera participation in the logistics economy results in rent-seeking, reduces logistics efficiency and slows productivity and growth in the economy. This policy is also in conflict with the new policy of allowing up to 70% equity participation (ASEAN)¹² in logistics (see Box 6.3). This issue has been discussed in TERAJU¹³ (<http://www.teraju.gov.my/>) but, so far, no decision has been made.

Box 6.3: ASEAN Economic community Blueprint 2008

According to Part **A2. Free flow of services, Section 20**
Free flow of trade in services is one of the important elements in realising ASEAN Economic Community, where there will be substantially no restriction to ASEAN services suppliers in providing services and in establishing companies across national borders within the region, subject to domestic regulations. Liberalisation of services has been carried out through rounds of negotiation mainly under the Coordinating Committee on Services. Negotiation of some specific services sectors such as financial services and air transport are carried out by their respective Ministerial bodies. In liberalising services, there should be no back-loading of commitments, and pre-agreed flexibility shall be accorded to all ASEAN Member Countries.

And Section 21 part v.:
In facilitating the free flow of services by 2015, ASEAN is also working towards recognition of professional qualifications with a view to facilitate their movement within the region. Schedule packages of commitments for every round according to the following parameters:

¹⁰ A shell corporation is a company which serves as a vehicle for business transactions without itself having any significant assets or operations. https://en.wikipedia.org/wiki/Shell_corporation

¹¹ Note: Consultative Panels in each Ministry/Department/Office at Federal State and district levels are established for facilitating public-private sector cooperation and consultation under the *Malaysia Incorporated Concept*. (see: International Trade Centre, “Public-private sector collaboration for improving the business environment in Malaysia”;
http://www.intracen.org/uploadedFiles/intracenorg/Content/Trade_Support_Institutions/Business_voice_in_policy_making/How_to_influence_trade_negotiations/Public_private_sector_collaboration_business_environment_Malaysia.pdf)

¹² ASEAN (2008), *ASEAN Economic Community Blueprint*, ASEAN Secretariat, Jakarta

¹³ TERAJU (Unit Peneraju Agenda Bumiputera) was established as a strategic unit in the Prime Minister’s Department with the purpose of leading, driving and coordinating the Bumiputera agenda as part of the National Transformation Plan; www.teraju.gov.my/

- No restrictions for Modes 1 and 2, with exceptions due to bona fide regulatory reasons (such as public safety) which are subject to agreement by all Member Countries on a case-by-case basis;
- Allow for foreign (ASEAN) equity participation of not less than 51% by 2008, and 70% by 2010 for the 4 priority services sectors; not less than 49% by 2008, 51% by 2010, and 70% by 2013 for logistics services; and not less than 49% by 2008, 51% by 2010, and 70% by 2015 for other services sectors; and
- Progressively remove other Mode 3 market access limitations by 2015;

Source: ASEAN Economic Community Blueprint 2008

Option No. 1: To continue with the existing policy

The forwarding industry players have been able to overcome this policy restriction by creating a separate business entities (shell companies) with Bumiputera participation which is in meeting with the policy intention.

Option No. 2: Change the requirement to individual licence holder on quota basis

Instead of business equity as the criterion, licence may be considered for individuals instead, as a quota basis be considered. In this way, forwarding firms who do not meet the existing equity criterion can always engage/employed Bumiputera licence holders to perform the function.

Option No. 3: Remove this policy requirement and/or change the equity criterion to ASEAN agreement

Obviously, the criterion is the result of *regulatory capture* by some influential parties. The policy authority should consider a post-RIA evaluation on this requirement to evaluate the policy intention. Since this requirement has been enforced for a number of years, the post-RIA will enable a more sensible policy decision for the logistics economy.

Recommendation

This study recommends **Option No. 3: Remove this policy requirement and/or change the equity criterion to ASEAN agreement**, i.e. policy maker should review the existing equity requirements through the post-RIA process to see if policy objective is achieved.

Issue No 7: Customs operations and enforcement

As the main “gate-keeper” of the flow of goods into and out of Malaysia, Customs is having the most impact on the cost of doing business across borders. Forwarders

frequently experience difficulty with Customs clearance and these can be summarised into four key issues:

- 1) **New Customs Orders** are issued without prior consultation with forwarders and as a result they are caught by surprises when they want to clear their containers. One major incident was when Customs suddenly imposing 100% inspection on K3-cargoes which normally do not require this. Forwarders are caught by surprise and the result is huge delays and held-up of containers at the port.
- 2) Forwarders also experienced **changes in Customs procedures** aimed at improving Customs processing that have not been discussed with forwarders before implementation. As a result, they are caught by surprise, particularly on new requirements, when clearing their goods. This results in confusion and delays particularly when other documents are required.
- 3) At times, there are cases of existing **Customs Orders being interpreted differently or inconsistently**, especially when new officers man the post, or different clearance practices are performed at different ports. These seems to be a common inconsistency cited by forwarders.
- 4) Introducing **additional exit-inspections** (at the gate) for cargo that has been cleared (ostensibly to catch hanky-panky practices at clearance). These *surprise checks* tend to result in serious delays and congestions. Forwarders consider that initiatives to improve internal operations should not cause delays in goods clearance. The intention of Customs is to catch a few *bad hats* but the negative impacts affect the majority of genuine businesses.

Option No. 1: Continue with existing practices

There will always be new Customs orders and changes made in Customs procedures over time. Businesses have to bear with such dynamic changes and adjust their activities accordingly.

Option No 2: Multi-initiatives to mitigate teething issues

With new orders and changes in procedures or requirements, Customs might take these sample actions to mitigate potential confusion, unpleasant surprises and other teething issues:

- a) Making any change transparent with **extensive communication** through different channels - web-sites announcements, dialogues and briefings, memorandum to trade associations, notifications and circulars, media announcements, etc. FAQ should be published to address common concerns.
- b) **Systematic introduction** of any changes through pilot testing, special initial hands-on assistance, use of help-desk, and even training of uses. The degree of preparation will depend on the complexity of the change requirement.

- c) **Adequate training of operating officers** and anticipating potential issues that may arise to facilitate on-site decision-making. Internal training should include simulation exercises and role plays on the changes to address potential issues.
- d) **Transparent and clear guidelines** for both operating officers and users should be developed and tested first through internal stakeholders' consultation and then external stakeholders consultation will help anticipate issues from different perspectives.
- e) As for surprise checks (additional exits inspections), **random checks** would be an option to be considered instead of 100% checks which tend to affect the majority of complying operators.
- f) Another option is to use **risk-based approach** to target the suspected parties. However, risk-based approach requires extensive analysis to establish patterns of behaviour of firms and profile them. Unless there is already such an analytic system in operation, risk-based decision will be difficult to implement.

The key point of Option no. 2 is thorough **preparation for the introduction** of any change or requirements.

Recommendation

This study recommends **Option No 2: Multi-initiatives to mitigate teething issues**, i.e. **Customs** to ensure that adequate consultation and communication of new administrative initiatives are made to mitigate teething problems.

Issue No. 8: Inspection Agencies (Other Government Agencies, OGA)

Inspections of cargo before clearance is another serious interruption to the smooth flow of logistics. Unlike Customs which is permanently located at the ports, OGAs have their own work schedules and cannot coordinate inspection for Customs clearance. This results in double handling and delays. The forwarders consider that MAQIS should function as the one-stop agency to coordinate all inspection activities to coordinate inspections and clearance. However, it is a misperception that MAQIS is a one-stop agency. Its function is quarantine and inspection services for agriculture products¹⁴. However, MAQIS should be able to assist in coordinating agencies involving agriculture products as part of the quarantine activity.

Option No. 1: No action on existing practices

Generally, once a firm is familiar with the practices of these inspectorates, and have established working relationships with them, it will be able to pre-plan for the inspections as shippers will have information on the arrival of the goods. Should there

¹⁴ Malaysian Quarantine and Inspection Services; <http://www.maqis.gov.my/en/profile>

be multiple inspections by different inspectorates, the scheduling can get a little complicated and may not be optimum.

Option no. 2: Clearance-first-and-inspection-later

Inspectorates could consider the approach of **clearance-first-and-inspection-later** to allow for speedy clearance of goods from the port thereby enabling smooth uninterrupted flow of goods. These goods is then quarantined (security tagged to prevent unauthorised use) at an intermediate warehouse or the company's warehouse where then schedule inspections can be made.

Option No. 3: Risk-based approach to inspection

There will be many companies importing the same types of goods again and again. A Pareto analysis will be able to identify the regulars for the non-regulars. Inspectorates should capture the behaviour profile of these companies for risk-based approach to inspection thereby reducing their workload. For low risk firms, random inspections and lower frequency may be used while the high risk companies may is subjected to frequent inspections.

Option No. 4: Permanent office at goods clearance (port)

For those agencies that depend on inspection revenue and have inspection economy of scale should consider a permanent inspection officer at the goods clearance operation. What is needed is one such agency who can then be given the responsibility to coordinate the other inspectorates' activities, for a fee.

Recommendation

This study recommends **Option No. 3: Risk-based approach to inspection**, where inspections are carried out proportionately, i.e. clearance risks are evaluated on data of past performance of firms. **All OGAs** should adopt a standardised risk-based approach for inspections and may even share databases for improved effectiveness.

Issue No. 9: Trucking and haulage activities

Many forwarders have their own delivery trucks and also provide haulage services. On these, forwarders raised issues relating to licensing and regulatory hindrances to improving trucking productivity as they are also involved in goods delivery and haulage activities. These hindrances are said to slow down expansion and the adoption of new trucking technology by the haulage industry. Three key issues are of concern with forwarders.

- 1) Forwarders have experienced **difficulty in obtaining new licences** for trucks. The authority often rejects applications which do not include Bumiputera participation, which according to forwarders is not a regulatory requirement.

They claimed that applications could be approved when they employed “*errand runners who know their way around*” the authorities.

- 2) Currently a trucking licence is issued for a **single-type haulage operation**, e.g., prime-movers for containers haulage, prime movers for open trailers, etc. This means a prime-mover for containers cannot haul other types of trailers and vice versa. This inflexible licensing prevents the efficient utilisation of prime-movers.
- 3) **Empty containers** are light-weight and can be carried by other 7-ton trucks, but this is currently illegal because of the **single-type haulage licensing**. This means that truckers have to use expensive, heavy-duty prime-movers to haul empty containers.

Option no. 1: Continue as it is

Forwarders will have to bear with the idiosyncrasies of licensing officers and find their way around them as they are doing using errand runners. Sometimes licensing officers are themselves confused with unclear policies decisions handed down and therefore have to make their own judgement. It is always the case of be-safe-then-sorry-later decision-making.

As for changing the single-type haulage operation, this may result in more efficient use of prime movers for forwarders, but this will be in conflict with the operations of containers haulage operators. The same will apply for the hauling of empty containers, which will of course benefits the forwarders as they can then utilise their unused trucking capacity. It will be difficult to mitigate such conflict of interest.

Option No. 2: Having transparent policy with clear working guidelines

As with many regulatory and policy enforcement, clear and transparent policy guidelines are necessary to ensure efficient and effective administration of regulation. With good administrative instruments, many of the idiosyncrasies including hanky-panky practices at the workplace can be avoided.

Recommendation

This study recommends **Option no. 2: Having transparent policy with clear working guidelines**, i.e. to ensure that regulatory operations are carried out consistently and transparently.

Issues from containers hauliers

Containers hauliers face a lot of capacity problems as a result of regulatory hindrances to capacity utilisation, downtime due to regulatory restrictions and compliance, and regulatory constraints to capacity expansion.

Issue No. 10: Shortage of heavy vehicle drivers

The containers hauliers association claimed that most of its members have a serious shortage of drivers by up to 30%. The reason being that it is difficult to qualify for the E-class heavy vehicle competency licence.

The current requirements require new drivers to obtain the D-class licence and have a two-year driving experience in this class before they can proceed to the provisional E-class licence and with further two-year driving experience before eligibility for the full E-class licence. This process of getting the E-class licence is expensive as the training cost is high. It is claimed that this also discourages new entrants (school leavers) to the profession. The hauliers claimed that such a qualifying process is unnecessary because new heavy vehicle drivers can be trained in six months to achieve adequate proficiency. In a sense, the authority has not kept up with human resource development and review existing rules and regulations to keep up with technology.

Option No. 1: Continue as it is

Haulage will have to do their best to develop their requirements for E-class drivers. To do so will incur inefficiency into the logistics chain and containers haulage is a key activity for moving many types of goods. Shortage of drivers will cause delays in delivery and eventually increase the cost of logistics.

Option no. 2: Use of foreign drivers

Authorities may consider allowing foreign (E-class qualified) heavy vehicle drivers to be recruited for the industry. This will require the review of existing regulation to recognised foreign trained heavy vehicle vocational qualification. There will be negative outcomes to this as the country is already flooded with foreign workers in many sectors. Already there are too many locally trained foreign workers working in the logistics industry.

Option No. 3: Review the existing format for vocational licensing

It would be a good time for the authorities to review the existing vocational training and qualifying schemes and the regulatory regimes of heavy vehicle drivers and other types of commercial vehicle drivers. A taskforce represented by various agencies such as JPJ, SPAD, Police, MIROS, etc. together with private sector representations may be formed to study this issue. MOT may provide the leadership for this initiative. Alternatively, a taskforce under the NLT may be mandated to take up this issue.

Recommendation

This study recommends **Option No. 3: Review the existing format for vocational licensing**, i.e. to ensure that current regulatory regimes are meeting market expectations and in keeping with technological changes in the industry.

Issue No. 11: Road-ban

Hauliers claim that there is inadequate public consultation on road-bans and they are imposed with very short notice. Road-bans are imposed on heavy vehicles at certain highways during “rush” hours. The authority usually only seeks the views of the association after decisions have been made and action taken. So AMH feels that their views were not being seriously considered and no impact studies are carried out to inform such decisions.

The import-export trade at Port Klang operates 24/7 so having a three hour road ban is equivalent to shutting down haulage activity in the logistics chain for three hours. This reduces haulage capacity and increases congestion, delays and the costs of operation. The FMM also is also concerned about road bans during festive seasons and school holidays as they interfere with transportation of manufactured products including the distribution of goods to retailers in the cities. According to FMM, Malaysian roads are always congested during these times and road bans make little difference (see Box 6.4).

Box 6.4: FMM feedback on road bans

<p>Road Ban for Lorries and Heavy Vehicle during Festive Seasons (Hari Raya & Chinese New Year)</p> <ul style="list-style-type: none">• There are grey areas in the type of vehicles being exempted from the ruling. There is no general clause to allow vehicles that are not listed in any of the category to move during the period. Manufacturers from various sectors are in dilemma if they can move during the period every year.• Different interpretations of the enforcement officer at roadblocks i.e. there were complaints from members when JPJ officer refused to accept tissue as sundry items, and refused to accept mineral water as beverages as listed in category 4 of exempted sundry items and beverages. This provided excuse for drivers to demand for petty cash to pay for summons. <p>Suggestion given by FMM: JPJ to re-evaluate whether it is relevant as it is only applicable on Hari Raya and Chinese New Year to reduce road accidents during “balik kampung” rush. Looking at the current trend, highways, states road, etc. are always congested during every extended holidays, school holidays or any combined public holidays – not necessary Hari Raya and Chinese New Year. Ban should be imposed on major highways only. Vehicles should still be allowed to operate on old roads. There should be better definition of exempted products i.e. beverages, sundry items.</p>
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Source: FMM written input

Road restriction is a common practice in many countries as many roads and bridges are designed to cater for limited load. Roads upgrading is a difficult and slow process

so restrictions on road use is necessary to reduce damage to roads by heavy commercial vehicles (see Box: 6.5).

Another area of concern is on the road restriction for heavy vehicles. According to FMM, the Minister of Works (MOW) in 2008 announced that all lorry could carry the 20% extra load on Federal roads. However, the ruling was not applicable to state roads in Peninsular Malaysia and Sabah and Sarawak as the states were not confident that their bridges would be able to withstand the extra load. Due to this anomaly, lorry and tankers would be considered overloaded when they ply state roads and would be penalised. In many areas maximum load bearing for roads and bridges are indicated on road signs which truckers should comply with.

On July 4, 2013, the MOW advised that MOW and JPJ would identify roads and bridges that could withstand the extra 20% load in order to advise businesses to reschedule transportation of their goods along these approved roads. The Secretariat of the FMM logistics unit has written to MOW on August 23, 2013 to obtain the list of the approved roads but as yet to receive a response on this at the time of reporting.

Box 6.5: Weight Restriction Order in Malaysia

Restriction Order published by MIROS

- Weight restriction order is necessary to help protect road from damage that can cause untimely and expensive delays for road user who rely on the road network. Weight restrictions also help to avoid higher road maintenance costs as well as vehicle wear and tear. In addition, the restriction also restricts access for heavy vehicle from unsuitable area for its size such as narrow village roads, bridges or the place may pose danger to pedestrian.
- In Malaysia, all vehicle design and construction must comply with the Malaysia Weight Restrictions (Federal Roads) (Amendment) Order 2003. The entire vehicle must comply the maximum axle rating stated in that order. In Malaysia for the bus construction, the manufacturer usually used a two or three axle's configuration, which stated that the maximum permissible load for each axle is 18 and 25 tonnes respectively. However, the load is depending on dimension of wheelbase and axle spread. The maximum load for each vehicle is different for Peninsular and East (Sabah and Sarawak) Malaysia. Generally, the maximum permissible load in Sabah and Sarawak is less due to the condition of the roads. Weight Restriction Orders are enforced across the country by the Road Transport Department (JPJ) and the Royal Malaysia Police (PDRM).
- In addition, in *Road Transport Act 1997*, Section 86: Restriction of vehicles on the bridges stated that vehicle used bridge could not exceed the permissible load specified in regulation based on their construction. Furthermore, the need of conspicuous notice at each end of the bridge also stated in the act and the notice should reflect the allowable weight and the speed limit.

Source: MIROS: http://www.miros.gov.my/1/publications.php?id_event=88&idxs_page=23

According to the Malaysian Highway Authority, road bans for heavy vehicles in highways are necessary during the morning peak hours when the working population are rushing to get to their work in order to reduce traffic congestion and ensure smoother traffic flow in certain stretches of roads. It considers more than 250,000 vehicles head towards Kuala Lumpur during morning rush hours. The affected areas are the New Klang Valley Expressway (NKVE) between Shah Alam and Jalan Duta (from Km9.3 to Km31), North-South Expressway (NSE) between Sungai Buloh and Bukit Lanjan (Km456.05 to Km459.32) and Federal Highway Route 2 between Subang and Sungai Rasau (Km5.6 to Km19.2)

The authority claimed that at least five heavy vehicles break down in the affected areas each day and are three times more likely to break down in traffic jams which further exacerbates the traffic jams. Heavy vehicles are classified under the Class 2 and Class 3 categories and weigh 10,000kg and above whether laden or unladen. These comprise tipper lorries, six-wheelers and trailers. Accidents involving heavy vehicles can delay other motorists as removing the vehicle, and its load, requires heavy machinery.

The authority took a year to study alternative routes for heavy vehicles going to Port Klang and has identified two routes for their use. The alternative routes would not incur extra costs to the operators as they are parallel routes which are less congested. Heavy vehicle drivers have been advised to make use of the parking facilities provided at rest and service areas on the highways during the restricted period. Before implementing the order, the authority has consulted with the Association of Malaysian Hauliers and Pan Malaysia Lorry Owners' Association's opinions on the ban.¹⁵

The FMM representing the manufacturing industry is positive on this initiative as it perceives little impact on lorry transport for alternative routes are available. It also views that getting stuck in traffic jams would increase fuel cost. On the other hand, the Pan Malaysia Lorry Drives Association is unhappy with the road ban it sees the banning as unfair (insisting that truckers also pay highway tolls) and consider this a major hassle to the drivers, particularly if they have to apply for special permits to use the highway.

Road bans are viewed as necessary evil by truckers and hauliers. Authorities need to look at the balance between the needs of logistics and the working population. Although the existing regulation allows for road bans, continued monitoring and consultation with stakeholders should mitigate any unhappiness by the parties affected. At the moment, there is no objective monitoring and information on the outcomes of road bans initiatives.

¹⁵ Malaysia Heavy Construction Equipment Owners' Association, *The Star Report* 4/8/2010; <http://pajpbm.com/ban-on-heavy-vehicles-during-peak-hours.html>

Option No. 1: Continue the current practice

Although there are dissatisfaction by certain parties, the practice is for the best of all road users, particularly road ban for heavy vehicles during the rush hours. Truckers can reschedule their deliveries as they would also not want waste their time in traffic snares. Also, the authorities have made efforts to identify alternative routes heavy vehicles can use during the banned hours. Most importantly, the authorities have made efforts to consult with affected stakeholders and taken their views into consideration before implementing any actions.

Recommendation

This study recommends **the only Option No. 1: Continue the current practice**, as current interventions are in tune with good regulatory practice and proper stakeholders' consultation.

Issue No. 12: Application for renewal of business licence

The industry has to comply with a number of local regulations that reduce the ease of doing business in the locality:

- 1) **Renewal of business licence (yearly):** The industry feels that it is unnecessarily burdensome to renew business licences each year as it involves submitting documents every year. The licensing authority demands the same information and documentation for every renewal.
- 2) **Approval for open space for parking:** Hauliers need large open spaces to park/store their heavy vehicles and trailers. They find that the need of getting "development orders" to develop open parking space is expensive as it is costly to do planning submission.

Option No. 1: Continue as it is

This is a common practice for most local authorities and the issue raised seems to be also a common complaint. Local authorities ought to continue the practice if requiring the same documentation for every renewal serves some important objective. Collecting a lot of application documents will mean increase filling and records management work of the authority and this should be considered unnecessary burden on regulatory implementation.

Option No. 2: Use IT for application submission for licence renewal

This will reduce the amount of physical documents to be handled and will possibly reduce document administration for both applicants and authority. With the use of IT, it will eventually evolve towards the use of online application. However, large amount of documentations may reduce the efficiency of IT systems and system reliability will be an important consideration. Once IT or online systems become a norm, any

breakdowns will cause stoppage of renewal process and inconvenience the businesses involved.

Option No. 3: Lengthen the licensing period

Licensing also contributes to the revenue of local authorities. However, the authorities can always consider allowing for multi-years licensing. The Company Commission Malaysia, for example, allows sole proprietorship registration for up to five years. Most firms are unlikely to change their business or operations over short period and it should not be necessary to demand for corporate information yearly. The licence can always specify the condition that the licensee need to re-submit new documentations should there be any major change in the firm's business.

Recommendation

This study recommends **Option No. 3: Lengthen the licensing period**, i.e. business can renew their licences for longer periods, such as 3 or 5 years.

Issue No. 13: Approval for (purchase of) new vehicles

Regulatory requirements hamper business expansion as the approval for new vehicles is burdensome and takes too long. The hauliers claimed that approval may take three to six months and approvals are required different authorities e.g. SPAD, Local Authority. The lengthy approval means that hauliers cannot effectively respond to business opportunities speedily. Delays occurs when the processes are lengthy and involves a number of units within an agency and further exacerbated when more than one agency is involved.

Option No. 1: Continue as it is

Continue with the existing regulatory regime but continually improve the operating process as the example described above. However, the improvement has to be *carried out continually*, which means that there must be some sort of feedback monitoring of existing processes in order that new initiative can be activated. The improvement initiative above is ad-hoc or one-off and would not be adequate for dynamic change in the business environment.

Option No. 2: Carry out one-off programmed improvement on the processes

The trade association can monitor the situation and with evidence submit proposal to the appropriate committee to review and improve application process. The NLT is the appropriate body to raise this issue. The appropriate taskforce of working group would then be able to take up the assignment.

As an example on this, an improvement initiative under the Malaysian Logistics and Supply Chain Council was carried out in 2011 to tackle the issue of long delays in

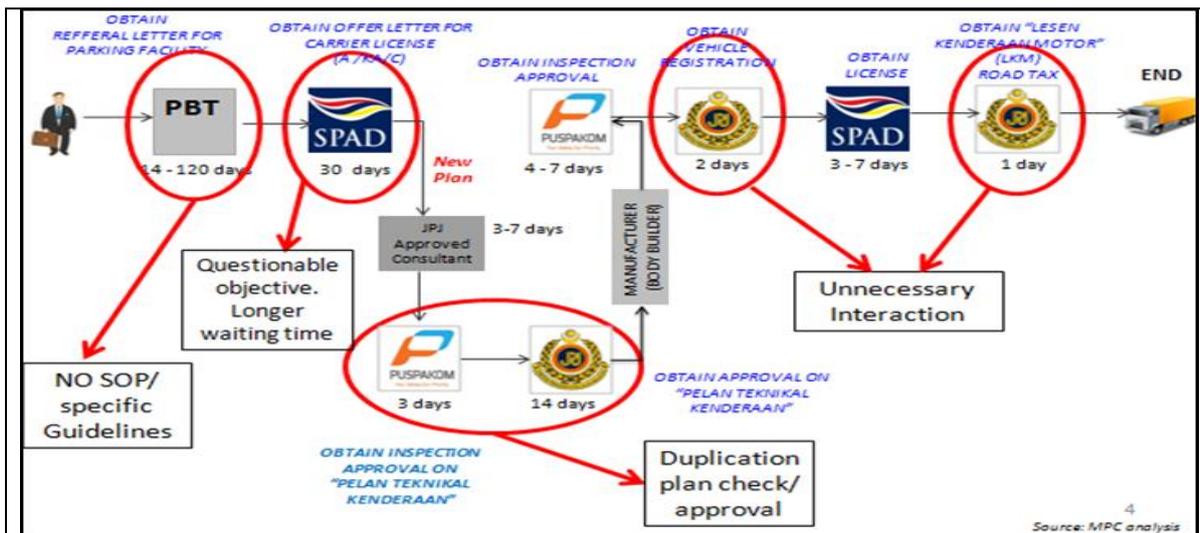
vehicle licensing. In that initiative, the Malaysian Productivity Council (MPC) engaged SPAD, JPJ, PUSPAKOM, local authorities, Association of Haulage Malaysia and logistics companies to formulate possible solutions to resolve the issues (see Box 6.6 on Case Study).

As can be seen from Box 6.6, applicants have to deal with at least six different parties – government agencies, government intermediaries and private businesses to get licensing application approved. To complicate matters, there are different departments to deal with within one agency. For example, applicants have to deal with three different departments within JPJ itself. Even though regulators may have agreement, at the organisational level, over objectives, these may not be adequately implemented operationally, such as where departmental “silos” becomes barriers to decision making. Beyond this, even when individual agencies have achieved consistency, inadequate interfacing between regulatory agencies will impose burdens on the applicants.

The case study illustrates the key issues as poor coordination and communication impacts on the time between regulatory changes and regulatory implementation. An option to overcome such issues is to have a specially set-up taskforce under the Logistics Council given the responsibility to bridge the time gap between regulatory decision and implementation. The case study illustrates one way that this could be achieved. A taskforce would be able to engage the affected operating units together to formulate the implementation requirements thereby reducing the burdens to businesses. However, such arrangements may only be appropriate for resolving significant issues and may not be effective for regular changes.

Box 6.6: Case study of improvement initiative on vehicle licensing

To carry out the improvement initiative, the MPC engaged with the local authorities of Klang, Sepang and Kuching to identify the possible causes of the long application process and together worked with the licensing authorities SPAD and JPJ (BKA) to understand the causes of delay for approvals.
The figure below summarises the existing complicated process for vehicle licensing.



In summary, there is lack of coordination between regulators/government agencies in the licensing process and this led to communication breakdowns resulting in confusions to businesses on the application requirements.

Recommendations include:

- Streamlining the process and guidelines with local authorities.
- Providing a standard operating process to get the permit. The SOP is to be published in the website of all related agencies.
- Communicating the ease of application for permits and discouraging the use of errand runners.
- Advising applicants on the alternatives available on parking approvals
- Publishing guidelines on getting approvals and having special meetings to resolve issues.
- Sharing information between local authorities through intranet links.
- Providing a standard guideline for approving *vehicle technical plan* by JPJ and updating the requirements as necessary.

Source: MPC RURB Report on Vehicle Licensing 2013 (unpublished)

Option No. 3: A “one-stop centre” for application for new vehicles

Another alternative is to establish a “one-stop centre” for vehicle licensing. Business applicants should be able to work with “one-Government” instead of dealing with multiple disparate regulators and agencies. There are already one-stop centres established for other types of regulatory regimes such as in “dealing with construction permits” in some local authorities. Ultimately, the most efficient option to deal with this is likely to be a “single-window” application, where vehicle licensing can be done online anywhere and at any time. Again, there are good examples of single-window online applications for many government services.

Another consideration of importance is the effect of changes that may take place over time. Changes in operating objectives, personnel, procedures, information

requirements, decision-making, and so forth will affect interface agreements. When changes occur, new interface agreements must be re-established if the requirements are affected. Sometimes changes are made and agreed upon at the organisational levels between agencies but system changes at the operating levels may take time. For example, the head office at Customs may have decided on a change and send a circular to operations across the country to implement the new requirements with immediate effect. However, operating systems at the service interface may not have changed to meet the new requirements, resulting in unnecessary burdens to businesses. With the establishment of the one-stop centre, changes can be better facilitated, thereby mitigating future burdens on businesses.

Recommendation

This study recommends **Option No. 2: Carry out one-off programmed improvement on the processes**, i.e. to continue with the improvement initiative until industry expectations are met. NLT can mandate MPC to carry out such improvement initiatives.

Issue No. 14: Safety inspections of prime-movers and trailers

Vehicles have to be inspected every six months for safety and emission compliance. Hauliers claimed that they have to deal with different inspectorates to get their vehicles approved for use. The main authorities are PUSPAKOM, Environmental agency, local authority, and DOSH.

The number of inspections results in serious downtime for hauliers. AMH feels that a one-stop inspection by PUSPAKOM would be adequate as it is capable of doing all types inspections and this should be sufficient without the duplications from other regulators. AMH estimated that there are 7000 prime movers and seven times the number of trailers currently and these have to be inspected by PUSPAKOM. The trailers have to be pulled by the prime movers to get to the inspection site at Shah Alam (about 20 km from the depot). This contributes to significant downtime for the hauliers and high costs in fuel and drivers and create congestion on the road. AMH has suggested that the inspection facility be located at the port areas as there are sufficient number of vehicles and trailers to have economy of scale.

FMM also raised the issue on PUSPAKOM inspection of older commercial vehicles. PUSPAKOM continues to be a **monopolistic intermediary** of the Government and businesses continue to see inefficiency in the inspection services. FMM has suggested that the Government review the policy on the use of “too-old” vehicles or liberalise the vehicle inspection activities to encourage competition for greater efficiency. This seemingly makes sense as the Government ought to review such monopolistic practice before enforcing anti competition regulation on businesses.

Option No. 1: Continue as it is

It will be difficult to change a well-established business model of this sort without significant impact and opposition. Even it is a monopolistic model, the Government has the necessary regulatory controls that monopolistic tendency does not occur. Companies experiencing problems should continuously give feedback to the authority so that any irregularity can be “nipped in the bud”.

It is true that there are many prime movers and trailers have to be sent all the way from Port Klang (where most of the companies are located) to Shah Alam for the half-yearly inspection. To suggest that a special inspection centre be set up at Port Klang may not be a feasible solution to PUSPAKOM.

Option No. 2: Setting up a PUSPAKOM branch at Port Klang

PUSPAKOM can do a feasibility study on such a potential and consider the viability of setting up an inspection centre at Port Klang, or somewhere more convenient that traffic flow is not such a hassle as that in Shah Alam.

Option No. 3: Increasing the duration between inspections

PUSPAKOM is only an intermediary to the Road Transport Department (RTD). It will be the onus of the RTD to review this possibility and implement it. RTD may (using appropriate statistical or risk-based analysis) to classify vehicles according to, say, age. The newer vehicles may be given longer period between inspections, for example, yearly instead of half yearly. This will substantially reduce the number of prime movers and trailers for inspection and will also encourage companies to maintain newer vehicles in their fleet.

Recommendation

This study recommends **Option No. 3: Increasing the duration between inspections**, i.e. to consider risk-based approach thereby increasing the duration between inspections for lower-risk vehicles. RTD should take up the initiative to look into this option.

Issue No. 15: Unregulated off-dock containers depot

AMH feels that these unregulated off-dock depots are imposing all kinds of charges on truckers and also creates delays that resulted in truckers being unable to achieve the number of trips made per day. As truckers earning is dependent on delivery trips made, this means lost earnings for them. A trucker strike happen a few years back because of this and trade was badly affected (also the image of the country logistics services). This issue was debated a number of years ago. AMH stated that the MOT has decided that SPAD become the principle regulator for the depot business, but the necessary

regulation will need to be formulated and passed in Parliament and this is taking a long time.

SPAD has been given mandate and capacity to ensure orderly development and regulation of off-dock depots through licensing and standard guidelines. A centralised container management system will be established to enhance the efficiency of cargo operations.¹⁶ An organised off-dock depot management will help to decongest the ports and deliver efficient cargo operations at competitive cost. In addition, SPAD will also undertake a study to map the origin-destination flow matrix by commodity for road freight.

However, **since the initiative has been taken by MOT by appointing SPAD to come up with the appropriate regulation to address the issue, no option will be suggested here.**

It should be noted here that imposition of a new regulation should be a last resort for resolving business issues. The decision is to look into the effectiveness of the existing regulation and improving on it if necessary. Then only should a new regulation be considered with adequate impact analysis. Introducing another regulation and another regulator will only compound the problem.

Recommendation

This study is not providing any option as the issue is being reviewed by SPAD.

Issue No. 16: Dealing with Permit Issuing Agencies (PIA)

The FMM also raised the issue on dealing with PIAs. According to FMM, manufacturers have to deal with over 37 PIAs in Malaysia and they tend to face with problems of overlapping requirements in permits issuance. An example cited is on the MAQIS Act which is aimed at coordinating permit issuing bodies under one umbrella (one-stop centre) but this has led to even more difficulties as companies now need to apply for import and export permits for items which were previously not required.

Another issue is that MAQIS would not issue any permit without the submission of actual invoice from a company. The validity of each permit is short (for 30 days). FMM highlighted that company should be allowed to apply for advance permit with longer validity of 3 to 6 months. MAQIS should release all perishable items by requesting company to provide a bank guarantee if the company do not comply with any of their regulations.

¹⁶ Eleventh Malaysia Plan 14-12 Strategy Paper 14: Unleashing Growth of Logistics and Enhancing Trade Facilitation

Option No. 1: Continue as it is

It is impossible to avoid the number of agencies businesses have to deal with because of the complexity of the national economy and institutional framework. No single agency has the capability to exercise all types of regulatory interventions for all types of products. What is important is that there are not overlaps and duplications of regulatory controls from the many regulators.

Option No. 2: Improving the efficiency of permits issuance or approvals

Permits issuance should not take days but be immediate and carried out online whenever feasible. Unless it is a new business application, there should not be any reservation on the permit issuing agencies to process permit applications immediately. If permits can be issued immediately upon application, few businesses will consider it burdensome when complying with any requirements made by any authorities.

Option No. 3: A one-stop centre for permits and approvals

It would be worthwhile to study the feasibility on a single business centre for imports and exports where key permits issuing agencies are physically housed. It can be expensive but such a centre would improve regulatory efficiency and significant reduce regulatory burdens on business.

Option No. 4: A single-window online operation

This is even a better solution to a one-stop centre for regulatory intervention. The power of modern ICT dictates that such solution should be considered for any information processing systems such as in regulatory permits and approvals. Isolate examples of such applications are already in existence for regulators to copy. The latest initiative, the U-Customs is said to be able to the single-window solution, but will only be pilot testing on a limited scope in 2016.

Recommendation

This study recommends **Option No. 4: A single-window online operation**. Hopefully, the new online application U-Customs which are in the process of development will match this option.

Issues from Port Operator and Free Zone Operator

Ports and free zones businesses are complementary in nature. The development of free zones is to encourage foreign investment in the country by providing special provisions relating to tax exemptions at the zones. When more businesses are located at the free zone, increase transshipment activities will follow thereby increasing the ports activities.

Issue No. 17: Port Klang Free Zone operation

From the FMM, the understanding is that free zone is a geographic area where goods may be landed, handled, manufactured and re-exported without the intervention of the customs authorities. FMM is of the opinion that Customs meddles too much with companies' operations in the FZ and causing more documentation on exporters for goods declarations. This increases the waiting time and cost before re-exportation of goods.

Although it is the role and responsibility of Customs to ensure compliance to Customs and FZ regulations, too much intervention on the part of Customs defeats the concept of FZ. Customs need to adopt risk-based practices for intervention to ensure unsavoury practices by recalcitrant businesses. Regular consultation with businesses on compliance issues would also mitigate non-compliance and unhappiness.

From the operator, Free Zone is defined by Customs and "land outside Malaysia" which means that business operations at FZ has exemption from certain regulatory requirements. In reality, this is not always so as many authorities impose similar requirements as those outside the zone. Two main regulators are cited to have introduced "unreasonable" requirements - MITI and MAQIS.

- 1) MITI imposes the requirement of AP (in this case called Temporary Approved Permit, TAP, with specific condition of 30 days expiry) for vehicles (cars) brought through the FZ. Also TAP can only be obtained in one working week posing problems for vehicles imported from Thailand which only take 3 days to come in. This resulted in business being penalized when cars arrived earlier than the issuance of TAP.
- 2) MAQIS is cited as another agency that imposed many regulatory controls relating to agriculture produce and commodity, e.g. unprocessed cotton. MAQIS is said to be demanding that raw cotton at the FZ need to undergo expensive pesticide treatment for storage.
- 3) The **recent imposition of GST** continues to be a debatable issue for businesses in the Free Zone (FZ). Many requirements are said to be ambiguous and confusing to businesses in FZ. Customs officers at the sites are said to be unable to provide satisfactory answers to business queries. This is probably a **temporary teething problem in the GST implementation** and

should resolve itself in due course. MOF and Customs are reported to be discussing this issue at the federal level (The Edge December 2015).

Option No. 1: Continue as it is

Authorities will intervene and introduce more controls whenever they are deemed necessary. When MITI or MAQIS introduced new measures, they are because there are complaints arising from firms carrying out unscrupulous practices to avoid compliance with regulation, particularly in trying to evade Customs duties. For example, ATP is made a requirement because there are incidences of imported vehicles being sneaked out of free zones to evade Customs duties.

Option No. 2: Improving the efficiency of permits issuance

Permits issuance should not take days but be immediate and carried out online whenever feasible. Unless it is a new business application, there should not be any reservation on the permit issuing agencies to process permit applications immediately. If permits can be issued immediately upon application, few businesses will consider it burdensome when complying with any additional intervention made by any authorities.

Recommendation

This study recommends **Option No. 2: Improving the efficiency of permits issuance**. Hopefully, the new online application U-Customs which are in the process of development will match this option.

Issue No. 18: Port Operator's regulatory constraints to business expansion

The main concern of port operators at Port Klang is their ability to continue their business expansion by becoming the transshipment hub of the region. The location at Port Klang has certain strategic advantage in the region. The ports have modern facilities (although the containers is yet to be fully automated) and has synergistic relationships to the free zone which is able to provide storage space at competitive costs. However, the port operators felt that there are serious regulatory hindrances to bringing in new transshipment business into the country (see Box 6.7 on case issue).

Ports are important contribution to the country's gross national income as it brings in a lot of foreign exchange revenue. Westports Holdings Bhd. for example, generated significant income through its container services. Westports is a major gateway for the country's imports and exports for the main economic sectors e.g. the manufacturing, mining and agriculture sectors.

Box 6.7: Case issue on the development of a cotton distribution hub

One such case is on the regulatory constraints posed by the Department of Agriculture on **cotton**.

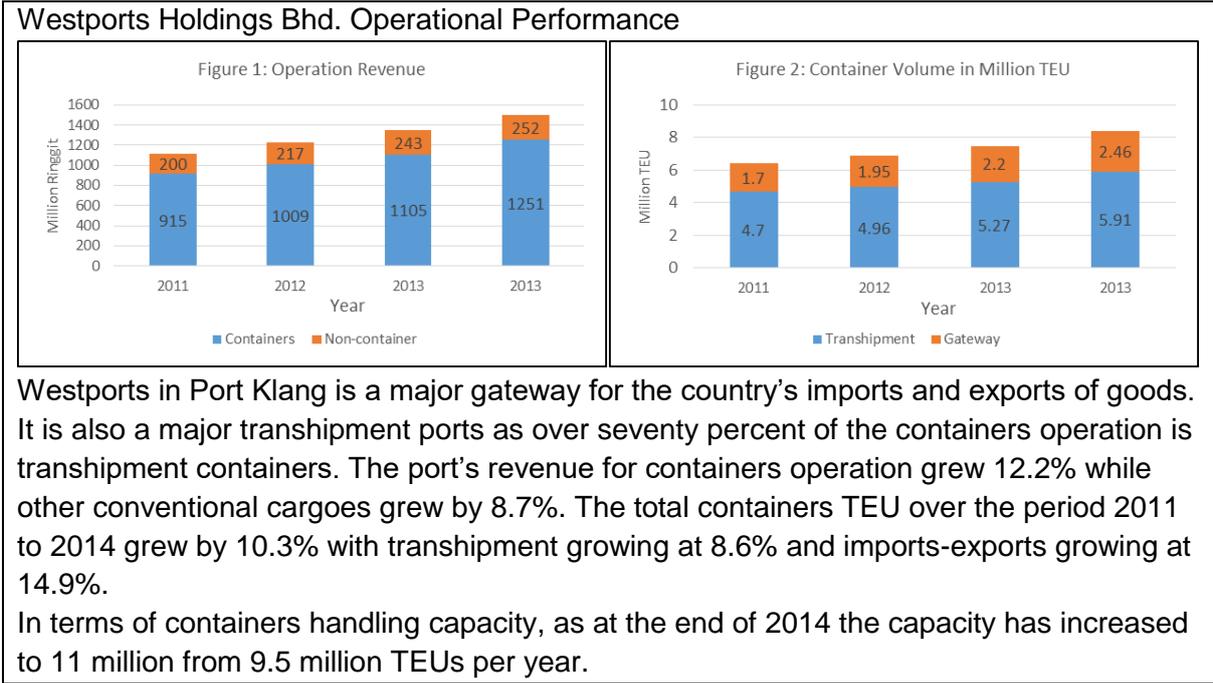
- a. According to the respondents, the International Cotton Exchange (ICE) wishes to make Port Klang Free Zone as its storage hub for cotton trade and distribution in the region because of the excellent port facilities and the cheaper storage facilities and the availability of free zone. However, the DOA wanted to impose a number of stringent requirements as cotton is deemed a sensitive agriculture produce and imposing these requirements will incur significant delays, high handling costs at the port and other impractical documentation requirements, making the business non-viable.
- b. Accordingly, the cotton is to be landed at ports in Klang, temporarily stored at the port until reshipment (short duration), or transported to PKFZ for longer storage until reshipment. DOA treats these as importation and wants to impose full regulatory controls as importation of cotton into the country for processing or consumption.
- c. As a result, this cotton hub is being moved to Taiwan, and the business is considering using Colombo port, which means that Malaysia will lose out this important transshipment trade. This business is estimated to be around RM200million, the expected spin-off businesses are projected to be much bigger as more ships will call at the port.
- d. The perspective of the respondents is that regulators have poor understanding of international trading practices for commodities. Ports operators are concerned that the authorities are not responding seriously to business concern on the issue.
- e. The respondents also are concerned with differences in views by different authorities. The example cited is that the regulator like DOA may say that something cannot be done while the enforcing agency MAQIS may say that it can be done creating confusion for businesses.
- f. Ports operators have approached MITI, MOA, MOT, DOA, and MAQIS on the issue and have gotten different kind of responses from these agencies.

Source: MPC - Inputs from respondents

However, the imports and exports of goods have plateaued over the last few years and in some cases the contributions to the economy are on the decline. Services contributions on foreign exchange earnings has taken over since. In the case on Westports, the major services contribution to foreign exchange earnings comes from transshipment containers operation (see Box 6.8 on Westports Holdings Bhd. Performance).

For Westports to continue its growth in transshipment services, more international shipping lines has to call at Port Klang. The PKFZ provides the attraction for foreign businesses to locate their distribution hubs. However, the attraction will depend on the cost of doing business and the ease of doing business here. PKFZ is able to provide lower cost of doing business here as it has the advantage of large land area with competitive rental cost and the free zone is a *customs-free* area.

Box 6.8: Case of Westports Holdings Bhd.



Source: http://ir.chartnexus.com/westportsholdings/docs/highlight/q4_2014.pdf

The definitions for imports and exports in Section 7 (a) and (b) of the *Free Zone Act 1990* is restricted to the payment of customs duty, excise duty, sales tax or service tax as defined in Section 4 of the same Act. The general definitions of import is “to bring or cause to be brought into Malaysia by land, sea, inland waters or air...” and for export is “to take or cause to be taken out of Malaysia by land, sea, inland waters or air any plant, animal, carcass, fish, agricultural produce, soil, micro-organism, or food” as in the *Malaysian Quarantine and Inspections Services Act 2011 (Act 728)*. This means that free zones are still subjected to other regulatory restrictions and requirements. Therefore, to bring into Malaysia any agricultural produce, processed or otherwise are subjected to Act 728.

According to Section 9 (h) of Act 728, the Director General of MAQIS is empowered to declare any premises a quarantine premise to any quarantine procedures. Whether such controlled area can be exempted from quarantine procedures are not clear.

In the case of establishing a cotton distribution hub at PKFZ, the requirements of Act 728 will definitely constrains the ease of doing business and thereby increases the cost of doing business. Here development objective of encouraging foreign direct investments, FDI and enhancing economic growth and regulatory intention environmental safety is in obvious conflict. The option is to look for a business solution through a regulatory impact analysis (RIA) for this specific case.

In general, regulators have low appetite for risks and the main risk concern is that the agency will not achieve its objectives. Risk-based regulation requires regulators to explicitly define their regulatory objectives, and to translate their statutory mandates

into operational objectives. Unfortunately, they tend to be driven by changes in the political and social context to address risks that they might otherwise have regarded as low priority. A regulator will not be pro-active in looking for a business solution. There must then be a third party framework to bring the two parties with the conflicting interest together for the RIA option to be effective.

Option No. 1: Continue as it is

Westports can continue to pursue the initiative to get foreign investment to relocate at Port Klang. It will be hard work and time consuming to achieve results and many opportunities will be lost because of policy delays.

Option No. 2: A special business development working group for Port Klang

A special working group may be formed involving the ports operators, Port Klang Authority, Free Zone Operator and Free Zone Authority, economic development agencies, such as MITI, MIDA, MATRADE, MOT among others, may be formed to facilitate business development at Port Klang. The same may be made for other major ports in the country. It is insufficient to formulate economic development blueprint and strategy without establishing the institutional framework and mechanism to implement them.

Recommendation

This study recommends **Option No. 2: A special business development working group for Port Klang**. Such a taskforce, perhaps under the purview of the **National Logistics Taskforce**, will be able to oversee the continuous growth of Port Klang in meeting with the national aspiration.

Issue No. 19: Verbal commitment by the authorities

Relating to the Issue No. 19, the port operator claims that it is difficult to obtain **formal and documented commitment from the authorities**. It is highlighted that authorities are generally reluctant to issue official document on specific ruling. For example, when businesses wanted to know, say whether corporate tax are imposed in the free zone, officials may verbally give the conditions of exemption but would not issue an official documented ruling. International business will only accept documented commitment if they are to do business in any country.

When dealing with authorities, they tend to claim that regulatory guidelines are on their websites. This is frequently found to be untrue. Companies also feel that it is not reasonable for authorities to presume that rules and guidelines are deemed to have been communicated once they are published on the web. Communication has to be direct as businesses do not have the luxury of browsing web-sites regularly. Web information should be a reference only. It is deemed unreasonable when all information

are in Bahasa Malaysia when dealing in international trade. At least the English language should also be used.

Option No. 1: Continue as it is

As long as companies continue to give feedbacks to the authorities, improvement will continue to take place albeit slowly and incrementally. Authorities tend to move at snail pace from the business point of view, and therefore have to bear the burdens of inefficiency. It is difficult if not impossible for the operating official to issue documented commitment as they do not have such authority at their level. Any formal commitment must come from the top. Thus the port operator in this case get such written commitment from the top decision maker.

Option No. 2: Improve the websites and its use

Regulators has to make their websites as a mission-critical channel of communication for regulatory intervention. Their websites has to focus on assisting businesses in regulatory compliance. At the same time, it is important that companies start to use regulators web facilities at the means of business-regulator communication and information-sharing. In the not too distant future, online transaction will be the norm for regulatory compliance.

Recommendation

This study recommends **Option No. 2: Improve the websites and its use**, i.e. to ensure that information are easily accessible and transparent to business and potential investors.

Concluding remarks

It has to be noted here that the issues captured from the various businesses are not exhaustive. Only a sample of the companies involved are interviewed. The companies involved are key members of the various trade associations that arranged to meet with the study team. They nevertheless represent the major players in sea freight logistics.

This draft report treats these nineteen issues as common concerns among the logistics businesses in the freight logistics chain. These analyses will form the basis for further consultations with businesses, the regulators and other interested parties.

The options and recommendations are only feasible and potential solutions to the issues. To ensure the practicality of the recommended options, **regulatory impact assessments** with adequate **cost-benefit analysis** and **public consultation must be carried out on each of them.**