

# CHAPTER 1: ABOUT THE REVIEW

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

## 1.1 About the Review

Regulatory burdens arise from the costs imposed by regulation and enforcement that would otherwise not arise for businesses. While it is usually necessary that some burden is placed on business for regulation to achieve its objectives, greater burdens may as well be created when the regulation is poorly designed or written, poorly implemented or administered, and where there is unnecessary regulatory duplication and inconsistency.

Conducting a systematic review and identifying priority areas where regulation needs to be improved, consolidated or removed is crucial. Reducing unnecessary regulatory burdens (RURB) is important and part of the regulatory reform process to improve the country's productivity and competitiveness. To achieve this goal, comprehensive review of business regulations, starting with regulations that impact the National Key Economic Areas (NKEAs) have been led by the Malaysia Productivity Corporation (MPC).

## 1.2 What the MPC Has Been Asked to Do

In the Eleventh Malaysia Plan, 2016-2020<sup>1</sup>, the focus is to accelerate economic growth and promote an economy that will be driven by high-value and knowledge-intensive activities, sectoral governance reforms, and enhancing internationalisation of products and services.

The Services Sector Blueprint (2015-2020)<sup>2</sup> mandated Malaysia Productivity Corporation (MPC) to undertake initiative on sectoral governance reform to remove structural barriers and outdated regulations through:

- Accelerating and increasing the efficiency of sectoral governance reform;
- Ensuring that the best regulatory development practices are in place for new regulations by expanding and accelerating the adoption of the National Policy for the Development and Implementation of Regulations (NPDIR).

The 10<sup>th</sup> Malaysian Plan has mandated MPC to carry out regulatory reviews to facilitate the ease of doing business in Malaysia. These reviews will draw on the expertise and perspectives of different representative stakeholders from the public and the private sectors. These stakeholders will help identify issues and assist in the formulating of appropriate solutions. Figure 1.1 below illustrates the regulatory review framework in MPC. Mandated in the 10<sup>th</sup> Malaysia Plan specifically, MPC will<sup>3</sup>:

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1 Eleventh Malaysia Plan: Strategy Paper 18 – Transforming Services Sector <http://rmk11.epu.gov.my/pdf/strategy-paper/Strategy%20Paper%2018.pdf>

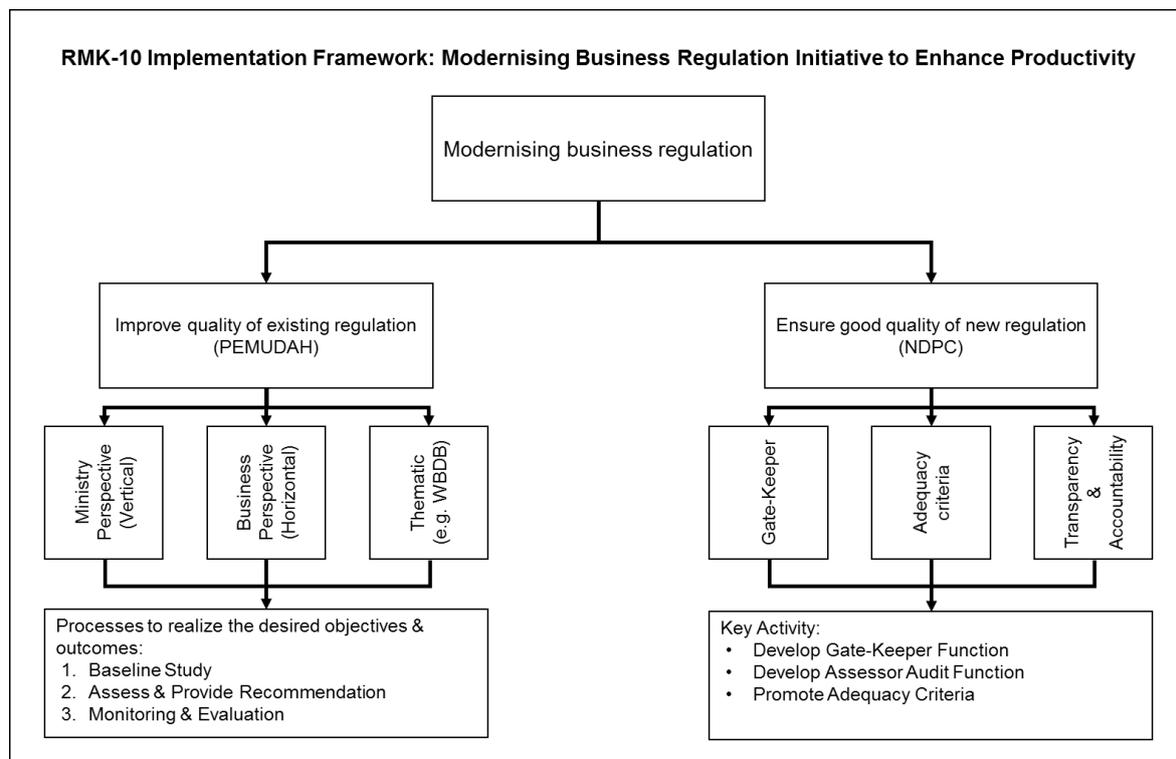
2 <http://www.epu.gov.my/documents/10124/284bf88c-1aa1-4e3a-b43e-3b4b91fa2d1b>

3 Malaysia 2010, Tenth Malaysia Plan: 2011-2015, The Economic Planning Unit, Prime Minister's Department, Government of Malaysia

Review existing regulations with a view to removing unnecessary rules and compliance costs;

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

**Figure 1.1: MPC Regulatory Review Framework**



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

The government formalised and institutionalised the mandate given to MPC with the introduction of a national regulatory policy through the policy document National Policy on the Development and Implementation of Regulations (NPDIR). This document was formally launched by the Chief Secretary of the Government of Malaysia in July 2013.

The objective of the national policy is to ensure that Malaysia’s regulatory regime effectively supports the country’s aspirations to be a high-income and progressive nation whose economy is competitive, subscribes to sustainable development and inclusive growth. The policy is to ensure a regulatory process that is effective, efficient and accountable as well as to achieve greater coherence among policy objectives of government (Malaysia 2013)<sup>4</sup>.

4 Malaysia 2013, National Policy on the Development and Implementation of Regulations, Malaysia Productivity Corporation

## 1.3 Scope of the study

The Department of Statistics Malaysia (DOSM) defines a warehousing service as a 'unit which mainly provides services for storage goods for other entity.

The business activities that are considered to be within the scope of this review are based on particular divisions of the Malaysia Standard Industrial Classification 2008 (MSIC 2008) (Box 1.1).

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### Box 1.1 Industries included in the review.

#### SECTION H : TRANSPORTATION AND STORAGE

##### Division 52 : Warehousing and Support Activities for Transportation

##### *Group 521 : Warehousing and storage*

##### 5210<sup>(1)</sup> Warehousing and storage

##### 52100 Warehousing and storage services

(1) Includes: (a) operation of storage and warehouse facilities for all kind of goods: operation of grain silos, general merchandise warehouses, freight, refrigerated warehouses, storage tanks, etc.

(b) storage of goods in foreign trade zones

(c) blast freezing

Excludes: (a) parking facilities for motor vehicles, see 52213

(b) operation of self-storage facilities, see 68102

(c) rental of vacant space, see 6810

##### *Group 522 : Support activities for transportation*

##### 5224<sup>(1)</sup> Cargo handling

##### 52249 Other cargo handling activities n.e.c. 63019

(1) Includes: the loading and unloading of goods or passengers' luggage irrespective of the mode of transport used for transportation and stevedoring services

Excludes: operation of terminal facilities, see 5221, 5222 and 5223

##### 5229<sup>(2)</sup> Other transportation support activities

##### 52291 Forwarding of freight<sup>(3)</sup>

(2) Includes: pickup and delivery of goods and grouping of consignments – Integrated system

Excludes: (a) courier activities, see 53200

(b) provision of motor, marine, aviation and transport insurance, see 6512

(c) activities of travel agencies, see 79110

(d) activities of tour operators, see 79120

(e) tourist assistance activities, see 79900

(3) Includes:

(a) arranging or organizing of transport operations by rail, road, sea or air

(b) organizing of group and individual consignments

(c) issue and procurement of transport documents and waybills

(d) activities of customs agents

(e) activities of sea-freight forwarders and air-cargo agents

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## 1.4 Approach and Rationale of This Review

Efficient and high-performing logistics and trade facilitation are important determinants of a country's competitiveness. The logistics industry is the backbone to the supply chain and it is recognised as a key to stimulate trade, facilitate business and spur economic growth. In cognisance of Malaysia potential in this industry, Economic Planning Unit (EPU) developed the Logistics and Trade Facilitation Masterplan. The Masterplan is designed to provide guidelines and strategies to enhance the efficiency and the effectiveness of the transport and trade facilitation mechanisms, to improve productivity of the freight logistics industry and to provide a better environment for the logistics industry in the domestic and international markets.

The Vision for Malaysia's logistics industry is "To be positioned strategically as the preferred logistics gateway to Asia, combining best-in-class infrastructure, network, and services to provide seamless and competitive logistics services". Five strategic shifts are proposed in the Masterplan to capitalize on Malaysia's strengths, address its core issues, and improve its regional standing in the logistics industry. To achieve this, 19 action items under the five strategic shifts and nine tactical action items are proposed.

Under the Eleventh Malaysia Plan (2016-2020), one of the focus areas is unleashing growth of logistics and enhancing trade facilitation. This will be met through various strategies; among them is the strengthening the institutional and regulatory framework through the National Logistics Task Force (NLTF) and regulating other functions such as off-dock depots, warehousing activities, and commercial vehicle registrations. The Eleventh Malaysia Plan emphasises on creating seamless connectivity for people and goods. Within the logistics industry, focus will be given to developing integrated logistics and enhancing trade facilitation mechanisms. Strategies that will be undertaken include strengthening institutional and regulatory framework, enhancing trade facilitation mechanism, building freight infrastructure efficiency and capacity, deploying technology in the logistics chain and strengthening capabilities of logistics service providers.

Under Malaysia's Services Sector Blueprint is to ensure the removal of structural barriers and outdated regulations in order to create an efficient and flexible business environment for the private sector (Figure: 1.2).

**Figure 1.2: Sectoral Governance Reform under Services Sector Blueprint**



Source: Services Sector Blueprint March 2015

The Government will undertake efforts to provide an efficient, facilitative policy environment and machinery to provide a thriving business environment. Cumbersome and inappropriate bureaucratic procedures affecting businesses will be reduced or eliminated. Efforts towards comprehensive and integrated governance reforms include: Realigning functions of related ministries and agencies to reduce overlapping responsibilities. Finally to expanding and accelerating the roll-out of the National Policy on the Development and Implementation of Regulations (NPDIR) to state and local governments.

Warehousing is a major part of the supply chain and logistics activities. Issues in the institutional and regulatory framework are related to lack of coordination, inefficient and insufficient regulations as well as lack of data management. The coordination issues in the logistics sector are attributed to the overlapping functions of agencies and presence of institutional gaps. Off-dock depots and ordinary warehouses are poorly regulated and inefficient. In addition, the database for land freight is fragmented and this impedes effective planning and development of the sector.

Hence this sub-sector is viewed as a significant cross-cutting component for regulatory review. Regulations that stifle the competitiveness of the warehousing industry will invariably adversely affect the competitiveness of the logistics sector, as well as other related industries.

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**Box 1.2: Malaysia aims to be in top 10 World Bank Logistics Index by 2020<sup>5</sup>**

“Malaysia aims to be the preferred logistics gateway to Asia and improve its ranking in the World Bank Logistics Performance Index from among the top 25 in 2014 to be among the top 10 by 2020. By 2020, Malaysia aims to achieve an annual growth of 8.5% for the transport and storage sub-sector, creating an additional 146,000 jobs, mostly high-skilled in the Eleventh Malaysia Plan (11MP). This would be met through strengthening the institutional and regulatory framework through the National Logistics Task Force (NLTF) and regulating other functions such as off-dock depots, warehousing activities and commercial vehicle registrations. Other strategies include enhancing the trade facilitation mechanism, building freight infrastructure efficiency and capacity, deploying technology in the logistics chain, and strengthening the capabilities of logistics service providers through training and accreditation programmes.

EPU said unleashing growth of logistics and enhancing trade facilitation is among the key initiatives in strengthening infrastructure to support economic expansion. Efficient and high-performing logistics and trade facilitation are important determinants of a country's competitiveness, as well as an important source of employment, it said. Malaysia will upgrade the freight and logistics infrastructure and increase container handling capacity to position the country strategically in the region, while trade will be facilitated through simpler, paperless and business-friendly procedures, according to the 11MP.

(Source: Bernama (May 21, 2015).

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A significant portion of this study will be based on literature reviews of laws and regulations in the country, past studies made by more mature regulatory agencies such as the Australian Productivity Commission, policy papers and reports, statistical reports and research literatures within the country and official web-sites of relevant professional bodies, non-governmental

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<sup>5</sup> <http://www.nst.com.my/news/2015/09/malaysia-aims-be-top-10-world-bank-logistics-index-2020>

organisations, regulatory bodies, associations and business organisations. The other portion of the study will come through direct interviews and consultations with the warehousing services, professional bodies, associations and regulatory agencies involved in this sector.

The first part of the study will be to establish the key areas of the warehousing industry services viewed as the more burdensome. This will record the views and experiences on the regulatory burden from which improvement options could be formulated. The study will cover the industry profile, regulatory environment of the warehousing industry, and unnecessary regulatory burdens encountered by the warehousing businesses. Primary and secondary data sources will be used in the study. Primary data will be collected through direct engagement with stakeholders in the industry. Public consultation will be carried out during the process of the study. Inputs from various industry players and regulators will be verified to ensure their validity. Finally, the final report of the study will be published and made available to public.

## 1.5 Conduct of the Study

The team will select a sample of warehousing companies across the country and will interview the senior management personnel to identify the regulatory issues of concern. Based on the principles of good regulatory practices, the team will formulate feasible options for further deliberation. These issues and options will be subject to further consultation with relevant stakeholders in order to develop concrete recommendations that will reduce unnecessary regulatory burdens.

MPC will develop a short list of priority areas for removing or reducing regulatory burdens which impact mainly on the sector under review and have the potential to deliver the greatest productivity gains to the economy. Subsequently from this short list, identify regulatory and non-regulatory options which could be reduced without compromising the achievement of the objectives of the regulations, 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.

## 1.6 Structure of the Report

This report has been organised into five chapters. **Chapter 1 - About the Review** which highlights the rationale of the review and approach to the study. **Chapter 2 – Industry characteristics** provides a statistical overview and presents value chains of the warehousing industry. **Chapter 3** looks at **core concepts of regulatory burdens** and the potential sources of **unnecessary regulatory burdens in general**. **Chapter 4** presents value chains to illustrate the extent of government regulatory requirements placed on businesses in these parts of the economy. Reference is made to the Malaysia GST act 762, Sect. 70 (2014) and Customs Act 235 (1967) in defining the warehouse followed by Malaysia Standard Industrial Classification (MSIC) 2008 Ver. 1.0. The Warehouse business activity is based on Division 52 (Warehousing

and support activities for transportation) under Section H - Transportation and storage of the Malaysia Services Industrial Code (MSIC) 2008 and also MIDA Logistics Services Booklet. Also looks at the national policy related to warehousing and the governing Acts and regulations, its regulatory framework, existing legislative and institutional arrangements, and mapping of the value chain to regulations. **Chapter 5 - Regulatory Issues in Warehousing** captures the issues raised by the main warehousing business. From the analyses, various feasible options to mitigate them are formulated for consideration. The analyses will also be the basis for the next stage of consultations with the respondents, the regulators and other interested parties and stakeholders, prior to publishing the final report.