



## ISSUES PAPER

# REDUCING UNNECESSARY REGULATORY BURDENS (RURB): ELECTRONICS & ELECTRICAL (E&E)

6 November 2015

# **The Electronics & Electrical (E&E) Issues Paper**

MPC is releasing this issues paper to assist individuals and organizations to prepare and participate in the review. It contains and outlines:

- the scope of the review
- matters about which the MPC is seeking comment and information
- information about how you can get involved in the review.

Participants may add any comment which they consider relevant to the review.

**Due date for submissions: 27 November 2015**

## **Submissions can be made by email or fax to:**

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## CONTENTS

1.0	Terms of Reference	4
2.0	The Proposed Scope Of The Study	7
3.0	Our Approach	9
4.0	An Invitation To Comment	14
5.0	Issues Gathered	15
6.0	Appendix 1	28

## **1.0 TERMS OF REFERENCE**

The Malaysian Productivity Corporation (MPC) is undertaking a study on reducing unnecessary regulatory burdens on the Electronics and Electrical (E&E) sector. This study arises from the mandate given to MPC under the 10<sup>th</sup> Malaysia Plan to carry out regulatory reviews to make it easier to do business in Malaysia. In relation to this, the Malaysia Service Development Council (MSDC) has asked the MPC to review the E&E sector.

The purpose of this issues paper is to outline what is being reviewed and our proposed approach so that interested parties can find out how they may participate. MPC may also directly contact interested parties, public and private sector representatives, with expertise or experience in the Malaysian E&E Sector, who can assist in the study.

The issues identified in this paper represent those that seem most relevant at this stage and may change as MPC receives more feedback from interested parties. The paper draws on a range of reports on the E&E sector, including the MPC's reviews already conducted on this topic. Parties should feel free to raise any issue they consider relevant to this study whether or not it has been raised here.

The responses to this issues paper, along with other information gathered through targeted interviews and research, will help to inform the development of the draft report, which will set out options for addressing unnecessary regulatory burdens in the E&E sector.

Updates on the progress of this review will be provided on MPC's website <http://www.mpc.gov.my/home/index.php>.

### **1.1 Making a Submission**

Anyone is invited to make a submission (written or electronic) on the issues relating to the E&E sector. A submission can range from a short letter on a single issue to a more substantial document covering a range of issues. Your submission may respond to any or all of the issues

outlined. You are also welcome to raise other issues and provide other information that you think might be relevant to this study. Where possible any views outlined in the submission should be supported by evidence, such as references to independent research, facts and figures, or examples. While every submission is welcome, multiple, identical submissions do not carry any more weight than the merits of an argument in a single submission. Please also include your name, or the name of your organisation, and contact details. Should you wish to remain anonymous, please indicate this and the MPC will keep your name confidential.

Submissions should be received by MPC by 5 pm on 27-Nov-2015.

Submissions may be sent through the Corporation's website <http://www.mpc.gov.my/> or email or post. Electronic submissions should be in Adobe Acrobat or Microsoft Word or compatible format. In addition, an electronic submission form is available at MPC website.

### *1.1.1 Use of information*

The information provided in submissions will be used to inform our analysis and the advice given to government on unnecessary regulatory burdens on the E&E sector, to gauge the position and preference of stakeholders and more generally to increase MPC's knowledge of the E&E sector. We may contact submitters directly if we require clarification of any matters in submissions.

We intend to post written submissions received on the issues paper on MPC's website at <http://www.mpc.gov.my/>. Therefore, please read the advice below regarding confidential or private information.

#### *1.1.1.1 Confidential Information*

If your submission contains any confidential information, please indicate this on the front of the submission. In addition, the confidential information should be clearly marked within the text, for example, by including the confidential information in square brackets or as a separate appendix.

If you wish to provide a submission with confidential information, we prefer that you also provide a separate public version of the submission which excludes the confidential information. If provided, the public version will be posted on MPC's website.

## **1.2 Requesting a meeting**

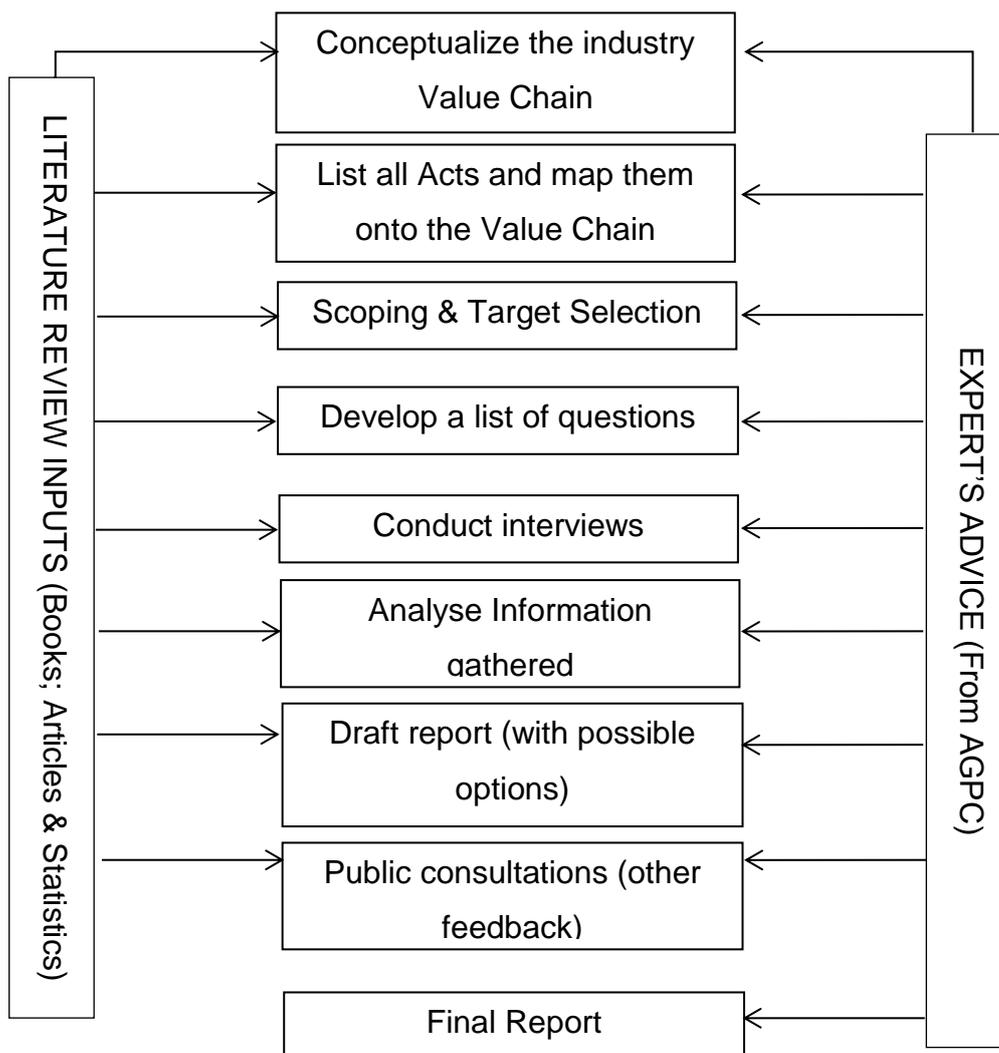
If you would prefer to meet with representatives of the MPC to discuss your issues, please indicate this in the Expression of Interest form attached at the end of this issues paper. Every effort will then be made to arrange this though the MPC cannot guarantee to meet with everyone.

## 2.0 THE PROPOSED SCOPE OF THE STUDY

### 2.1 What is this study about?

The study will emulate the approach used by the Australian Government Productivity Commission (AGPC) and the team will be guided by a regulatory expert from the AGPC, Ms Sue Holmes. After the regulatory issues of concern have been identified, the team will formulate feasible options for further deliberation, based on principles of good regulatory practice, and publish them in a Draft Report. Further consultation will take place in order to develop concrete recommendations that will reduce unnecessary regulatory burdens. These will be published in the Final Report.

The figure below summarizes the study process for this review.



In undertaking the review, MPC will:

- 1) identify
  - a. regulations that are unnecessarily burdensome, complex or redundant
  - b. duplication in regulations or the role of regulatory bodies, including across jurisdictions; and/or
  - c. regulations which unnecessarily restrict competition
- 2) develop a short list of priority areas for removing or reducing regulatory burdens which impact mainly on the E&E sector and have the potential to deliver the greatest productivity gains to the economy
- 3) identify regulatory and non-regulatory options, for this short list, which might alleviate the regulatory burdens - including those which will enhance regulatory consistency across jurisdictions, or reduce duplication and overlap in regulation or in the role of regulatory bodies - and, where appropriate, recommend which option/s are the most suitable.

## **2.2 The Electronics and Electrical Industry**

The typical Global Value Chain for E&E is represented in the diagram below. The spectrum is very broad. Most of Malaysia's activities in E&E are focused on manufacturing.

The E&E industry is one of Malaysia's leading industries, contributing 24.5 per cent of the manufacturing sectors production. E&E products have dominated trade since the industry's inception in the 1960s. Malaysia is one of the leading contributors in the global E&E value chain.

In 2012, Malaysia's export of E&E products was valued at RM231.23 billion, being 49.2 per cent of exported manufactured goods and 32.9 per cent of Malaysia's total exports. Major export destinations are China, USA, Singapore, Hong Kong and Japan.

E&E products were also the largest imports amounting to RM175.00 billion, representing 37.8% of imported manufactured goods and 28.8% of Malaysia's total imports. Malaysia's top import sources for E&E products are China, Singapore, USA, Japan and Taiwan.

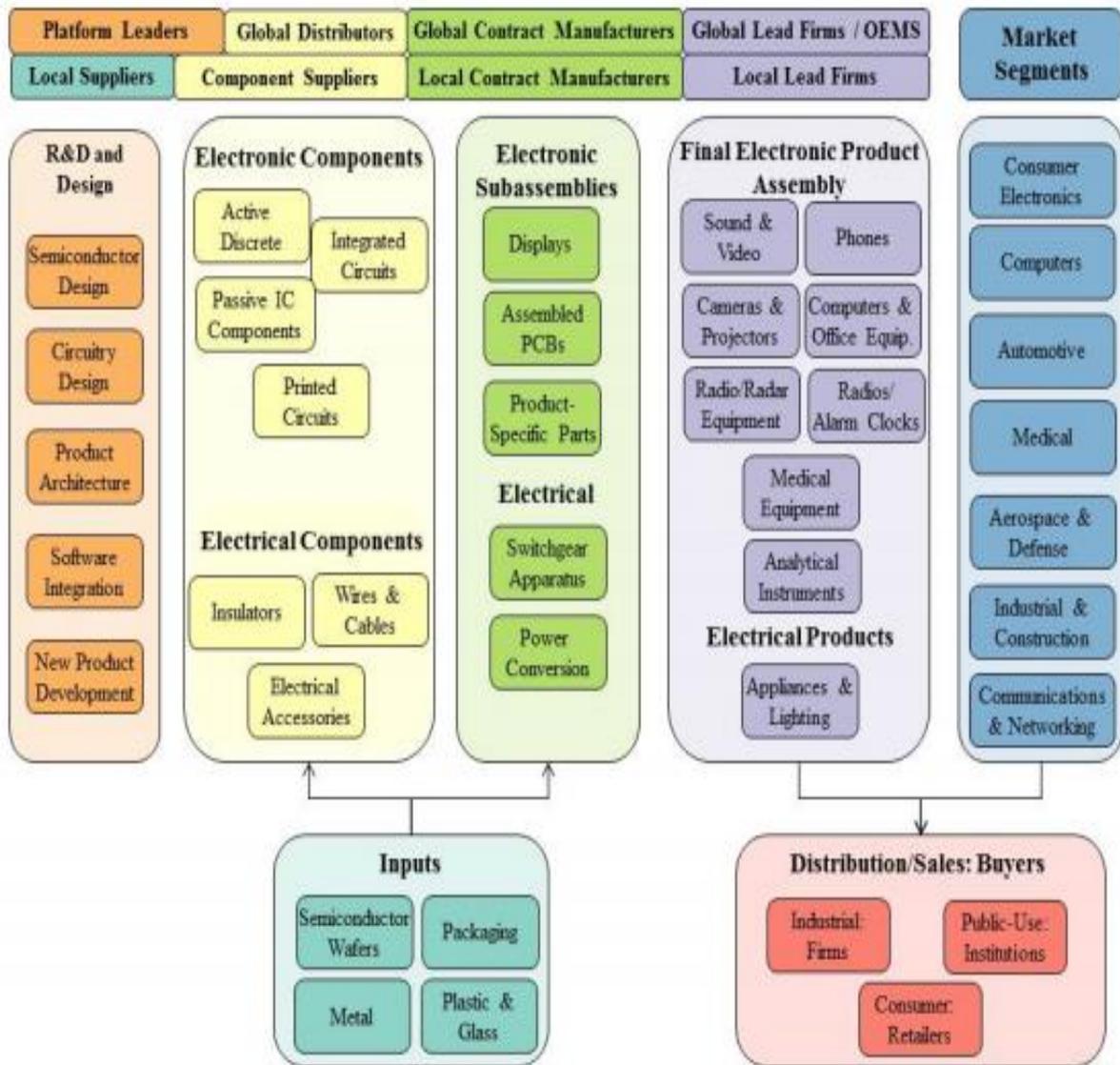


Fig. 1. Costa Rica in the Electronics Global Value Chain: Opportunity for Upgrading. “Duke” Stacey & Gary, 2013. Web. 12 Jan 2015

[http://www.cggc.duke.edu/pdfs/2013-08-20\\_Ch3\\_Electronics.pdf](http://www.cggc.duke.edu/pdfs/2013-08-20_Ch3_Electronics.pdf)

The E&E industry in Malaysia can be categorised into four sub-sectors:

### 2.2.1 Consumer Electronics

This sub-sector includes the manufacture of LED television receivers, audio visual products such as blu-ray disc players/recorders, digital home theatre systems, mini disc, electronics games consoles and digital cameras.

### 2.2.2 *Electronic Components*

Products/activities which fall under this sub-sector include semiconductor devices, passive components, printed circuits and other components such as media, substrates and connectors.

### 2.2.3 *Industrial Electronics*

This sub-sector consists of multimedia and information technology products such as computers, computer peripherals, telecommunication products and office equipment.

### 2.2.4 *Electrical*

The major electrical products produced under this sub-sector are lightings, solar related products and household appliances such as air-conditioners, refrigerators, washing machines and vacuum cleaners.

Given that E&E businesses in Malaysia mostly manufacture E&E products, this study will mainly focus on manufacturing in the E&E sector. Nevertheless, we are also interested in regulations which may impact on other aspects because this could influence expansion in the future.

The structure of the E&E Industry is depicted in the figure below.

Sectors	Sub-sectors	Examples of products
	<b>Components</b>	Semiconductors, passive components, printed circuit boards, metal stamped parts and precision plastic parts.
<b>Electronics</b>	<b>Consumer</b>	Audio visual products such as television receivers, portable multimedia players (PMPs), speakers, cameras and electronic games.
	<b>Industrial</b>	Multimedia and information technology products such as computers and computer peripherals, telecommunications equipment, office equipment and boxes built products for industrial applications.
<b>Electrical</b>		Distribution boards, control panels, switching apparatus, lightings, Electrical transformers, cables and wires, primary cells and batteries, solar cells and modules, air conditioners and household appliances.

Fig 2. Structure of Electronics and Electrical Industry “Manufacturing Profile.” *Malaysian Investment Development Authority (MIDA)*. Web. 12 Jan 2015

<http://www.miti.gov.my/index.php/pages/view/1915>

Compliance with regulatory requirements affects all of these stages and is often treated as one of the processes involved in the E&E industry. Often parties involved in E&E encounter problems/issues over complying with the regulatory requirements.

### **2.3 What regulation will be covered in this review?**

MPC is assessing both written regulation and the administration and enforcement of regulations. With regards to written regulation, all types of legislative instruments used by Malaysian Federal and State Governments as well as rules set by Local Governments, such as by-laws, guidelines, circulars, code or policies are potentially under review. The conditions contained in licences, permits, consents, registration requirements and leases are also under review where they impose a compliance burden or restrict completion.

### **2.4 Why do governments regulate the Electronics and Electrical sector?**

Regulatory intervention can often be justified where freely operating markets would deliver less than optimal levels and qualities of output. This is usually because the benefits that the free-market brings to individuals or businesses carrying out a particular activity diverge from the benefits to society as a whole. When regulation is used appropriately, it addresses market imperfections so that total economic and social welfare is increased.

The dominant reason for governments to regulate the E&E sector is to address the market failure of asymmetry in information. As consumers cannot judge whether an E&E product is safe just by looking at it, there is a risk that unscrupulous producers will make products which are unsafe and/or unreliable. Hence, regulation which effectively addresses this issue should improve upon market outcomes.

Another important reason for regulation is the need to ensure inputs are standardised so that globally traded inputs are compatible. An issue is whether this should be regulated primarily by government or by industry.

Occupational health and safety and other work conditions are issues which affect all industries. In this review, we are only interested in issues that are specific to E&E.

## **2.5 What are regulatory burdens?**

Regulatory burdens arise from the costs imposed by regulation and enforcement that would otherwise not arise for businesses. Where requirements from regulation create a change in business behaviour and practices, a regulatory burden can be said to exist.

Regulations can adversely impact on business in various ways. Most fall under the following four categories of cost impacts.

- 1) Administrative and operational requirements, such as:
  - reporting, record keeping
  - getting legal advice, training.
- 2) Requirements on the way goods are produced or services applied, such as:
  - prescription on production methods
  - occupational registration requirements, requiring professionals to use particular techniques.
- 3) Requirements on the characteristics of what is produced or supplied, such as:
  - being required to provide air bags in all motor vehicles
  - requiring teachers or trainers to cover particular topics.
- 4) Lost production and marketing opportunities due to prohibitions, such as:
  - when certain products or services are banned.

## **2.6 What are unnecessary regulatory burdens?**

While it is usually necessary that some burden is placed on business for regulation to achieve its objectives, where it is poorly designed or its enforcement and administration is not done well, it may impose greater burdens than necessary.

Examples of unnecessary burdens are:

- 1) excessive coverage of the regulations, including ‘regulatory creep’, so that regulations affect more activity than was intended or is needed to achieve their objectives
- 2) subject-specific regulations that cover much the same ground as other generic regulation
- 3) prescriptive regulation that unduly limits flexibility, such as preventing businesses from:
  - meeting the underlying objectives of regulation in different ways
  - using the best technology
  - making product changes to better meet consumer demand
- 4) overly complex regulation
- 5) unwieldy licence application and approval processes
- 6) excessive time delays in obtaining responses and decisions from regulators
- 7) rules or enforcement approaches that inadvertently provide incentives to operate in less efficient ways
- 8) unnecessarily invasive regulator behaviour, such as overly frequent or duplicative inspections or information requests
- 9) an overlap or conflict in regulations and/or the activities of different regulators
- 10) inconsistent application or interpretation of regulation by regulators.

This review aims to identify areas where regulation can be improved, consolidated or simplified to reduce unnecessary burdens to the E&E industry without compromising underlying policy objectives. It will also examine regulation and enforcement practices that might impede competition and productivity in the industry

## **3.0 OUR APPROACH**

### **3.1 Structure, conduct, performance**

The study will follow the approach used by the AGPC to identify regulatory burdens of most concern to the Malaysian E&E sector and identify which of these burdens are unnecessary in that they could be reduced without compromising the achievement of the objectives of the regulations. The MPC will review any regulations and guidelines that could impair the sector's performance.

### **3.2 Where regulations impact on the E&E sector**

The first stage will be to agree on the best representation of the E&E chain. This will help in identifying on which part of the production process a particular regulation impacts. Interest parties may wish to comment on the usefulness and accuracy of the value chain shown on page 8 of this paper.

### **3.3 Concerns businesses have with the regulation of the E&E sector**

The MPC is interested in the views of interested parties on concerns they have with particular regulations and/or the way they are administered or enforced. Without limiting, in any way, the issues participants may wish to raise, the sorts of areas which may be relevant include:

- 1) time and financial costs involved in complying with regulations, such as form filling, mandatory returns
- 2) regulatory requirements which limit a business's capacity to enter parts of the industry or to expand
- 3) factors which affect a the decision to establish a business in the E&E sector.

The benefits and costs of regulations will be reviewed to determine whether the costs they impose are justified or whether regulatory objectives could be met more efficiently without inhibiting competition or imposing unnecessary costs on businesses.

## 4.0 AN INVITATION TO COMMENT

MPC is seeking feedback from interested parties, from public and private sectors, with expertise or experience in the Malaysian E&E sector. The types of information being sought include:

- 1) Which regulations concern you the most? Why?
- 2) Which regulations are the hardest to comply with?
- 3) Which regulations do you think are too burdensome given what they are trying to achieve?
- 4) Do you think any regulations are not justified at all?
- 5) Are some regulatory requirements inconsistent?
- 6) Do you consider inspectors and other regulatory administrators do a good or a poor job? Please state in what ways?
- 7) Do you find inspectors and administrators are consistent in their decisions?
- 8) Do you find they are helpful or unhelpful in advising you how to comply? Are there any publicly available guidelines?
- 9) How long do regulators take to respond to applications, etc.?
- 10) Do you have any suggestions for reducing the burden of compliance of regulations?

## **5.0 ISSUES GATHERED**

Some initial meetings and discussions have been held with industry players to solicit feedback on regulatory issues. Issues identified include fall into the following categories:

- 1) Customs Regulations
- 2) GST Implementation
- 3) Human Resources Policies
- 4) Operations – Facilities and Maintenance Requirements
- 5) Environmental Regulations

### **5.1 Customs Regulations**

Customs duty is a tax levied on imports by the customs authority of a country to raise revenue and/or to protect domestic industries from more overseas competitors. In Malaysia, all goods dutiable on import go through customs according to Customs Duties Order, 1996. Types of duties/taxes levied on any goods imported into the county are: (i) Import duty, (ii) Sales tax and (iii) Excise duty. The rate applicable to each category of good imported is indicated in column (4) of the first schedule to the Customs Duties Order 1996.

There are instances where the imported goods may not attract import duty but attract sales tax. Sales tax is levied on certain imported and locally manufactured goods, either at the time of importation or at the time the goods are sold or otherwise disposed of by the manufacturer. Four different rates - 5%, 10%, 20% and 25% - are levied on all imported goods other than those listed in the Sales Tax (Exemption) Order 1980. While tariffs and taxes are a question of government policy, there may be issues about how the policy is implemented.

A free zone is a designated, secured area in which commercial and industrial activities are carried out and gazetted by the Minister of Finance as stated under the section 3(1) Free Zone Act 1990. There are two types of free zone: the free industrial zone (FIZ) and free commercial zone (FCZ). The former is of most concern to the E&E sector. The Free Zone

Authority is appointed by the Minister under section 3(2) of the Free Zone Act 1990 to manage the zone. Customs control on the free zone is minimum and basically only at the gate point.

FIZ is meant for export-orientated manufacturing companies. FIZ companies can also carry out other activities such as evaluation, testing of goods, research, and design.

A licensed manufacturing warehouse (LMW) is a premise licensed under section 65A of the Customs Act 1967 and is controlled by Royal Malaysian Customs and subject to all customs rules and regulations. A LMW is also primarily provided for export-oriented companies. LMW is a type of bonded warehouse where the manufacturing process is allowed to be carried out to produce finished goods for export.

While still subject to all customs requirements, a LMW faces reduced paperwork. Customs duty exemption is given to all raw materials and components used directly in the manufacturing process of approved produce from the initial stage of manufacturing until the finished product is finally packed ready for export. This includes packing materials and casings.

An LMW Company needs to renew this license every two years. During renewal, an LMW Company needs to submit list of raw materials it will use and specify the projected quantities to be used for the year. These materials are grouped (categorized) using Tariff Codes provided by the Malaysian Customs department.

In order to enjoy this tax-exemption, purchases of the approved materials for the year must not exceed the approved quantity. However, an LMW company can apply to increase the limit during the current year. Hence an LMW company needs to keep track of the year-to-date purchases so that it does not exceed the approved limit.

### *5.1.1 Taxation on Movement of goods*

Many of the EMS companies in Malaysia are relatively large MNCs and, as they are mainly export oriented, they are either located in a FIZ or are granted LMW status.

The customers of some of the EMS companies want more flexible treatment when materials are moved between LMW companies. It is common to need to move raw materials from one EMS to another EMS in order to support customer demand. The movement of the raw materials or sub-assembly items between local EMS companies is very burdensome as they are treated as local sales and taxes will be imposed even though both companies have LMW status. Companies request that Customs study the feasibility of allowing transfer of materials between local LMW companies without taxation.

Previously, LMW status companies needed to submit reports to customs on the movement of goods on monthly basis. However, from the beginning of this year, Customs also require such companies to provide summaries of their annual reports which are endorsed by an accounting company. This will increase costs to the companies.

Q: Is your company affected by this? Do you have suggestions to reduce the burdens?

### *5.1.2 Import Permits for products from Israel (JK69)*

There are instances where companies have to procure parts made in Israel via a third party in a different country, as import permits cannot be issued for materials imported directly from Israel. However, getting the permit to procure via a different Port of Origin is very cumbersome. To apply on-line takes five days. Then MITI has to endorse this. First time applications take about 30 days and subsequent ones take more than seven days. The industry requested that this requirement be rationalized.

### *5.1.3 Customs uses Manual processes when Electronic system would be better*

Companies complain that many of the processes for customs are still manual. About 70 per cent are electronic. Though Dagang.net has been introduced, the interface is not user friendly. The need to key-in thousands of line-items in the system is considered to be unproductive and wasteful. The industry suggests the use of a bar-coding system to minimize their burdens.

#### *5.1.4 Reporting requirements to customers are redundant*

Some companies feel that the current requirement to provide reports to customs is redundant. The same information is required to be provided repeatedly and involves a lot of paper-work. Some suggest customs should have an on-line reporting system.

#### *5.1.5 HTS Code for Repair and Reverse Logistics*

There are occasions where the company needs to perform reverse logistics to repair or upgrade components, for example, where a Printed Circuit Board Assembly (PCBA) used for telecommunication equipment is dismantled by the customer (abroad) and shipped back to the company. Since the PCBA is entering Malaysia with a Telecommunications equipment Harmonized Tariff or HTS code, SIRIM (Malaysian organisation for standards and quality) approval is required. The main concern from the industry is the extensive paperwork and the long turn-around time.

## **5.2 Implementation of the Goods & Services Tax Act 2014 (Act 762) (GST)**

Goods & Services Tax Act 2014 (Act 762) (GST) is a multi-stage consumption tax on goods and services. It is levied on the supply of goods and services at each stage of the supply chain from the supplier up to retail distribution. Even though GST is imposed at each stage of the supply chain, the tax does not become part of a producer's costs because GST paid on the business inputs is claimable. The input tax incurred at the previous stage is deducted by the next businesses in the supply chain. It is the final consumer who cannot claim back the GST paid on purchases.

GST is a broad based consumption tax covering all sectors of the economy, i.e. all goods and services made in Malaysia and imports except specific goods and services which are categorized under zero rate supply and exempt supply orders as determined by the Minister of Finance and published in the Gazette.

As GST is self-policing, businesses claim their input tax credit by way of automatic deduction in their accounting system. This eases the administrative procedures for businesses and the Government.

#### *5.2.1 General concern about the impact of the GST*

There has been much concern about the impending implementation of GST. Many organizations are anxious about how the GST will impact on their organizations. The organizations in the FIZ or with the status of LMW consider that although the GST will supposedly not impact on their business, as they are primarily export oriented; it has significantly stretched their resources due to the need for the reporting.

#### *5.2.2 Ambiguous Procedures and Guidelines*

Organizations interviewed in the course of this study raised concerns about the ambiguity of the procedures and guidelines and, when queries were made, they did not receive helpful responses.

When government implements new rules, information about them does not reach all businesses in the sector simultaneously and there is often insufficient public consultation with the industry. There are issues of inconsistencies between government agencies such as MIDA, MOF and Customs. One example is on the rule of importation of goods. Port Klang Customs requires E-Declaration, K2 Form and Custom Declaration Form whereas Bukit Kayu Hitam Customs does not require the Customs Declaration Form.

The U-Customs system which will be implemented in January 2016 is scheduled to be tested in October 2015. This system will allow industry to submit relevant documents prior to the arrival of imported goods at the port. However, the industry has concerns about the adverse impact to them as no consultation was done with the industry prior to the implementation. Once documents have been submitted no subsequent changes are allowed.

One company raised the issue of no privilege accorded to Authorized Electronic Organization (AEO) as it still needs to line up with others and fill in all required paperwork. No privilege or green lane at the customs gate. Previously, the companies with AEO or previously known as Customs Golden Client (CGC) had the special treatment to use the green or express lane.

### 5.2.3 *Manual Transactions*

When GST goes live, all inbound and outbound products and services have to be recorded. The current requirements to manually record and report the transactions, has resulted in monetary and productivity loss. It is suggested that EDI (Electronic Data Interface) be introduced for the submission of various customs forms and to barcode all of them.

### 5.2.4 *Additional Module/Software requirement*

The need to install additional modules or software to cater for GST requirements is seen as burdensome. One company reported that it has to allocate six IT staff to work on the GST modules from scoping to implementation (testing and commissioning).

*Is this an unnecessary or a necessary burden? Could you suggest better ways to do this?*

### 5.2.5 *Cumbersome Logistics*

In implementing government policies, regulations or procedures, a number of EMS companies feel that they are being overlooked. The issue raised in 5.1.1 above is further compounded by GST.

*Do you have suggestions for reducing the burdens resulting from the GST?*

### 5.2.6 *Cash flow interruption*

Though FIZ or LMW companies are exempted for tax and duties which include GST, the companies are required to pay first and claim back after three months. A lot of cash is tied up and there is a general concern that the repayments will not be in full.

*Again, is this a necessary or unnecessary burden? Please provide your suggestion for a better solution.*

### 5.2.7 *Impractical fiscal requirement*

Currently, the global companies residing in Malaysia are only providing financial reporting to their headquarters, typically on a monthly basis. Customs' requirement that companies report daily on the exchange rate is impractical for the industry.

The industry requested that a joint Task Force, composing relevant government agencies and industries, be formed to review industry concerns.

### 5.2.8 *Shortage of customs officers*

There are occasions where the industry was not promptly supported promptly. The reason given was insufficient officers.

## **5.3 Human Resources Policies**

Various issues relating to human resources were raised by E&E businesses. Some of them are the result of pressure from overseas NGOs and some are due to Local Government policies.

### 5.3.1 *Pressure from International Agencies and/or NGOs*

Most E&E companies, especially MNCs, employ foreigners particularly in the operative levels of their businesses. The customers of most of these companies reside in developed countries where labour law requirements can be more stringent and at times differ from Malaysian Labour Law requirements.

It was reported, by Verité on 17-Sept-2014, that nearly one third of migrant workers in Malaysia's electronics industry toils under forced labour conditions. Verité conducted a two-year investigation commissioned by the United States Department of Labor and found that 32 per cent of the industry's nearly 200,000 migrant workers were essentially trapped in their jobs because their passports had been taken away or because they were straining to pay back illegally high recruitment fees.

The report said this was prevalent among migrants, from Bangladesh, India, Myanmar, Nepal and Vietnam, who work in Malaysia's nearly 200 electronics factories. Those factories, which

produce consumer electronics, motherboards, computer peripherals and other electronic goods, produce for many well-known companies, including Flextronics, Samsung and Sony.

The Verité report said that 92 percent of the migrant workers in Malaysia's electronics industry had paid recruitment fees and that 92 percent of that group had paid fees that exceeded legal or industry standards, defined as more than one month's wages.

The report said about half of the migrant workers who borrowed for their recruitment fees spent more than a year paying off those fees. According to the report, 94 percent of the migrants did not have their passports when Verité's investigators interviewed them, and 71 percent said it would be impossible or difficult to get their passports back when needed.

US Labor Department officials commissioned the study because the US Government frowns on the importation of goods made by forced labour. They sought an investigation after seeing evidence that the problem was serious in Malaysia.

Investigators working for Verité interviewed a total of 501 workers. According to the study, "92 percent reported feeling compelled to work overtime hours to pay off their debt, and 85 percent felt it was impossible to leave their job before paying off their debt." Seventy-seven percent had to borrow money to pay their recruitment fees.

The report found that 30 per cent of foreign workers said they slept in a room with more than eight people and 43 percent said there was no place where they could safely store their belongings. Twenty-two per cent of the workers said they had been deceived about their wages, hours or overtime requirements during recruitment.

The Verité also reported that 62 per cent of migrant workers said they were unable to move around freely without their passports. Fifty-seven percent said they could not leave their jobs before their contract was finished because they would be charged an illegally high fine, lose their passport or be denounced to the authorities.

Forty-six per cent reported having encounters with police, immigration officials or a volunteer citizen's security corps. Most of the 46 per cent said they had to pay a bribe, were detained or were threatened with detention or physical harm. Twenty-seven percent of the foreign workers said they could not come and go freely from their housing.

The companies face pressure from the Electronics Industry Citizenship Coalition (EICC), which is the world's largest industry coalition dedicated to electronics supply chain responsibility, as it has decided to further review the situation. This might eventually give

Malaysia a bad reputation and adversely affect companies as their buyers, especially those in US and Europe, relocate their orders to other countries.

*Is the bad treatment of foreign workers due to poor Malaysian regulations or inadequate enforcement of good regulations? Are the foreign workers, who subjected to forced labour conditions, legal or illegal workers?*

### *5.3.2 Foreign Labour Work Permit renewal*

The industry raised a concern that repetitive and unnecessary work needs to be done every time there is a need for a permit renewal. The Labour Office requires the same documents for every renewal submission.

The industry suggested that relevant government agencies simplify the process and paperwork requirements.

### *5.3.3 Charges imposed on industry when using MyEG Online System*

The on-line system is welcomed but that MyEG imposes RM38 per person is of concern to many employers. The industry considers input from businesses must be solicited prior to the implementation of such a system.

While businesses like being able to use the MyEg service to renew work permits online, it is concerned that, all renewal of work permits can ONLY be done via MyEg transactions. There is an extra cost incurred to the company. The renewal fee of RM38.00 per employee is also charged without prior notice.

### *5.3.4 Difficulty in hiring of employees below 19 years old*

Current Labour Law (Children and Young (Employment) Act 1966, page 7, Amendment 1 December 2011) states that employees below 19 years old are not allowed to work more than 8 hours nor work on night shifts. The companies complying with this regulation tend to lose young employees in this category because under 19 year olds cannot work extra hours (overtime work) for additional income nor can they earn night shift allowances. This regulation has restricted the industry from employing young polytechnic leavers.

## **5.4 Operations – Facilities and Maintenance Regulations**

With regard to facilities and maintenance, the excessive and repetitive routine procedures by a number of government agencies are thought to be very burdensome. Many organizations in the E&E industry consider they could be simplified and made much more business and industry friendly.

### *5.4.1 Delays in receiving SIRIM Labels*

Currently, the industry needs to apply and purchase the labels from SIRIM. Companies suggest that SIRIM provide the format of these labels to the industry (with a mechanism for control) in order to reduce unnecessary delays.

### *5.4.2 Atomic Energy Licensing Board (AELB) requirement*

Businesses which use X-Ray equipment suggest that a Self-Audit or Self-Assessment be allowed by AELB for companies which have been consistently in compliance with the AELB requirements. This would remove the costs associated with inspections, such as down time during an audit, preparation for the visit and interruptions to operations. An AELB Officer could visit and perform verification or validation on a yearly basis if required.

*While this suggestion sounds practical, do you envisage any issue with this?*

### *5.4.3 Department of Occupational Safety and Health (DOSH) requirement*

Under the Factories and Machinery Act 1967, each unfired pressure vessel must have a valid certificate of fitness (CF) before it can be operated. Approval for the design of the unfired pressure has to be obtained in advance from DOSH before it is fabricated, installed and used. This rule has been enforced recently. Unfortunately, some of the machines are very old (more than 20 years old) and there is difficulty to get the CF and comply to the requirement.

## 5.5 Environmental Issues

### 5.5.1 *Environmental Quality Act*

The waste regulation schedule of the Environmental Quality Act 1974 (EQA) does not allow companies to keep waste for more than 120 days. However, the in-house clinical waste generated for some organizations is only 1 to 2 kg even after 6 months of operation (though some organizations generate larger amounts). Each disposal of the waste is costly. The industry would prefer to wait until the waste reaches a certain quantity before disposing of it. Industry is seeking a flexible regulation for waste disposal based on weight rather than the length of time for which it has been held..

*What specific changes would you suggest? Would they still meet the objectives of the regulation?*

### 5.5.2 *Overlap of the Poison and OSHA Acts*

There appears to be an overlap between the Poison Act 1952 & OSHA 1994 in relation to Waste Water Treatment Plants. It was suggested that the Poison Act 1952 be incorporated in OSHA 1994.

### 5.5.3 *Competent person*

Businesses need to have competent persons for different agencies. The most common competent persons required by different authorities in Malaysia are:

- 1) Safety Officer (for Department of Occupational Safety and Health - DOSH)
- 2) Radiation Protection Officer (for Atomic Energy Licensing Board – AELB)
- 3) Electrical Supervisor (for Suruhanjaya Tenaga - ST).

These competent persons have to undergo certain number of hours of training/seminars to keep their competencies or licences valid. It is suggested that the modules for the competencies or the Continuous Professional Development points to be standardized across agencies wherever possible to ease the burdens on the industry in maintaining competent persons.

#### 5.5.4 *Ministry of International Trade and Industry (MITI) regulation*

Exemption duty applies when goods are sold locally or exported to ASEAN countries based on ASEAN Trade in Goods Agreement (ATIGA). To satisfy the certificate of origin by ATIGA, industry must submit documents including all invoices for each component that makes up the product. This is to prove that local content is more than 40% of the product. One product type typically consists of multiple variants (sometime more than 50 variants). This is very costly. The industry requests that the requirement to submit documentation (including all the invoices for each component) be mandatory only for one variant of each product. For the other variants, the industry would provide the list of components instead of their invoices.

## 6.0 APPENDIX 1– EXPRESSION OF INTEREST FORM

### EXPRESSION OF INTEREST

*Electronics and Electrical*

**Please complete and submit this form with your submission:**

By email: [WanWei@mpc.gov.my](mailto:WanWei@mpc.gov.my) OR by fax: (03) 79600211

Or by post: Smart Regulations Department (Malaysia Productivity Corporation)  
A-06-01 Level 6, Blok A, PJ 8, No. 23, Jln Barat, Seksyen 8, 46050, PJ, Selangor

**Organisation** .....

**Postal address** .....

**City** ..... **State & Postcode** .....

**Principal contact** ..... **Phone** .....

**Position** ..... **Fax** .....

**Email address** ..... **Mobile** .....

**Please indicate your interest in this review:**

<input type="checkbox"/>	Be informed of developments including receiving the draft report.
<input type="checkbox"/>	Would like to be interviewed by MPC.
<input type="checkbox"/>	Would like to make a submission.

Nature of your activity

<input type="checkbox"/>	Electronics
<input type="checkbox"/>	Electrical
<input type="checkbox"/>	Manufacturing
<input type="checkbox"/>	Design
<input type="checkbox"/>	Refurbishment
<input type="checkbox"/>	Exports
<input type="checkbox"/>	Other (please state) _____

