

CHAPTER 5: REGULATORY ISSUES IN WAREHOUSING

Contents: Purpose, Regulations must be periodically reviewed to test its continuing relevance, Spectrum of Regulatory Options, Regulatory Issues from Warehousing Service Providers, General Comments for further Improvements, Concluding remarks.

Key Points

- This chapter presents the spectrum of regulatory options on the issues raised by the warehousing service providers. From the analyses, various feasible options to mitigate them are proposed for consideration. Subsequent consultations with the respondents, the regulators and other interested parties and stakeholders, prior to publishing the final report.
- Reducing unnecessary regulatory burdens (RURB) requires the examination and evaluation of regulations and regulatory activities that can seriously impact the effectiveness and efficiency of the warehousing business. This is made more complicated and burdensome when there is lack of information and poor access to information for optimal decision, thus pose significant burden to their operational efficiency.
- All regulations must be periodically reviewed to test its continuing relevance. There is no single superior regulatory strategy. Different strategies and approaches have different strengths and weaknesses, with different levels of effectiveness, in different contexts.
- Every regulation imposes a cost: on the Government administering it; on those regulated; and on the economy as a whole. Thus regulation needs to be constantly reviewed to ensure it remains necessary, effective and the most efficient way of achieving its policy objectives- when regulation is imposed, its benefits must clearly outweigh its costs.
- Various possible options/alternatives of regulatory and non-regulatory solutions can be developed to put in place institutional arrangements to ensure greater accountability and transparency around regulation making, improved processes for assessing the impacts of regulatory proposals and more effective consultation with those affected by regulation.
- This chapter captures the regulatory issues and areas of concern raised during a series of engagements by MPC, MOT and SFFLA with warehousing service providers. The objective of the study is to identify the regulatory burdens in operating warehousing in Malaysia. However the list of issues captured here is not exhaustive due to the duration and scope of this study as well as non-availability of business directory for warehouse (business players, warehouse space), no warehouse business association or warehouse in local plans. Also only samples of the warehouse service providers are interviewed.

Concluding remarks

- It has to be noted that the issues and areas of concern raised in this chapter are treated as common concerns among the warehouse service providers. Further analyses will be the basis for the next stage of consultations with the service providers, key regulators and other interested parties and stakeholders. This will be followed by feasible options and recommendations and regulatory impact assessment with adequate cost-benefit analysis and continuous engagement through public consultations.

5.1. Purpose

This chapter presents the spectrum of regulatory issues raised by the warehousing service providers and provides feasible options to mitigate them. With the feedbacks from these businesses and other background information and evidences, various 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.

5.2. Regulations must be periodically reviewed to test its continuing relevance

Regulatory compliance by business if it is not administered and enforced well will introduce unnecessary regulatory burdens to business. Excessive bureaucracy imposes a disproportionate bureaucratic burden on small and medium size enterprises, creating both incentives and opportunities for bribery and corruption. This can manifest itself in the form of excessive or overly rigid administrative procedures, requirements for unnecessary licenses, protracted decision-making processes involving multiple agencies. Rent-seeking takes place to take advantage of the inefficiencies and the need of the business for timely delivery and approval.

Reducing unnecessary regulatory burdens (RURB) requires the examination and evaluation of regulations and regulatory activities that can seriously impact the effectiveness and efficiency of the warehousing business. This is made more complicated and burdensome when there is lack of information and poor access to information for optimal decision, thus pose significant burden to their operational efficiency. It is important to note that the relative burden placed on small businesses may be greater than that imposed on larger businesses as they may have to devote proportionately more effort to achieve equivalent compliance. They may also be disadvantaged where regulations are anti-competitive.

Among the contributing causes to compliance burden include duplicating in reporting, excessive compliance requirements, and inconsistent policies. In addition, the approach adopted by the regulators and enforcers of legislation can also add considerable compliance costs. Among them being lack of delineation between the roles of regulators, a lack of clarity over their powers, confusion over their objectives in exercising those powers and a lack of coordination between regulators. The attitude of the regulator to the industry under regulation also

has a major impact on compliance costs. All regulations must be periodically reviewed to test its continuing relevance.

Both the Australian Government and COAG have best practice regulation requirements in place to ensure that regulation is *effective* in addressing an identified problem, and *efficient* in terms of maximising the benefits to the community, taking account of the costs. There is no single superior regulatory strategy. Different strategies and approaches have different strengths and weaknesses, with different levels of effectiveness, in different contexts. The key lies in understanding and adapting regulatory strategies to take account of the influences and dynamics of the many different contexts in which they are deployed. Irrespective of whether regulators practise responsive regulation (including variants such as smart regulation) or risk-based (including regulatory craft) approaches, or a mix of approaches, regulators still face considerable challenges.

5.3 Spectrum of Regulatory Options

Every regulation imposes a cost: on the Government administering it; on those regulated; and on the economy as a whole. Thus regulation needs to be constantly reviewed to ensure it remains necessary, effective and the most efficient way of achieving its policy objectives- when regulation is imposed, its benefits must clearly outweigh its costs. Various possible options/alternatives of regulatory and non-regulatory solutions can be developed to put in place institutional arrangements to ensure greater accountability and transparency around regulation making, improved processes for assessing the impacts of regulatory proposals and more effective consultation with those affected by regulation (Box 5.1). 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.

Box 5.1: Does one size fit all?¹

Sometimes a mix of options should be considered. Different groups - especially small businesses - experience regulation differently while others present less compliance risk. The question then is whether a mix of policy options would be more effective and efficient?

- The no-regulation option: There may be good reasons for regulating, but these must be weighed against not regulating. One benefit of not regulating is, of course, you won't need to find regulatory offsets, but there are usually others too.
- Better enforcement of existing regulation policy option: Sometimes better staff training, enforcement or a different management focus to address cultural, behavioural or systems issues can be an effective means of achieving your outcome.

¹ The Australian Government Guide to Regulation (Further guidance material can be found at www.cuttingredtape.gov.au (March 2014))

-
- Principles-based regulation allows maximum flexibility among affected groups as to how they achieve compliance. For example, where a market operates inefficiently, light touch regulation might lay down rules for the participants on how to agree on prices. More heavy-handed regulation might involve government determining the price itself. Light touch regulation must be implemented to ensure those affected understand their legal rights and obligations otherwise the regulation may not be effective.
 - Self-regulation This consists of industry-written rules and codes of conduct enforced by the industry itself. Where industry participants understand and appreciate the need for self-regulation, this can be a good option. Any red tape resulting from self-regulation is usually minimal and often administered sympathetically by the industry. Self-regulation is a good option where the consequences of market failure are low and the market is likely to move towards an optimal outcome by itself. Self-regulation is not a viable option if an industry has no incentive to comply with its own rules. In some cases, self-regulation may create public concern, where, for example, perceived conflicts of interest could threaten safety, such as in food-handling, healthcare or aviation. Self-regulation should be approached carefully where previous attempts to achieve compliance or penalise non-compliance have failed.
 - Quasi-regulation: This approach covers a wide range of rules or arrangements that are not part of explicit government regulation, but nevertheless seek to influence the behaviour of businesses, community organisations and individuals. Examples include industry codes of practice developed with government involvement, guidance notes, industry – government agreements and accreditation schemes.
 - Co-regulation: This describes a solution where industry develops and administers its own arrangement and government provides the underpinning legislation to enforce it. Such legislation can set out mandatory standards, but may provide for enforcement through a code overseen by the industry.
 - Explicit government regulation: So called black-letter law, this comprises primary and subordinate legislation and is probably the most common form of regulation. Usually used as a regulatory tool.
 - Where there is high perceived risk or public interest and achieving compliance is seen as critically important. Where you rely on this form of regulation, ensure it is drafted in plain language and applicable requirements on sun setting are observed.
 - Alternative instruments: With each of these regulatory options, there may be alternative instruments available to address the problem or issue set out in a RIS. Alternative instruments can include:
 - No specific action-that is, relying on the market forces in conjunction with existing general liability laws (e.g. negligence or breach of contract) and insurance laws.
 - Information and education campaigns, including product labelling or media campaigns.
 - Market-based instruments including taxes, subsidies, traceable permits, performance bonds and traceable property rights.
 - Pre-market assessment schemes, such as listing, certification and licensing.
-

-
- Post-market exclusions like bans, recalls, licence revocation or negative licensing.
 - Service charters.
 - Standards, which may be voluntary, compulsory or performance-based.
 - Other mechanisms like public information registers, mandatory audits and Quality Assurance schemes.
-

Policy makers must ensure they consider the complete range of policy levers available to them. Doing nothing and maintain the status quo can be just as valid a policy solution as any other. However, a rigorous cost-benefit analysis should always include this option. All other things being equal, the policy option offering the greatest net benefit should always be the recommended option.

5.4 Regulatory Issues from Warehousing Service Providers

This chapter captures the regulatory issues and areas of concern raised during a series of engagements by MPC, MOT and SFFLA with warehousing service providers. The objective of the study is to identify the regulatory burdens in operating warehousing in Malaysia. Responses were recorded based on the list of questionnaires as in Issues Paper. However, the list of issues captured here is not exhaustive due to the duration and scope of this study as well as non-availability of business directory for warehouse (business players, warehouse space), no warehouse business association or warehouse in local plans. Also only samples of the warehouse service providers are interviewed. The companies involved are members of various trade associations (mainly members of FMFF). Engagements and meetings were held with logistic service providers in the Southern, Central, Eastern and Northern regions as well as Sabah/Labuan and Sarawak.

The following are twelve (12) issues collected from engagements and business meetings with the logistics service providers (November 2015 – May 2016). Under each of the issues highlighted are the various possible options/alternatives of regulatory and non-regulatory solutions recommended. Good regulatory practice requires consideration of the different options for achieving the desired objectives. They include take no action/ continue as it is; self-regulation, quasi-regulation, co-regulation and explicit government regulation. The issues are structured along the value chain – acquisition of premise and warehouse business start-up. Most issues raised are related to the submission for development approval, utility inspection and fire safety requirements and application of the Certificate of Completion and Compliance (CCC). Under the CCC system, each construction process needs to be verified and endorsed by professionals along the entire construction process together with clearance/confirmation of supply/connection obtained from various essential service departments. Among them are

Tenaga Nasional Berhad (TNB) (confirmation of electrical supply) and Bomba (clearances for active fire-fighting systems).

5.4.1 Business start-up and Acquisition of premise

Issue 1: Information Transparency to Establish and Operate Warehouse

Investors and businesses face difficulties in business planning and decision-making due to lack of insufficient information on warehouses and information are not readily available or accessible to users including information pertaining to location, type, space and size, utilisation rate and operators. Available warehouse data is scattered across different ministries and agencies (e.g. RMCD, SSM, SME Corp.) and also 149 local authorities in Malaysia. This creates a challenge for foreign investors to locate suitable warehouses.

Option 1: No action on existing practice

Lack of data and information will continue to impede effective planning and development of the sub-sector in particular and the logistics sector in general.

Option 2: Development of national warehouse inventory

Develop community profile and national warehouse inventory through engagements with KPKT, SSM, BEM, BAM and Logistics Association to obtain company name, address, contact details and by categories of business activities (by warehouse specialisation and goods storage and handling).

Option 3: Setting Up Warehouse Association

An association would be beneficial as it can represent the interests of warehouse service providers, encourage exchange of best practice information between members, provide an effective communication network on key business issues and provide technical and legal support to members through delivery of awareness training programmes.

Recommendation

Options 2 and 3 are recommended as comprehensive profiling of warehouse services providers in Malaysia is important for systematic planning, development and to promote orderly growth of the warehousing business. In addition, with the development of a dynamic online portal and specific website for warehouse will support quick and easy searches of warehouse space by potential customers. Reference could be made to the Malaysia Logistics Directory (msialogistics.com).

Furthermore, with the establishment of a Warehouse Association, the warehousing industry could have a voice regarding issues that could affect the warehousing industry including identifying improved regulations affecting the industry and providing industry views and inputs for policy maker's consideration.

Issue 2: Lack of clarity and different practices by local authorities on how to operate a warehouse

Lack of clear guidance to operate a warehouse.

Option 1: Continue as it is

Starting a warehouse business and operating the business activity without clarity will not only affect compliance by both the authority and businesses but also increase cost of doing business.

Option 2: Establish, publish and maintain guidelines on good warehouse practices

Guidelines with a holistic approach that covers end-to-end cycle of the business process; i.e. from start-up, operations to cessation. By making available the guidance will help streamline work processes, eliminate non-productive process and integrate similar work process. This will also help to enhance transparency and make available the required information and checklist to ease business understanding. The publication of the guidelines, rules, specifications, performance criteria and procedures pertaining to the construction, development, administration, operation and maintenance is to ensure the authority and businesses beneficiaries comply with good regulatory practices and best practices.

Recommendation

Option 2 is recommended. In order to implement all the requirements, it is important to develop guidance for building warehouses that aims at clear technical and architectural conditions and specifications and security requirements for designs, construction and delivery. This will increase the ease of doing business and raise the warehouse sector's overall standards.

Reference could be made to countries with storage and warehouse building checklists such as Singapore (OSH Guidelines for the Logistics Industry), India, Saudi Industrial Property Authority, City of Henderson, Nevada and Department of Consumer Affairs, NYC. For e.g. Standards of warehousing document by the United Kingdom Warehousing Association (UKWA) provide guidance in conjunction with inspection. The City of Henderson storage and warehouse building submittal checklist which focuses on complete and accurate plan submittals to help speed up plan review process as attention to the completeness and accuracy of information at the beginning of the process generally leads to fewer delays and requests for revisions.

Issue 3: Long-time taken to obtain construction permits

One of the fundamental hindrances confronted by businesses in undertaking and implementing development projects is the delay in acquiring planning and development approval from the relevant authorities. Among the issues related to dealing with construction permits are excessive time delay in obtaining construction permit; high cost to comply with TNB substation installation; lack of risk assessment in installing the firefighting system; under-utilisation of warehouse space due to parking space regulation and compliance requirements on issuance of CCC.

Problems faced include difficulty and complexity in dealing with construction permits for new warehouses and extension of existing warehouses. Concern on excessive time delay (6 months to >1 year) in obtaining the construction permits for building warehouse due to many Government agencies monitoring and inspecting for building approval. In addition, it is very difficult to get approval from PBT on extension for new or existing bonded warehouse and the approval takes 3 to 6 months. Delays lead to and lost opportunities in a competitive environment. Most local governments had modified their OSC 3.0 model but have not yet being able to perform fast delivery development.

Option 1: Continue with existing practice

Not all the local authorities are using OSC 3.0, so in other areas, some still go through the hardcopy submission process. The One Stop Centre (OSC) 1 submission which has been introduced since 2012 for small-scale non-residential development by Kuala Lumpur City Hall (DBKL) still needs to be improved continuously as there are still complaints that such initiative was not felt on the ground.

Option 2: Strengthening the approval/implementation processes

Adoption of special lane (OSC 1Submission) to cater for low risk development e.g. warehouse one stop centre (OSC) approval process.

The **One Stop Centre (OSC) 1 Submission gateway for construction of small-scale and non-residential projects in Kuala Lumpur** has managed to approve new development proposal/application within 27 days. For those local governments that have adopted OSC 3.0, they should now implement risk-based system as this element has been currently incorporated in Kuala Lumpur. This should be replicated and expanded to all. In addition, with the current concurrent joint final inspections for utility providers and fire safety at the final inspection stage would shorten processing time to obtain development approval.

Option 3: Develop construction checklist/user's manual for warehousing to construct or extension of warehouse

Develop user's manual and construction requirements for warehouses (as done by the Saudi Industrial Property Authority). Should introduce two sets of checklist or manuals: 1) Manual for Building a warehouse in the right zoning. 2) Manual for building warehouse in different zoning.

Recommendation

Options 2 and 3. With the publication of the user manual, guidelines and specific checklist for both right and different zonings, complemented by the expanded adoption of OSC to all other states would create fast approval for the application process. Making headway with OSC 3.0 is significant step towards driving an effective, efficient and transparent building regulatory system as all parties involved could reap the benefits of having a simpler procedure in place and speedier approval process.

Issue 4: Burdensome in Getting Electricity

One of the concerns is delay in getting electricity - a long wait for power connection which sometimes takes up to a year. Business needs to pay TNB about RM5,000 for connection. In addition there is the requirement for warehouse to install substation in order to get Certificate of Completion and Compliance (CCC) from Local Authority which is burdensome. Approval process is long and the cost is high (e.g., \approx RM 300,000.00 for installing a Substation).

Option 1: Continue as it is

Total compliance cost may total over RM 300,000. This additional cost incurred is due to the installation of TNB Substation requirement for warehouse (although they do not consume high energy consumption, it costs around RM2,000 to RM3,000 /month for 100k sq.ft.). High connection cost hinder business activity.

Option 2: Develop TNB electricity supply application handbook for types of building

Currently Tenaga Nasional Berhad (TNB) is streamlining and amalgamating procedures covering application submission, site visit, cost estimate, payment of connection charges and security deposit, external connection, and meter installation. This will contribute towards significant improvements in terms of days and time taken as well as cost of getting electricity.

Recommendation

Option 2. When the improved initiatives by TNB for speedy hassle-free electricity connections and reliable electrical power supply are implemented, it will facilitate ease of doing business and reduce compliance cost.

Issue 5: Fire Safety for Different Warehouse Risk Groups and Activities

Similar fire safety requirement for dangerous vs. non dangerous goods adversely affect compliance cost for non-dangerous warehouse services. Fire-fighting system requirement should not be the same as normal manufacturing warehouse.

In addition, water sprinkler system needs to be set up in the warehouse, fire hose with alarm & water tank with certain horse power pump to be fixed which is very costly.

For water sprinkler system ought to apply only for bigger warehouse (70K sq.ft & above). (Warehouse sprinklers requirement treated similarly as a manufacturing plant and imposed 2 year regular inspection). Regulatory requirements should not be “one-size-fits-all” but based on business activities, facilities and products. Example is the requirement for in-rack sprinkler. As a 3PL, the sizes of items are dependent on customer’s packing. There is difficulty in implementing in-rack sprinkler when there are different pallet storage sizes. Requirement to put lock at racking system hinders business’s flexibility.

Option 1: Continue as it is

The existing by-laws governing fire safety in buildings are the Uniform Building By-Laws, 1984 under the Street, Drainage and Building Act, 1974 and guidelines are available in TNB’s Electricity Supply Application Handbook (ESAH). The various fire incidents in the ESAH have been categorised into 15 building types or occupancies, including category “0” - Warehouse (large scale storage).

Although there is a category for warehouse (large scale storage), active fire protection system installations tend to be inadequate. This is because the goods stored could vary drastically from highly combustibles and high rack storage to low combustibles and low rack storage. Generally, the approval plans of warehouses are submitted on the basis of low combustible storage to obviate the need for active systems notably automatic wet sprinkler installation. The rest of the categories of buildings generally have more types of fire-fighting appliances installed in compliance with the UBBL 1984. These would include portable fire extinguishers, hose reel system, dry or wet riser system, sprinkler system and external hydrants. In general, any fire incident should be easily brought under control with the manual application or automatic activation of the installed fire-fighting appliances. Unfortunately, the lack of proper maintenance of these facilities may render them ineffective in the event of a fire. The value of monetary losses (apart from human lives) would be high under such circumstances.

Option 2: Bomba to create standard /checklist for warehouse building for safety requirement and inspection

Propose to have a checklist/standard specific for various categories of warehouse in terms of fire passive and active requirements. Create standard on safety requirement and inspection, maintenance and sustenance of installations specific for warehouses such as Singapore’s Fire Safety Requirements for General Warehouses. The scope of this Guideline covers the fire safety requirements for general warehouses which include single-storey single-user warehouses, single-storey multi-user warehouses, underground warehouses, multi-storey warehouses with or without basements and warehouse within other non-industrial buildings.

Recommendation

Option 2. A checklist/standard will provide useful guidance on the requirement for installing fire-fighting system to cater for different warehouse risk groups and activities as well as warehouse/goods in store.

Issue 6: Outdated and uncompetitive practices (Circular No 4/1989: Submission of Plans by Architects and Engineers)

Some local authorities restrict submission of building plan to certain professionals (Architect / Planner / Engineer / Surveyor) where else their respective regulations allow them to do so. In addition, some local authorities request irrelevant information than necessary for application of approval (e.g. Building Plan). Most of the rules and regulations related to professionalism of the practitioners in delivering these services are regulated by the professional boards (BAM/BEM). Besides the professional regulations, these professionals are also required to abide the regulations and by-laws related to application for land development, planning permission application and dealing with construction permit.

Option 1: Maintain status quo

Unnecessary burden faced by the warehouse operators when there are cases of different local authorities requiring different types of information and submission requirements.

Option 2: Review and update the said circular to ensure both Boards, all Principal Submitting Persons (PSPs) and Local Governments (LGs) understand and able to interpret the circular correctly

To review and update the circular to ensure all stakeholders and regulators understand and interpret the circular correctly. Different requirements impose greater burdens than necessary.

Option 3: Repeal General Circular No 4/1989 Submission of Plans by Architects and Engineers Malaysia

To look into the Act to repeal so as to avoid conflict of interest. This will overcome the delay by various authorities in making decision on persons making the submissions. Let owner or project owner to decide the best professional to design the plan. To reduce cost of doing business, if the owner feels that the appointed submitted person is capable to submit and understand the liabilities e.g., Engineer is capable to submit a warehouse application, the owner has full power to appoint the engineer unless the other professional can value add the application then the appointment of the second professional is justified.

Option 4: Strengthen the joint committee between Board of Architect Malaysia and Board of Engineer Malaysia to handle such complaint in the future.

If there is dispute between submitting person and local authorities, the joint committee from both boards to handle complaint and issue quick decision.

Recommendation

Options 2 and 4. Businesses need to know what is required in order to understand their obligations and requirements to actually comply with the regulations. Engage with architects and engineers who design warehouse and warehouse operators to identify issues and concerns. In delivering the services, there are possible occurrence of overlapping terms and scope of services, ambiguities in rules and regulations, and also subjective definitions of terms and by-laws which need to be adjudicated. In the event of any disputes due to different interpretation of regulations, the joint committee will be a recourse for regulatory appeals or disputes.

Issue 7: Inappropriate parking requirement and building space by the Local Authority

Uniform Building By-laws (UBBL) revision 2012 has not been gazetted in many states. Some states are using UBBL 1984 while Selangor and Terengganu are using UBBL 2012. As a main reference to the building codes, the UBBL should be accepted at national level and be gazetted in every state to standardise the building codes.

Concerns raised include burdensome and inappropriate parking requirement. For e.g., Local Authorities (PBT) requires 1 (Car & Motorcycle) parking space/2000 sq.ft. (under the Town and Country Planning Act 1976). So for an area with 100,000 sq.ft business needs to provide 50 parking spaces for cars and motorcycles. Each PBT has their own parking requirements even within the same state.

Inconsistency in enforcement of parking restrictions by Local Authority creates uncertainty for businesses and customers and reduces the capacity for planning. As illustrated below there are different parking requirements by different states.

Box 5.2: Local Authority Parking Requirement by State

	Kuala Lumpur	Selangor	Terengganu	Seberang Perai	Melaka
Car & Motorcycle	1 parking space/2,000 sq.ft	1 car space/1,000 sq.ft 1 motorcycle space/ 2,000 sq.ft @ 1 motorcycle space/ 1 worker	1 parking space/ 2,500 sq.ft	1 car parking space/ 2,500 sq ft 1 motorcycle parking space/1,000 sq ft 10% of parking space must be allocated for visitor parking for the disabled	<p>i. Godown (warehouse and storage area in the building is used for a particular purpose)</p> <ul style="list-style-type: none"> - For 100mp to provide 1 parking lot for lorry and 1 for car - Additional provision of 20% of total space for motorcycle parking <p>Note: For each 600 mp area of the site or part thereof, to provide 1 loading and unloading good space measuring 25' x 19' within the compound of the building</p> <p>ii. Godown storage areas and warehouses (used for other purposes)</p> <ul style="list-style-type: none"> - 1 car for every 200mp compartment floor area or part thereof
Lorry	-	1 parking space/ 5 factory units	1 parking space/ 2,500 sq.ft (maximum 5 lots)	1 lorry parking space/ 5000 sq ft {1 trailer 14 feet x 60 feet} {1 small lorry 10 feet x 20 feet }	For 100mp to provide 1 parking lot

Option 1: Continue as it is

Inconsistency in parking requirement further aggravates uncertainty for businesses and customers and reduces the development capacity.

Option 2: Amend TLK Requirements

Warehouse has big gross floor area but not necessary to have more parking lots. Act needs to consider some exemptions instead of applying one standard formula for all buildings as it is usual for warehouse operator to maximise space. Exemptions are necessary to overcome the too prescriptive parking requirements.

Recommendation

Option 2 is recommended. With some exemptions to the “*Garis Panduan dan Piawaian Perancangan*” so as to avoid only one standard formula for all buildings - unnecessary wastage of space could be avoided. Plot ratio development could be increased to maximise storage usage of space (space is particularly critical for warehouses). For operator who is running a warehouse, indoor space is income. There should be flexibility in the parking requirements (TLK) for warehouses such that lots be allocated for more lorries and trucks instead of cars due to the nature of the warehouse business activities.

Issue 8: Non-standardised assessment rate for warehouse

Under the UBBL (1984) and Street Drainage and Building Act (1974), warehouse operators face difficulty in applying extension permit on premises from local authority (too tight in their regulations). It seems 14 to 16 authority departments are involved for development approval. Although there is a trading licence to operate warehouse, PBT has no guideline for warehouse, treats everything as godown. Charges are based on land size and size of the building. Assessment rate currently cut across all value chain, hence a tendency for double assessment charge.

Sect. 127., The local authority may, with the approval of the State Authority, from time to time as is deemed necessary, impose either separately or as a consolidated rate, the annual rate or rates within a local authority area for the purposes of this Act or for other purposes which it is the duty of the local authority to perform under any other written law.

PBTs	Assessment Tax Rate (%)
Dewan Bandaraya Kuala Lumpur	10
Majlis Bandaraya Kuala Terengganu	15
Majlis Daerah Kuala Selangor*	8
Majlis Daerah Kuala Langat*	11
Majlis Daerah Sabak Bernam*	12
Majlis Daerah Hulu Selangor*	11
Majlis Perbandaran Sepang *	8.45
Majlis Perbandaran Ampang Jaya*	6.6

Majlis Perbandaran Kajang*	8.8
Majlis Perbandaran Selayang*	10.8
Majlis Perbandaran Klang*	7.5
Majlis Perbandaran Subang Jaya*	8
Majlis Bandaraya Petaling Jaya*	8.8
Majlis Bandaraya Shah Alam*	7
Majlis Bandaraya Pulau Pinang	14.75

Option 1: Continue as it is

With no specific guidelines on warehouse assessment rate by PBTs, assessment rates are not clear and maybe inconsistent.

Option 2: One standard charge based on zoning (Development Area)

Propose to impose one standard charge on all warehouses (manufacturing + storage company). Assessment rate should be considered according to industry classification/activity.

Recommendation

Option 2 is recommended for a more justifiable assessment rate. Equal taxation of warehouse services versus manufacturing company will adversely affect cost efficiency, productivity and increase compliance costs for warehouse services. Unified information on Assessment rates should be published on government website (e.g.: KPKT, MIDA – Invest in Malaysia) to improve clarity.

5.4.2 Issues Raised at Operations Stage

5.4.2.1. Oil & gas services

Issue 9: Timeliness to obtain Multiple Export/Import Permits approval

Businesses have to apply multiple permits and using different systems for various permits approval (Box 5.3). The same information has to be resubmitted either manually or using the existing system.

Box 5.3: Multiple Export/Import Permits approval

Item Type	Licence Permit Required	Application Time	Agency
EXPLOSIVE	Movement Permit	2 weeks (valid for 1 month)	Polis Diraja Malaysia
	DCA Permit (Air Only)	3 working days (valid per shipment)	Department of Civil Aviation
RADIOACTIVE	Import/Export Permit	2 weeks (valid for 1 year)	Atomic Energy Licensing Board (AELB)
	DCA Permit (Air Only)	3 working days (valid per shipment)	Department of Civil Aviation
CHEMICAL/ MINERAL / SOIL	Import Permit	3-5 working days (valid per shipment)	Department of Agriculture
	Export Permit	7 working days (valid per shipment)	Department of Natural Resources and Environment
DUAL USE	STA Permit (Export only)	3-5 working days	AELB

Option 1: Continue as it is

AS-IS framework of permits application and issuance being a sequential process. The chain of government formalities relating to Ex/Import permit comprises more than 30 government agencies (OGAs). The transaction costs incurred in connection with the formalities required for trade activities raised the cost structure of businesses, which ultimately increased the price of goods and services, and adversely affecting domestic competitiveness.

Option 2: Develop single entry and simultaneous processing of permits application

The Government should streamline Ex/Import permits procedures with the objective of reducing unnecessary regulatory burdens on businesses. The single entry and simultaneous processing of permit application benefits all trade operators (importers, exporters and customs agents). Online processing cuts costs in terms of time and personnel assigned to tasks such as physically having to go from one place to another, as well as the amounts spent on stationery and other implements necessary for the physical processing of documents.

Recommendation

Option 2 is recommended. It was necessary to develop single entry of permit application to coordinate, automate and control the procedures relating to foreign trade operations, thus incorporating into a single system the activities of all agencies involved in issuing permits, delivering the certifications and approvals necessary for importing and exporting goods.

5.4.2.2. LMW (bonded warehouse)

Issue 10: Lengthy turnaround time to get approval for scrap disposal and sale of the scrap

One issue was raised by a Licensed Manufacturing Warehouse (LMW) at the operations stage mainly involving disposal of waste/scrap. LMW is a premise licensed under section 65 and 65A of the Customs Act 1967 and is a facility provided for export orientated industries. It is documentarily controlled by Royal Malaysian Customs and is subjected to all customs laws and regulations².

Application for approval to dispose scrap by LMW takes about 2 months to complete. LMW needs Custom's approval but the Custom inspection and Permit approval lead time are taking too long. This will affect business's productivity and affect image of Malaysia as business hub to the investors.

Option 1: Continue as it is

Delay in approval for scrap disposal will continue to be faced by LMWs.

Option 2: Blanket approval for scrap disposal / sale permit

To consider a blanket approval for scrap disposal / sale permit. A written consent could be given to the LMW for both scrap disposal and sale permit of scrap without requiring additional approval. However while it will save time and benefit the LMW applicant, there should be proper guidelines and checklist to ensure it is not being misused.

Option 3: Review disposal scrap procedure (SOP)

Customs need to revisit and look into the procedures and process flow in terms of volume and complexity aimed at expediting the approval process. A scrap disposal time motion study (TMS) - from start (registration) to stop (Customs release) could be conducted on a sample of LMWs comprising AEOs, compliance and non-compliance LMWs.

² Guide on Free Industrial Zone & Licensed Manufacturing Warehouse, Jan 2016

Recommendation

Option 3 is recommended. Customs can implement an efficient application process approval for scrap disposal by considering risk-based categorization of scrap to reduce idle time and waiting time (every transaction to be merit-based).

5.4.2.3. Freight forwarders services

Issue 11: Lengthy procedures for cargo clearance at border checkpoint.

Lack of transparency about rules and regulations, redundant and lengthy clearance processes, and multiple documents requirements in different formats and with different data elements, increase the costs and time of doing trade.

Box 5.4: Cargo clearance procedures at border checkpoint (Johor)

No.	Cargo Clearance Procedure
1.	Truck heading towards Tg. Kupang checkpoint will follow the designated lorry lane and subsequently proceed to follow respective lane for K2 (general truck), K8 (bonded sealed) or Empty truck lane
2.	Driver will need to swipe Customs gate pass card to pass barrier that lead to the Custom's Import Station assessment area.
3.	After parking the truck, driver to handover gate pass and freight documents to agent brokerage team.
4.	Agent brokerage team to take queue number for registration
5.	Agent brokerage team to perform Custom form registration when queue number is called / next, Customs receives Form K2, invoice and export permit (if applicable) for Customs clearance.
6.	Agent brokerage team to take queue number again for Officer's Assessment
7.	Assessment of goods by Senior Customs Officer which includes the following process:
a.	Verification of particulars declared against supporting documents;
b.	Instruction for physical inspection if necessary;
c.	Classification / Valuation
8 a.	For K2 – Physical inspection if necessary will be carried out in the truck by Customs officer and in the presence of Forwarding Agent.
b.	For K8 – Physical inspection will be carried out on the truck by Customs officer and in the presence of Forwarding Agent.
c.	The relevant Government Agency (OGA – not 24hrs) will carry out cargo inspection or endorsement of the import permit if required.
9 a.	Senior Customs Officer grants approval / release to the K2 in SMK and hardcopy.
b.	Agent broker team will then handover Vehicle Gate Pass Card to Driver
10 a.	Driver to proceed to Levy Counter to make levy payment.
b.	Officer collect payment, issue receipt and grant approval to Vehicle Gate Pass Card in system to release truck.
11.	Driver will collect truck and required to swipe the Vehicle Gate Pass Card when exiting the Custom's Import station.

12.	Truck will then pass through Immigration checkpoint.
13.	Truck will then pass through JPJ (Road Transport Authority) checkpoint. Subject to inspection as and when required
14.	Driver and truck will then proceed to Malaysia highway delivery

Option 1: Continue as it is

Customs clearance will continue to be delayed especially during peak period. The service providers will continue to bear higher cost and lower service quality, leading to lost business opportunities in road freight business and opportunities to expand operations.

Option 2: Customs to conduct Time Release Study (TRS) to spearhead the cargo clearance process.

A TRS would be useful to measure the time and the relevant aspects of the effectiveness of operational procedures goods and to assess the effectiveness of border clearance processes that are carried out by Customs and other regulatory actors in the standard processing of imports, exports and in transit movements.

Option 3: Full implementation of the trade facilitation reform measures

Implementation of the trade facilitation reform measures by simplifying and harmonizing formalities, procedures, and the related exchange of information and documents between the various partners between customs and other authorities (OGAs) will make trade across borders (imports and exports) faster, and cheaper and more predictable, whilst ensuring its safety and security.

Recommendation

Option 3 is recommended. With full implementation of the trade facilitation reform measure, **movement, release and clearance of goods and cargo can be expedited.** There are great potential gains from trade facilitation for both governments and the business community. A more efficient and transparent delivery will allow the Customs to maintain high security levels and effective control, while businesses will gain in terms of higher predictability and speed of operations and lower transaction costs, resulting in more competitive exports on global markets.

5.4.2.4. Courier services

Issue 12: Requirement of full declarations on courier low value shipment for Ex/Import

The requirement of full declarations (including Customs classification) of so called de minimis shipments, which no duties and taxes are collected (today this threshold is RM500).

Option 1: Continue as it is

If the current practices were to be continued where the value of the goods and their respective amount of duties and taxes is lower than the cost to administer this shipment (small consignments), government may spend more money on this administrative process than they collect in duties and taxes.

Option 2: Amend PTK No. 47 to increase the import de minimis from RM500 to RM1,000.

The information required by Customs for itemised declaration before shipment uplift cause delay. In view of the increasing number of low value shipments with the widespread of e-commerce, an increase in the import de minimis threshold will save time and cost both for the service provider and the regulator (Customs). A higher de minimis would reduce overall compliance and administration costs and encourage low value importations, with hassle free low value shipment, lesser document management, faster delivery shipment to customer and efficient space/storage utilisation.

Recommendation

Option 2 is recommended. MOF and Customs to conduct detailed study on impact analysis of the potential revenue and losses to the government. This will enable Customs authorities to devote those newly freed-up resources (where the value of the goods and their respective amount of duties and taxes is lower than the cost to administer those small consignments) to other high priority tasks. The benefits accrued include hassle free for low value shipment, lesser document management, more focus on high value shipment control and reduced administrative cost.