



ISSUES PAPER

REDUCING UNNECESSARY REGULATORY BURDENS (RURB) ON BUSINESS: COURIER SERVICE

23 February 2017

The Courier Service 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: 20 April 2017

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Contents

1.0 Terms of Reference.....	1
1.1 Making a Submission or Meeting with the MPC.....	2
1.1.1 Use of information	2
1.1.2 Confidential Information	3
2.0 The proposed scope of the study	3
2.1 What is to be covered by this study?.....	3
2.2 What are unnecessary regulatory burdens and restrictions on competition?.....	8
2.2.1 What regulation will be covered in this review?	8
2.2.2 Why do governments regulate courier service?	8
2.2.3 What are regulatory burdens?.....	9
2.2.4 What are unnecessary regulatory burdens?.....	9
3.0 Our approach.....	10
3.1 Structure, conduct, performance	10
3.2 Where regulations impact on the courier service sector	10
3.3 Concerns businesses have with any aspect of the regulation of the courier service	11
4.0 An invitation to comment	11
5.0. Possible Issues.....	12
5.1 Licensing and Inspection Requirements	12
5.2 De minimis Thresholds.....	13
5.3 Warehousing.....	14
5.4 Logistics and Transportation.....	17

1.0 TERMS OF REFERENCE

The Malaysian Productivity Corporation (MPC) is undertaking a study on reducing unnecessary regulatory burdens on the courier service sector. This study arises from the mandate given to MPC under the 11th Malaysia Plan to undertake programme on Reducing Unnecessary Regulatory Burdens (Budget Code: Modernising Business Regulation).

Without presumption, this project shall highlight concerns of the industry players with the current regulatory framework in relation to the Courier Service sector and the feedback from the relevant regulators. The report will focus on the regulations that businesses consider burdensome to them (in complying with the requirements) and investigate the purpose or intent of such regulations with a view to reducing or removing any unnecessary regulatory burdens. MPC is interested not only in written rules but also on how they are administered by the regulators. In addition, the MPC will also be seeking to identify regulations which creates unnecessary barriers to competition.

The purpose of this issues paper is to outline what is being reviewed and our proposed approach to this review 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 Courier Service 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 courier service sector, including the MPC's reviews already conducted on this topic. Hence, parties should feel free to raise any other issues they consider relevant to this study.

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 courier service sector.

Updates on the progress of this review will be provided on MPC's website.

1.1 Making a Submission or Meeting with the MPC

Anyone is invited to make a submission (written or electronic) on the issues relating to the courier service 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, depending on your interest. In addition, you are 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 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 <http://www.mpc.gov.my/>. If you would rather meet with the MPC instead of putting in a submission please indicate this on the expression of interest form at the back of this paper.

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 burden for courier service sector, to gauge the position and preference of the stakeholders and more generally to increase MPC's knowledge of the courier service sector. We may contact submitters directly if we require clarification of any matters in the submission.

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.

1.1.2 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.

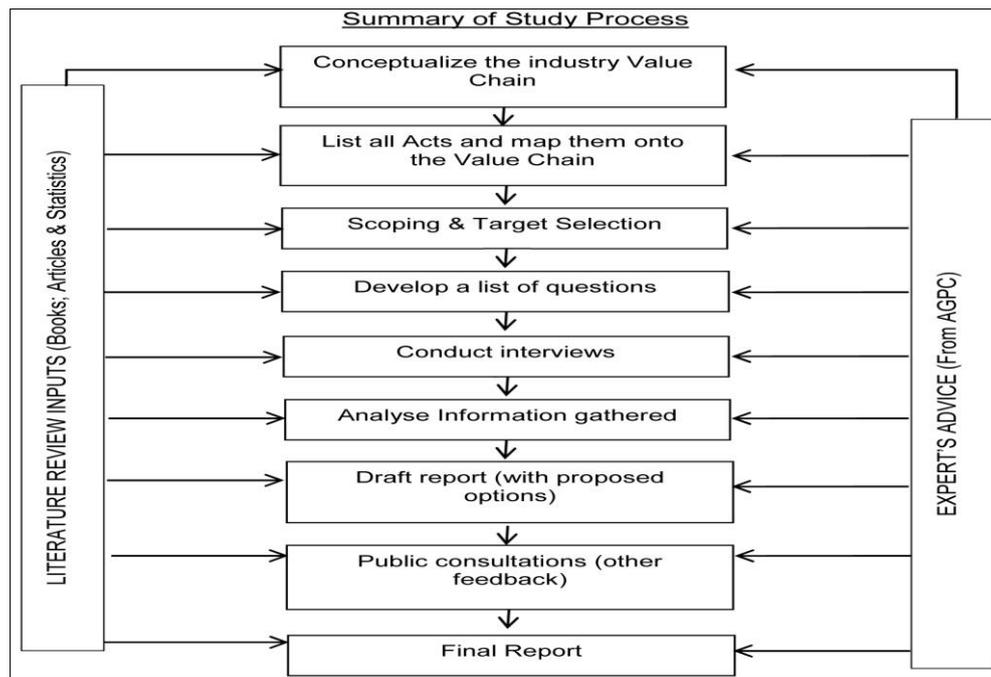
If you wish to provide a submission with confidential information, we prefer that you also provide a separate public version of the submission which excludes the confidential information. If provided, the public version will be posted on MPC's website.

2. The proposed scope of the study

2.1 What is to be covered by this study?

The study will emulate the approach used by the Australian Government Productivity Commission (AGPC) and the team will be guided by a regulatory expert Mr Goh Siew Seng. The team will select a sample of courier service 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. The figure below summarizes the study process for this review.

Courier refers to a person or a company that delivers packages and documents. Courier service differ from ordinary mail services as they promise speedy delivery, ensure security, provide tracking services and offer specialisation and tailor-made services. Hence, courier service may cost more than the standard mail services. The courier service industry is seamless as it can operate within a specific town, city or go beyond regional, national or international borders. Courier service engage different types of transportation vehicles such as bicycles, motorcycles, lorries, trains and aircrafts to deliver all their consignments.



The courier service is essential to the efficient functioning of the economy and society as a whole. Very few sectors in Malaysia come close to the level of physical connectivity with households, businesses and retail network across the country like the courier service sector.

Standard Services on Offer

- Delivery of large and heavy items
- Safely and Securely transported
- Signature required delivery for important items
- Worldwide delivery
- Next day delivery
- Fast track delivery
- Ability to track your delivery

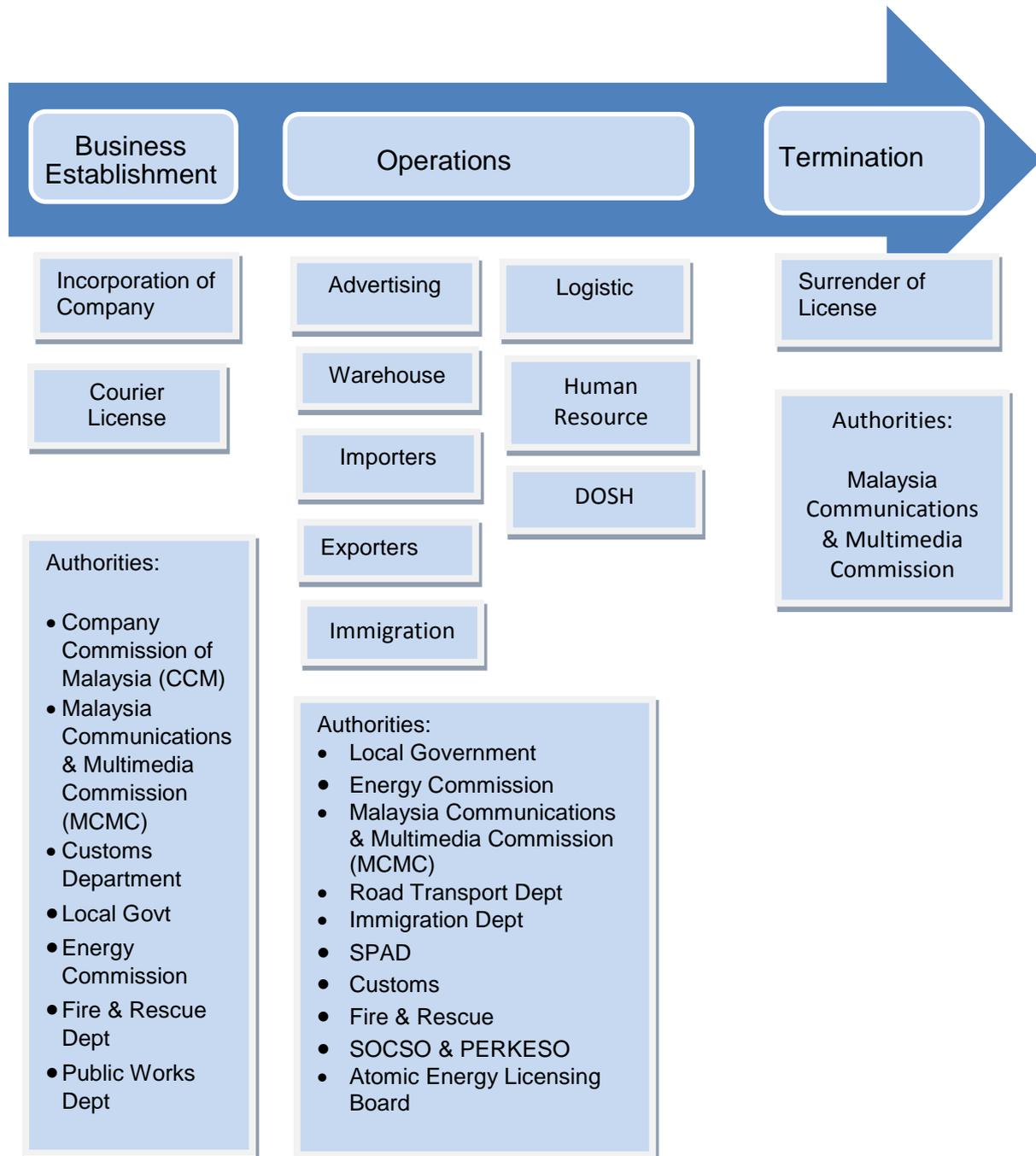
Courier service were first developed as a means to provide customers with an alternative way to send their deliveries. They are viewed as a more secure service and beat the typically slow delivery of traditional options. Couriers are also much cheaper, especially when factoring large or heavy Items into the equation.

This popularity in courier service was triggered mostly by the Internet's arrival, especially as customers began shopping online in greater volume. As shoppers could order multiple items at once and have them shipped to their home, there became a need to ensure these deliveries were both fast and safe.

In undertaking the review, MPC will:

1. identify areas that are:
 - a) unnecessarily burdensome, complex or redundant;
 - b) duplicate regulations or the role of regulatory bodies, including in other jurisdictions; and/or
 - c) unnecessarily restrict competition
2. 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
3. for this short list, identify regulatory and non-regulatory options 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.

The following courier service value chain defines the stages of courier service.



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

Below is the list of Acts/ guidelines/ standards governing the courier service industry:

Key Malaysian Federal Regulations	Key Stages of Cycle	Key state/local government involvement/regulations
<ul style="list-style-type: none"> • Companies Act 1965 • Registration of Business Act 1956 (Act 197) • Postal Services Act 2012 (Act 741) • Local Government Act 1976 	<p>Pre- Operation</p> 	<p>Portal Services (Licensing) Regulations 2015</p>
<ul style="list-style-type: none"> • Occupational Safety and Health Act 1994, Act 514 • Road Transport Act 1987 • Land Public Transport Act 2010 (Peninsular) • Commercial Licensing Board Act 1987 (Sabah & Sarawak) • Environmental Quality Act 1974 (Act 127) • Street, Drainage and Building Act, 1974 (Act 133) • Pesticide Act, 1974 (Act 149) • Energy Commission Act, 2001 (Act 610) • Fire Services Act, 1988 (Act 341) • Atomic Energy Licensing Act, 1984 • Employment Act, 1955 (Act 265) • Employees Provident Fund 1991 • Employer Social Security Act 1969 • Immigration Act 1959/63 • Environmental Quality Act 1984 • Customs Act 1967 • Goods and Service Tax Act 2014 	<p>Operation</p> 	<ul style="list-style-type: none"> • Guidelines on Occupational Safety and Health In Courier Service Industry 2015 • Social Security Organisation (SOCSSO) Reporting Requirement • International Air Transport Association (IATA) • DOSH • Environmental regulations • EQ (Clean Air) Regulations 1978 • EQ (Control of Emission from diesel Engines) Regulations 1996 • EQ (Control of Emission form Petrol Engines) Regulations 1996 • Environmental Quality (Scheduled Wastes) Regulations 2005 • Signboards and outdoor advertisement license and/or permit
<ul style="list-style-type: none"> • Postal Services Act 2012 (Act 741) 	<p>Termination</p>	<ul style="list-style-type: none"> • Portal Services (Licensing) Regulations 2015

2.2 What are unnecessary regulatory burdens and restrictions on competition?

2.2.1 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 a Local Government, 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 competition,

2.2.2 Why do governments regulate courier service?

When regulation is used appropriately it addresses market imperfections which would otherwise result in less than optimal levels and qualities of output. The result is a loss of economic and social welfare. Market failure exists when the competitive outcome of markets is not efficient from the point of view of society as a whole. This is usually because the benefits that the free-market offers on individuals or businesses carrying out a particular activity diverge from the benefits to society as a whole. For courier service, the main market imperfections of relevance are those arising from:

- asymmetries in knowledge, such as where:
 - the employer knows more about workplace risks than the employees
 - the courier companies know more about the quality of a service than the customers
 - customers do not have access to full information about the financial viability of the courier company servicing them
- negative externalities, such as where:
 - the use of vehicles adversely impacts on environment, such as smoke emission from the vehicles or noise from warehouse in sorting documents to near-by residents, or dense housing
- barriers to competition, so that:
 - not all company have financial capability to meet the capital requirement to operate courier service

2.2.3 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:

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

2.2.4 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 implemented well, it may impose greater burdens than necessary.

Examples of unnecessary burdens are:

- a) excessive coverage of the regulations, including regulatory creep⁴, so that regulations that encompass more activity than was intended or is needed to achieve their objectives
- b) subject-specific regulations that cover much the same ground as other generic regulation
- c) prescriptive regulation that unduly limits flexibility, such as preventing:
 - i. businesses from meeting the underlying objectives of regulation in different ways
 - ii. use of the best technology

- iii. product changes to better meet consumer demand
- d) overly complex regulation
- e) unwieldy licence application and approval processes
- f) excessive time delays in obtaining responses and decisions from regulators
- g) rules or enforcement approaches that inadvertently provide incentives to operate in less efficient ways
- h) unnecessarily invasive regulator behaviour, such as overly frequent inspections or information requests
- i) an overlap or conflict in regulations and/or the activities of different regulators
- j) 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 courier service 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 emulate the approach used by the AGPC to identify regulatory burdens of most concern to the Malaysian courier service 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. It will review any regulations and guidelines that could impair the sector's performance.

3.2 Where regulations impact on the courier service sector

The first stage will be to agree on the best representation of courier service's value chain (perhaps by modifying the tentative value chain presented above). This will help in identifying the particular stages of the courier service process where regulation impacts and those regulations that merit further study, that is those regulations which appear to impose unnecessary burdens on business or to unnecessarily restrict competition. Where necessary, these stages may be further categorised in relation to different segment/type of the courier service if regulations constrain the courier process in a particular segment.

3.3 Concerns businesses have with any aspect of the regulation of the courier service

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

- a) Licencing requirement
- b) The time and financial costs directly involved in complying with regulations, such as form filling, mandatory returns and etc.
- b) Regulatory requirements which limit a business's capacity to enter parts of the industry or to expand.
- c) Factors which affect a business's decision to operate internationally.
- d) Regulations on customs clearance and customs duty.
- e) Regulations on matters pertaining to logistics.
- f) Regulatory requirements/enforcement throughout the courier service process such as building & warehouse permits, safety at processing sites, labours and other related matters.

4.0 An invitation to comment

The MPC is seeking feedback from interested parties, public and private sector representatives, with expertise or experience in the Courier Service Sector, who can assist in the study. Below are some of the information sought that will help in our review:

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? 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. Possible Issues

5.1 Licensing and Inspection Requirements

To operate a courier service business, a company is subjected to various licensing requirements:

- a. Courier Service license - issued by MCMC (Postal Services Act 2012 (Act 741))
- b. Operator Licence - For all operators of land public transport and goods vehicles the Operator Licence is required from the Land Public Transport Commission (SPAD).
- c. Vehicle License - For each goods vehicle a Type A licence (Permit A) is required from SPAD for Peninsular Malaysia and Commercial Vehicles Licensing Board (CVLB) for Sabah and Sarawak
- d. Good Vehicle Inspection – All commercial vehicles need to undergo a roadworthiness inspection at PUSPAKOM every 6 months. (Road Transport Act 1987)
- e. Goods Driving License (GDL) - GDL is required for all drivers of commercial vehicles carrying goods, issued by the Road Transport Department (JPJ).
- f. Premise License - For using the premise
- g. Advertisement License - For premise signboard, lamp post or outdoor display advertisements, issued by the local authority.
- h. Weighing Machine License - For using weighing machines (KPDNKK).
- i. Service Tax License & Service Tax – A company/individual may be required to apply for a Service Tax Licence from Royal Malaysian Customs Department. The service tax collected must be paid to Customs.

- j. Fire Safety Inspection - For inspecting compliance of premise to fire safety standards (JBPM).
 - k. Occupational Safety And Health Notification (DOSH) – A company/Individual is required to notify Department of Occupational Safety and Health once you acquire, occupy and operate a premise (DOSH).
1. Do you think the licensing requirements and inspections a burdensome? Why?
 2. Do some of the regulations overlapping?
 3. Which part of the regulatory requirements is seen as burdensome? Any suggestion to improve it?
 4. Any overlapping of functions amongst the regulators?

5.2 De minimis Thresholds

De minimis refers to the minimum value of the goods which no duties and taxes are being collected by the Customs. A *de minimis* regime provides streamlined border clearance and exemption from customs duties and other taxes. These features generate economic benefits by refocusing public revenue collection on more efficient revenue sources, reducing the costs borne by importers, and accelerating the delivery of imports.

De minimis thresholds represents a significant step in making it easier to trade across borders. It reduces the compliance costs imposed on importers and accelerates delivery of the merchandise. Documents preparations and manpower could be reduced hence improved efficiency and profitability. With the de minimis threshold, many pain points are relieved, giving small businesses the ability to get their products to the designated countries with more speed and efficiency.

The de minimis thresholds also allows governments to refocus their revenue collection efforts on those parts of the indirect tax base that yield higher net revenue thus benefits the government in terms of resource saving in government administration.

Having de minimis thresholds would also enhance trade and business facilitation, effective delivery of services and reducing the cost of doing business.

1. Does current regulation on de minimis justified? Why?
2. What does the impact of current regulation to your business and the industry?
3. Do you have any suggestion to reduce the burden in complying with the regulation?

5.3 Warehousing

Warehousing considers the storing of goods. It is part of the larger process of warehouse management, which includes picking, shipping, and planning. Transportation and warehousing are subsections of logistics and can be regarded as the most important parts in international supply chains (Tuzkaya and Önüt, 2009).

There are three (3) types of licences, depending on the warehousing requirements of the operator. An operator can choose to operate as an ordinary warehouse, a Public Bonded Warehouse or a Private Bonded Warehouse.

Investors intending to provide warehousing services are required to incorporate a company under the Companies Act, 1965.

1.1 Licensing and Registration

(i) Ordinary Warehouse Licence

A company that wishes to provide ordinary warehousing services must apply for a licence to the relevant Local Authority.

The following approvals must be obtained before applying to the Local Authority:

- Approval from the Department of Environment (DOE) when operators store hazardous goods.

- Approval from the Fire and Rescue Department and other Technical Agencies to ensure that the premise is equipped with an adequate number of fire extinguishers and safety alarm systems.
- Certificate of Completion and Compliance (CCC) from the Local Authority which is an official document to acknowledge that the building is safe for occupation.
- The CCC which was implemented in 2007 replaces the Certificate of Fitness or Occupation (CFO) previously issued by the Local Authority. The CCC is issued by the project's Principal Submitting Person (PSP) who is a Professional Architect, Professional Engineer or a Registered Building Draughtsman.

(ii) Public Bonded Warehouse Licence

- A Public Bonded Warehouse operates as a central storage for the distribution of bonded goods (i.e. goods on which Customs duties and taxes have not been paid) in the country and for international trade, catering for the general public.
- Public Bonded Warehouses that store different categories of goods must comply with the following conditions:

Category of Goods	Minimum Warehouse Space (square Feet)	Minimum Paid-Up Capital (RM)	Minimum Value Of Goods Warehoused
Critical Goods	50,000	1,000,000	NA
Non-Critical Goods	20,000	250,000	NA

Source: MIDA

(iii) Private Bonded Warehouse Licence

- A Private Bonded Warehouse is a central storage and distribution centre for bonded goods (i.e. goods on which Customs duties and taxes have not been paid), of the companies and its related companies.

- Private Bonded Warehouses that store different categories of goods must comply with the following conditions:

Category of Goods	Minimum Warehouse Space (square Feet)	Minimum Paid-Up Capital (RM)	Minimum Value Of Goods Warehoused
Critical Goods	NA	150,000	5,000,000
Non-Critical Goods	NA	100,000	5,000,000

Source: MIDA

Activities that can be carried out in these warehouses are as follows:

- Warehousing
- Bulk breaking
- Re-packaging
- Re-labelling of imported goods
- Consolidation
- Entreport
- Devending

A company that wishes to provide public or private bonded warehousing services must apply to the Royal Malaysian Customs Department.

The following approvals must be obtained before applying to the Royal Malaysian Customs Department:

- Approval from DOE when operators store hazardous goods.
- Approval from the Fire and Rescue Department and other Technical Agencies.
- CCC from the Local Authority.

1.2 Other Licensing and Registration

A Public or Private Bonded Warehouse operator that is licensed under Section 65 of the Customs Act, 1967 can be given permission to act as an agent for transacting businesses relating to the import or export of goods that are stored in the licensed warehouse. For this purpose, a warehouse operator is required to obtain a Freight

Forwarding Agent/Customs Agent Licence and/or Shipping Agent Licence and a Service Tax Licence.

The Service Tax Act, 1975 shall apply throughout Malaysia except Langkawi, Tioman, Labuan, Free Zones and 'Joint Development Area'. Effective 1 January 2011 the rate of service tax is 6%.

Applications for the above licences except for Customs Agent Licence should be submitted directly to the Royal Malaysian Customs Department. Before acquiring a Freight Forwarding Agent/Customs Agent Licence from the Royal Malaysian Customs Department, the company must obtain an International Integrated Logistics Services (IILS) status from MIDA.

1.3 Equity Policy

- Ordinary Warehouse: There is no equity condition imposed by the Royal Malaysian Customs Department. Investors only need to obtain licence from the local authority.
- Public Bonded Warehouse: A company must have at least 30% Bumiputera equity.
- Private Bonded Warehouse: There is no equity condition imposed by the Royal Malaysian Customs Department.

1. Are there any disparity in regulations and policies? What are they?
2. Are there clear regulations in establishing and operating a warehouse?
3. Are there overlapping of regulations and inspections in establishing and operating a warehouse?
4. Is there proper monitoring of the warehouse?
5. Are the requirements, fees and categorisation differ among the local councils?

5.4 Logistics and Transportation

To a courier service company, customers' satisfaction is crucial in gaining customers' loyalty. Timeliness is one factor that determine customers' satisfaction

and this relates to logistics. Logistics forms an important function to a courier service provider in delivering its services and logistics is a cost to the company. Having sufficient fleets of vehicles and experience vehicles operators/drivers ensures smooth and reliable services. Acts that govern logistics in Malaysia are Road Transport Act 1987, Land Public Transport Act 2010 (Peninsular) and Commercial Licensing Board Act 1987 (Sabah & Sarawak).

1. Are there any regulatory issues pertaining to transport licensing?
2. Are there any issues on regulatory coordination across transport modes?
3. Are there overlapping regulations and guidelines? What are they?
4. Are there any overlapping functions among the regulators? Do they create unnecessary burdens?
5. How effective are the regulators/enforcers in discharging their duties?

Attachment : Expression of interest

RURB ON COURIER SERVICE

Please complete and submit this form with your submission:

By email: alamin@mpc.gov.my /wanwei@mpc.gov.my OR by fax: (03) 7960 0206

Or by post: Malaysia Productivity Corporation

A-06-01, Tingkat 6, Blok A, PJ8

No.23, Jalan Barat, Seksyen 8

46050 Petaling Jaya, Selangor

Organization.....

Address.....

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

Principal contact **Phone**

Position..... **Fax**

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

Please indicate your interest in this review:

- Be informed of developments including receiving the draft report
- Would like to be interviewed by the MPC
- Would like to make a submission
- Nature of your activity

Due date for submissions

Please send submissions to the MPC by 20 April 2017