



Economic Research Institute for ASEAN and East Asia

Reducing Unnecessary Regulatory Burdens in ASEAN

Country Studies

By
Jeremy Gross and Ponciano S. Intal, Jr.

© Economic Research Institute for ASEAN and East Asia, 2018

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted in any form by any means electronic or mechanical without prior written notice to and permission from ERIA.

The findings, interpretations, and conclusions expressed herein do not necessarily reflect the views and policies of the Economic Research Institute for ASEAN and East Asia, its Governing Board, Academic Advisory Council, or the institutions and governments they represent.

The findings, interpretations, conclusions, and views expressed in their respective chapters are entirely those of the author/s and do not necessarily reflect the views and policies of the Economic Research Institute for ASEAN and East Asia, its Governing Board, Academic Advisory Council, or the institutions and governments they represent. Any error in content or citation in the respective chapters is the sole responsibility of the author/s.

Material in this publication may be freely quoted or reprinted with proper acknowledgement.

Cover Art by Artmosphere Design.

Book Design by Fadriani Trianingsih.

National Library of Indonesia Cataloguing-in-Publication Data
ISBN: 978-602-5460-08-0

Foreword

“Why is RURB important?” is the question asked right at the beginning of this book. The answers can be found in the chapters that follow, showing how RURB can be used to identify and review regulations as well as develop solutions through a process of dialogue and discussion between regulators and business.

Now is the time for governments to support the business community by reducing the cost of doing business. This will help free-up resources for businesses and make them more competitive. In turn, this can help stimulate investment, create new jobs, and support a more vibrant and dynamic business sector. However, an absence of systems and procedures to review and assess regulations is holding this back in many ASEAN Member States, resulting in burdensome regulations continuing to be on the statute books.

Pressure for establishing mechanisms for regulatory review is coming not just from the business sector but ASEAN Member States’ commitment to the ASEAN Economic Community 2025 Blueprint. This Blueprint emphasises good regulatory practice and good governance: a commitment to review existing regulatory procedures and establish regulatory conversations between stakeholders.

In view of these developments, this study of seven ASEAN Member States was undertaken to identify the findings of applying a RURB approach to priority development sectors in each country. This involved a mapping of all regulations and the regulators in the specific sector, their rationale and objective. It necessitated input from both business and regulators to identify the problems and understand the difficulties in revoking regulations. As a consensus-building approach to regulatory review, options for problematic regulations were proposed by the researchers – although implementation of solutions was beyond the remit of this study.

This study would not have been possible without the support of the Malaysian Productivity Corporation, and their willingness to share their time, experience and expertise of RURB with ERIA and the researchers involved in this project. For this, I would especially like to thank Dato’ Abdul Latif Abu Seman for his support of this project, and Mohd Yazid Abdul Majid who managed this project on behalf of MPC. I would also like to thank the MPC experts who contributed greatly to this study at the trainings and technical study workshops: Izhar Che Mee and Goh Swee Seang.

I would like to thank the authors of the country studies, as well as Punita Nook Naidu for writing a case history. From ERIA, I would like to thank Ponciano Intal, Jr., ERIA Senior Economist, for his guidance of this study, Edo Setyadi, Research Associate, Melanie Milo, former ERIA Economist, and Jeremy Gross, Director for Capacity Building, for their contributions to this book.

The participation of government officials from Cambodia and Viet Nam would not have been possible without the generous support ERIA receives for its Capacity Building Programme from the Australian Government, which I gratefully acknowledge here. I would also like to acknowledge the government officials who participated and enriched this study: Sam Chetra, Im Koy and Sok Thida from the Ministry of Commerce, Cambodia, and Va Sophanrorth from the Ministry of Economy and Finance. From Viet Nam, Le Thu Tra and Pham Hoang Thai from the Ministry of Industry and Trade, and Ha Tu Cau from the Ministry of Justice.

I sincerely believe that Reducing Unnecessary Regulatory Burdens in ASEAN: Country Studies makes an important contribution to our understanding of the benefits of better regulatory review, and that this book will help focus our attention on this issue in our joint pursuit of better regulatory management to support a stronger, more competitive businesses sector.

A stylized, handwritten signature in black ink, appearing to read 'H. Nishimura'.

Professor Hidetoshi Nishimura
President, Research Institute for ASEAN and East Asia
September 2018

Contents

List of Figures		vi
List of Tables		ix
List of Boxes		xi
Chapter 1	Reducing Unnecessary Regulatory Burdens in Selected Sectors in ASEAN <i>Jeremy Gross ,Ponciano S. Intal, Jr. and Edo Setyadi</i>	1
Chapter 2	A Comprehensive Horizontal Review on Existing Regulations to Create a Conducive Business Environment <i>Mohd Yazid Abdul Majid, Goh Swee Seang and Lok Lee Lee</i>	48
Chapter 3	Regulatory Reform in the Sewerage Works Approval Process in Malaysia <i>Punita Nook Naidu</i>	70
Chapter 4	Brunei Darussalam: Halal Meat and Meat Products Processing <i>Ahmed Massod Khalid, Masairol bin Haji Masr, Nazdila Muhammad and Pang Wei Loon</i>	89
Chapter 5	A Case Study of Cambodia's Agro-Industry <i>Sothea Oum, Shandre Thangavelu and Monirath Nuth</i>	118
Chapter 6	A Case of the Automotive Industry in Indonesia <i>Haryo Aswicahyono, David Christian and Adinova Faur</i>	144
Chapter 7	Warehousing Services in Malaysia <i>Mohd Yazid Abdul Majid, Goh Swee Seang and Lok Lee Lee</i>	176
Chapter 8	The Philippines' Tuna Industry <i>Gilberto M. Llanto, Maria Kristina P. Ortiz and Cherry Ann D. Madriaga</i>	210
Chapter 9	Road Passenger Services in Thailand <i>Sumet Ongkittikul and Nichamon Thongphat</i>	239
Chapter 10	Value Chain Development: Case Study of Viet Nam's Fishery Export <i>Thanh Tri Vo and Duong Anh Nguyen</i>	265

List of Figures

Chapter 1

Figure 1	The RURB Methodology Stages	24
Figure 2	Stages of Stakeholder Engagement	26

Chapter 2

Figure 1	Comparison Between Staff Cost and Revenue of the Inland Revenue Board of Malaysia	53
Figure 2	Process of Reducing Unnecessary Regulatory Burdens	55

Chapter 3

Figure 1	Ideal Flow of Sewerage Works Approvals	72
Figure 2	Redefining the Problem Statement	73
Figure 3	Result of Reflection on Section 45(1) To Discover its Objectives	76
Figure 4	Definition of Approval and the Methodology	77
Figure 5	Types of Sewerage Infrastructure	77
Figure 6	Types of Sewerage Works	78
Figure 7	Definition of Risk	78
Figure 8	Risk Matrix for Sewerage Works Approval Procedures	79
Figure 9	Number of Sewerage Planning and Design Applications	80
Figure 10	Number of Sewerage Applications for Final Inspections	80
Figure 11	Uptake Rate of the Transformed Procedure in 2014 across States	82
Figure 12	The Sewerage Works Applications Pattern for 2017	85

Chapter 4

Figure 1	GDP Growth of Brunei, 2010-2015	91
Figure 2	GDP Growth by Sector	92
Figure 3	RURB Study Process	100
Figure 4	Value Chain of Halal Meat and Meat Processing Products	101
Figure 5	Detailed Value Chain for Halal Meat Processing in Brunei Darussalam	103
Figure 6	Sourcing Raw Meats	105

Chapter 5

Figure 1	Cambodia's Annual Growth of Agricultural Sub-sectors (Constant Prices), 2005-2017	120
Figure 2	Key Indicators of Cambodia's GDP	121
Figure 3	Share of Cambodia's Export in 2015	121
Figure 4	Major Constraints Faced by Firms in Cambodia (% of Responses)	123
Figure 5	Application Process for Sanitary and Phytosanitary Certificate	132
Figure 6	Application Process for Certificate of Origin	134

Chapter 6

Figure 1	Total Sales and Production, Automotive Sector, 2003-2016	146
Figure 2	ASEAN Automotive Market and Production by Country, 2007-2014	147
Figure 3	The Regulatory Process of Preparing BMDTP Facility, 2016	153
Figure 4	Process of Applying for BMDTP	154
Figure 5	Comparison Between Budget Ceiling and Realisation of BMDTP	156
Figure 6	Process of Indonesian National Standards Certification	165

Chapter 7

Figure 1	Logistics and Value-Added Services Along Supply Chain	182
Figure 2	Warehouse Supply Chain	182
Figure 3	Existing Institutional Framework for Warehousing	183
Figure 4	Project Governance	207

Chapter 8

Figure 1	Supply of Tuna, 2005-2014	213
Figure 2	Major Fishery Export Products, 2014	214
Figure 3	Tuna Value Chain and Regulatory Agencies	216
Figure 4	Map of BFAR and MARINA Central and Regional Offices	227
Figure 5	Food and Drug Administration (FDA) Offices and Food and Beverage Manufacturing Firms, 2012	231

Chapter 9

Figure 1	Number of Licence Holders, Categorised by Size of Firms, 2014	244
Figure 2	Proportion of Licence Holders, Categorised by Size of Firms, 2014	244
Figure 3	Number of Joint Operators, Categorised by Size of Firms, 2014	244
Figure 4	Proportion of Joint Operators Categorised by Size of Firms, 2014	244
Figure 5	Employees in Licence-Holding Bus Operating Firms, 2014	245
Figure 6	Employees in Joint Bus Operating Firms, 2014	245
Figure 7	Number of Licences and Operators of For-Hire Services, 2011-2015	247
Figure 8	Value Chains of Road Passenger Transport Services	248
Figure 9	Vehicle Registration Procedures	250
Figure 10	Conceptual Framework	254

Chapter 10

Figure 1	Issued Documents, 2010-2014	271
Figure 2	Exports of Fishery Products, 1995-2015	272
Figure 3	Output Fishery Exploitation and Aquaculture Activities, 1995-2015	273
Figure 4	Import of Fishery Products, 2011-2015	273
Figure 5	Supply Chain of Fishery Products	274
Figure 6	Minimum Wage in Different Zones, 2010-2016	275

List of Tables

Chapter 1

Table 1	Changing Ramnking for Ease of Doing Business	16
Table 2	Study Sectors and Participating Research Organisations	28

Chapter 2

Table 1	Benchmarking on Dealing with Construction Permits in 16 Capital Cities in Malaysia, 2012 and 2015	52
Table 2	Projects to Reduce Unnecessary Regulatory Burdens, 2014-2016	68

Chapter 3

Table 1	Results of Sewerage Works Approval Transformation	81
---------	---	----

Chapter 4

Table 1	Brunei GDP by Economic Activity, 2016	93
Table 2	Import of Meat and Export of Processed Meat in Brunei	93
Table 3	Value Chain Activities and Identified Regulatory Barriers	102
Table 4	Government Agencies Involved in Halal Meat and Meat Products Processing	104
Table 5	Regulations and Their Respective Regulators for Halal Meat and Meat Products Processing	104
Table 6	Summary of Responses (Halal Certification)	109

Chapter 5

Table 1	Cost Breakdown of a Typical Agro-processing Export	137
Table 2	Time Breakdown of a Typical Agro-processing Export	138

Chapter 6

Table 1	Current Condition of Overlapping Central and Local Government Inspection	162
Table 2	Timeline of Conflicting Environmental Regulations Within Industrial Zone	164

Chapter 7

Table 1	Industries Included in the Review	179
Table 2	Acts, Regulations, and Policies by Approval of Agency or Ministry for Warehousing Activities	185
Table 3	Local Authorities Parking by State	19
Table 4	Assessment Tax Rates of Local Authorities (%)	198
Table 5	Multiple Export and Import Permit Approval	200
Table 6	Cargo Clearance Procedures at Border Checkpoint (Johor)	202

Chapter 8

Table 1	Comparative GDP Growth Rates, East and Southeast Asia (2006-2015)	212
Table 2	Per Capita Fish Consumption, 2014	215
Table 3	Regulations and Regulatory Instruments	218
Table 4	Starting a Business, Ranking of Selected Philippine Cities	224
Table 5	MARINA and BFAR Regional Offices	226
Table 6	Municipal Fishing Vessel Licence Process	230
Table 7	Document Inspection Checklist, Bureau of Fishery and Aquatics Resources, and Food and Drug Administration	233

Chapter 9

Table 1	Routes of Public Bus Services	241
Table 2	Different Between Fixed-Route and Non-fixed-Route Licencing	242
Table 3	Number of Operating Licences and Licence Holders for Scheduled Bus Services, 2011-2015	243
Table 4	Costs for Bus Operating Firms, 2014	246
Table 5	Value Chain of Starting a Business Process	249
Table 6	Activities on the Value Chain's Service Provision Process	252
Table 7	Data Collection and Analysis Process	255
Table 8	Comparative Working Experience of Passenger Bus Operators	259

Chapter 10

Table 1	Indicators of Exports in Viet Nam, 2005-2016	268
Table 2	Indicators of Imports in Viet Nam, 2005-2016	269
Table 3	Starting-a-Business Indicators, Viet Nam, 2003-2016	270
Table 4	Regulatory Agencies and Stakeholders	276
Table 5	Law and Ordinance with Potential Implications for Fishery Value Chain	277

List of Boxes

Chapter 1

Box 1	Key Definitions	16
-------	-----------------	----

Chapter 2

Box 1	Role of Malaysia Productivity Corporation in Modernising Business Regulations	50
Box 2	Types of Unnecessary Regulatory Burdens	51
Box 3	Misinterpretation of Regulations Leads to Inefficient Government Delivery	52
Box 4	How the Inland Revenue Board of Malaysia Lowered Internal Operational Costs	53
Box 5	Business Life Cycle of Professionals in Construction Industries in Malaysia	60
Box 6	Regulatory Mapping for Development Process Flow in Malaysia	61
Box 7	Categories of Compliance Costs	64
Box 8	Six Core Principles for Assessing Regulations and Their Administration	65
Box 9	Spectrum of Regulatory and Non-Regulatory Options	67

CHAPTER 1

Reducing Unnecessary Regulatory Burdens in Selected Sectors in ASEAN

Jeremy Gross

Ponciano S. Intal, Jr.

Edo Setyadi

Economic Research Institute for ASEAN and East Asia

[1] Introduction: Why RURB?

The ASEAN Economic Community Blueprint 2025 provides a succinct and compelling rationale in response to the question, “Why reduce unnecessary regulatory burdens (RURB)?” The Blueprint states:

The regulatory environment has substantial impact on the behavior and performance of companies. The drive towards a competitive, dynamic, innovative and robustly growing [AMS and] ASEAN entails that regulations are non-discriminatory, pro-competitive, effective, coherent, and enabling of entrepreneurship, and the regulatory regime responsive and accountable.. As regulations are essential for the proper functioning of society and economy, the challenge for ASEAN Member States is to ensure that they effectively address the identified problem while minimizing the cost of compliance to, as well as preventing unwarranted distortions and inconsistency arising from, the regulations.¹

This statement pertains to the importance of the institutionalisation of good regulatory practice (GRP) in ASEAN to support the goals of the ASEAN Economic Community (AEC). The statement goes on to describes perfectly the fundamental goal of RURB: ensuring regulations do not impose unwarranted or unnecessary compliance costs, distortions or inconsistencies, in design and

¹ ASEC (2016), ASEAN 2025: Forging Ahead Together. p.76.

implementation, as these regulations address the problems they are meant to address.

The focus of RURB is existing regulations. As such, it complements regulatory impact assessments (RIA), which focuses on new regulations, another component of GRP. Indeed, regulatory management tools are an increasingly important way to improve regulatory practices, through the use of evidence-based methodologies, including vertical ex-post evaluation and horizontal ex-post evaluation.

In addition, the need to institutionalise GRP at the national and international level – through international regulatory cooperation (IRC) – is becoming more obvious as governments need to do more to create a business-friendly environment.

The Malaysia Productivity Corporation (MPC), in its Handbook on Regulatory Reform, provides an even more compelling rationale for investing in and undertaking GRP and RURB. It states:

Private sector participation in the economy and innovation require a regulatory environment that provides the necessary protections and guidelines, while promoting competition. Too often, Malaysian firms face a tangle of regulations that have accumulated over the years and now constrain growth. At the same time, regulations that would promote competition and innovation are absent or insufficiently powerful.²

Substitute Malaysia with most other AMSs and the statement makes an equally accurate description. As such, it would be ideal if AMSs undertake a comprehensive review of their business regulations and improve processes and procedures with the end view of reducing regulatory burdens on business, similar to the work taking place in Malaysia through the MPC and its PEMUDAH Task Force, mandated to modernise business regulations.

² MPC (2016), Innovation through Collaboration [Handbook on Regulatory Reform], p.19.

The box below helps to define what regulatory burdens are in terms of the impact of regulations on business, and when regulations do impose unnecessary burden on business. Regulations are important, especially those that have legitimate social objectives, for example, concerning health, food quality, the environment and safety. So, some regulatory burdens are a necessary part of doing business. However, when regulations are poorly designed or implemented, they can become an unnecessary regulatory burden on firms.

Box 1: Key Definitions ¹

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 businesses in various ways. Most fall under the following four categories of cost impacts:

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

Unnecessary Regulatory Burdens: While it is usually necessary that some burden is placed on business for regulation to achieve objectives, where regulation is poorly designed or written, or it is not administered or enforced well, it may impose greater burdens than necessary. In reviewing existing regulation, it is those regulatory burdens which can be considered ‘unnecessary’ that are of primary interest.

¹<http://www.mpc.gov.my/reducing-unnecessary-regulatory-burdens-rurb-2/#1459471256887-6d3f19cf-97f6>

The following cases are examples of burdensome regulations³:

- When a regulation affects more activity than what was intended or required to achieve by the regulation's objective(s);
- A subject-specific regulation that covers much issues as other more-generic regulations;
- Prescriptive regulations that unduly limit firms' decisions on technology and product choices as well as the objectives of the regulations that should be met more efficiently;
- Overly complex regulations;
- Complicated and inefficient licence application and approval processes;
- Rules or enforcement approaches that inadvertently force firms to operate less efficiently;
- Unnecessarily invasive regulators' behaviour, e.g. too many inspections;
- Overlap or conflict of activities of different regulators; and
- Inconsistent interpretation and/or application of regulations by regulators.

The list above shows that there are many ways by which regulations, either in design or in implementation, can inflict unnecessary regulatory burdens on firms.

The MPC developed the RURB methodology to review and improve business-unfriendly regulations to support the country's policy of institutionalising GRP. The Malaysian government has adopted this as a critical strategy in the country's drive to become a high-income country by 2020. Through its endeavours in this field, MPC has reported a number of success stories⁴ in the implementation of RURB.

Based on the successful implementation of the RURB methodology by MPC, the Economic Research Institute for ASEAN and East Asia (ERIA) decided to undertake an ASEAN-wide study (with the exception of Singapore) to explore the RURB methodology as a tool to encourage and support regulatory reform in AMSs, and thereby support the implementation of the regulatory reform section

³ The list of the type of unnecessary regulatory burdens is taken from MPC (2014), 'A Guide to Reducing Unnecessary Regulatory Burdens: Core Concepts', Malaysia Productivity Corporation. See: <http://www.mpc.gov.my/wp-content/uploads/2016/04/CHAPTER-3-1.pdf>, p. 13.

⁴ Examples can be found on its website: www.mpc.gov.my

of the ASEAN Economic Community Blueprint 2025. The ERIA's RURB project is a follow up to its earlier study on the regulatory management systems in selected countries in ASEAN and East Asia.⁵

This volume presents the results of the ERIA RURB project. The RURB project involves country studies for a sector of policy or export interest to the country. The studies involve an examination of:

- a. The regulations that affect the industry;
- b. Dialogue with the private sector to generate information on which regulations they view as imposing unnecessary regulatory burdens on them;
- c. Options to reduce regulatory burdens while taking note of the concerns of both the regulators and the private sector.

The RURB approach also involves engendering 'regulatory conversations' among the regulators and the private sector with the view of arriving at a workable solution to the unnecessary regulatory burden.

This volume presents case studies for Brunei Darussalam, Cambodia, Indonesia, Malaysia, the Philippines, Thailand, and Viet Nam. It also includes two special papers, one explaining what RURB is and the other, a fascinating case study of the regulatory reform to reduce regulatory burdens on developers on sewerage works in Malaysia.

Following this introduction, this chapter continues with a brief literature review on regulatory burden and reform. The third section provides the contexts of the RURB case studies in terms of the regional and national efforts at promoting GRP. The fourth section describes the RURB methodology. The fifth section goes on to present its application to the country studies as well as the major findings and insights from the country case studies. The chapter finishes with brief concluding remarks.

⁵ See Intal, P. and D. Gill (2016), *The Development of Regulatory Management Systems in East Asia: Deconstruction, Insights and Fostering ASEAN's Quiet Revolution*. Jakarta: ERIA, and D. Gill and P. Intal Jr. (eds.) (2016), *The Development of Regulatory Management Systems in East Asia: Country Studies*. Jakarta: ERIA.

[2] Brief Literature Review on Regulatory Burdens and Reform

In recent years, several studies have looked at various aspects of regulatory regimes and their impact. The studies reviewed here focus on:

- a. Impact of illegal payments;
- b. Impact of high business entry barriers;
- c. Impact of regulatory reforms.

The academic literature deals primarily around the World Bank's 'Ease of Doing Business' (EODB) rankings, with a focus on measurement and entrepreneurship. From these reports, one can conclude that there is a direct correlation between regulations and economic performance. However, the studies also show how regulations can become onerous, resulting in inefficiencies in the economy. These inefficiencies are found in many aspects of doing business, including dealing with construction permits to ease starting a business.

2.1 | Impact of Inefficient and Complicated Business Regulations and Procedures

As regulations involve complicated and technical procedures, they give rise to circumstances where businesses may opt to pay bribes as a quicker and easier solution to dealing with regulations rather than spending time and resources to deal with the regulations as stipulated (Malomo, 2013).

The impact of such payments goes beyond the cost of the unauthorised payment itself. Thus, for example, poor quality infrastructure with little funding for maintenance can be a result of giving illegal payments to overcome regulations (Kenny, 2007). Dreher (2005), in his cross-country study, shows that a 1-index point increase in corruption, as measured by the International Country Risk Guide, could result in a 0.13% reduction in gross domestic product (GDP) growth, equivalent to US\$425 per capita in GDP. This paper is based on cross-sectional data from 71 countries averaged over the 1975-2001 period.

Several institutions have developed tools to measure inefficiency in business regulations. The EODB reports measure how the regulatory environment is

supportive of business operations through 10 indicators. Also, evidence-based studies, using the EODB database, show how inefficient business regulations can translate into poor economic performance. By looking at business regulations at the aggregate level, Divanbeigi (2015) showed, using EODB distance to frontier data, that a country with better business regulations results in a higher level of firm creation. Results show an improvement of 10 points in the overall EODB distance to frontier score, correlated to the increase by approximately 0.6 business per 1,000 adults.

Other research tries to estimate the impact of administrative burden on growth. Poel et al. (2014) estimate the administrative burden by using EODB indicators as measurement for panel data regression analysis in 182 countries. The results show that reducing the number of procedures and time needed to complete business requirements has a significant and positive effect on economic growth, as measured in GDP. This research uses 26 countries within the European Union (EU) to test the same effect of administrative burden to economic growth. The findings suggest that lowering the administrative burden by 25% would increase economic growth in the EU by 1.62%.

2.2 | Impact of High-business Entry Barriers

Freund and Bolaky (2008) use EODB indicators on starting a business, labour market regulations, and registering property as the basis of their regulation indices. The methodology used is a standard cross-country regression, with error adjusted for heteroscedasticity. Their research shows a significant decrease in per-capita income in a country where business is highly regulated. Moreover, numerous regulations also reduce significantly the link between an increase in trade and higher per-capita income. Conversely, well-managed regulations tend to have the opposite effect. Freund and Bolaky also emphasise how business entry regulations have the strongest and most significant effect on a country's per-capita income compared to labour regulations and property rights regulations.

Ciccone and Papaioannu (2007) show that reducing the time needed to register new businesses results in more business entering the high-growth industry. With the median of business growth around 1.05% across data, the business growth

difference is approximately from 0.385% to 0.40%. This research tries to estimate the correlation between entry regulations and employment growth by using ordinary least square and instrumental variable regression combined with data from the United Nations Industrial Development Organization as the dependent variable, while the time needed to comply with government procedures and industry employment, taken from Djankov et al (2002), acts as an independent variable.

Norbäck et al. (2014) also prove that a higher entry barrier, interpreted as a higher number of days and procedures to start a firm, can result in low level of country openness in international trade. Their study also noted that a high entry barrier correlates with high levels of corruption in a country. Their research uses EODB database business start-up indicators to measure entry barrier, collected from 183 countries over the 2003–2010 period.

Besides using EODB data to measure the inefficiency of business regulation, an attempt to measure how regulations on business entry can drive the creation of new firms has been made (Klapper et al., 2006). By using data from a comprehensive database of European firms, it shows that the effect of a business entry regulation could yield a 10% point difference in firm entry across industries in Europe. Furthermore, industries with a high firm entry could be affected the most by entry regulations. Similar to Klapper et al., by using United States Entry Regulation Data (Fisman and Allende, 2010), one finds that high entry regulation industries can result in low firm entry compared to low entry regulation industries. These findings show that industries respond to growth opportunities through the expansion of existing firm in high entry regulation industries. Meanwhile, in low entry regulation industries, the response is mostly through the creation of new firms.

2.3 | Impact of Regulatory Reforms

To eliminate the inefficiencies caused by burdensome regulations, some research tries to suggest that regulatory reforms are the solution for the inefficiencies. Bruhn (2008) studies regulatory reform in Mexico, consisting of simplifying business entry procedure by reducing the number of procedures and days needed to start up a business. This reform translates into an increase of 30,678 firms created in all 34 municipalities, equivalent to 902 firms per

municipality. This reform also helped to increase wages by 2% more than the pre-reform wage increase.

Similar to this regulatory reform in Mexico, Aghion (2008), and Yakovlev and Zhuravskaya (2011) study regulatory reforms in India and Russia, respectively. The study on regulatory reform in India is based on the dismantling of Licence Raj from 1980 to 1990. The Licence Raj was key to the centrally controlled planned economy that managed the entry and expansion of firms in the manufacturing sector; a time when up to 80 agencies had to be satisfied before a firm would be granted a licence to produce, and even then, the state would decide what was to produce, at what price, and what sources of capital were to be used. The reform resulted in an increase in production output in the manufacturing sector, although the results varied upon whether states had pro-employer regulations or not, the former giving rise to a significantly larger increase in production and output. This finding was the result of employing a difference-in-difference econometric specification.

The regulatory reform in Russia study focuses on the simplification of inspections, licences, and business registration. By using instrumental variable and 2-Stage Least Square (2SLS) regression on the monitoring of administrative barriers to small business data, the results show that regulatory reform has a positive effect on small business employment in regions with a transparent government (the study contrasting regions based on the transparency of their governments). Looking at the outcome of reforms in the Samara region, reform on firm registration resulted in an increase in 1% point of the small business share.

Gamboa-Cavazos and Schneider (2007) conducted research on bankruptcy law reform in Mexico. The bankruptcy law, which had been overly protective of the debtor, was reformed in May 2000, thereafter limiting the rights of debtors. By using data from 78 bankruptcy cases from 1991 to 2005, the results showed that changes in the law led to a decrease in the average time spent in bankruptcy from 7.8 years to 2.3 years, along with higher rates of recovery from bankruptcy from US\$0.19 to US\$0.32.

Besides simplification of procedures, regulatory reform can also take place as formalisation of property rights. There are many examples on how this

formalisation can benefit the economy, as shown by Ali et al. (2016). The research of Galiani and Schargrodsky (2010) shows that the formalisation of property rights in Rwanda and Buenos Aires can lead to increasing long-run investment. Ali et al. (2016) find that successful land tenure regularisation can lessen social disputes and tensions arising, thus ensuring greater transparency and equity in terms of government revenue collection. From 2014 to 2015, the government of Rwanda secured around US\$2.6 billion worth of mortgage against fraud. Galiani's research on Buenos Aires shows that when Congress passed a law expropriating lands from the rightful owners and transferring the entitlement to informal settlers, the result was an increase in housing investment and quality of education of the informal settlers.

After noting how both regulatory burdens and regulatory reforms affect economic performance, reducing unnecessary activities by government on businesses may play a role in ensuring efficiencies in business regulatory regime. Regulation of the sector is necessary but simplicity, transparency, enforcement, and a focus on the regulation outcome are likely to result in a larger impact rather than prolific but poorly enforced regulations (Kenny, 2007).

[3] Regional and National Efforts at Promoting GRP

The academic studies indicate that heavy regulations or complicated processes impose burdens on firms and on the whole economy. Not surprisingly, the discussion above also indicates that regulatory reform, when done well, contributes to improved economic performance. Thus, the studies provide supporting data and information that can be used by proponents of change to make instituting regulatory reform a more attractive proposition in the face of political and bureaucratic hesitancy.

Regulatory reform requires changes in policies, institutions, administrative structures and procedures, and need strong buy-in from the most senior level of political leadership if it is to succeed. This section looks at both regional and national efforts at promoting regulatory reform and good practice in ASEAN in recent years.

3.1 | Regional Efforts and Initiatives

Pressure for regulatory reform is coming both at the national and regional levels. While the national level is where changes in regulatory procedure need to take place, the regional level is becoming an increasingly important arena for setting the agenda. This sub-section captures some of these developments.

Within ASEAN, governments started taking note of the problems faced by businesses as a result of a negative regulatory environment in the early 2000s. Discussion around GRP then gained traction with policymakers as a result of advocacy by the business community, as well as from the findings of studies by both academics and international organisations.

Following this, ASEAN economic ministers endorsed the ASEAN Policy Guideline on Standards and Conformance⁶ in 2005. With its focus on technical regulations and conformity, the guideline incorporated elements of good regulatory practice. In 2009, ASEAN went on to develop the ASEAN Good Regulatory Practice Guide. The objective of this was to instill a more uniform approach to regulatory management amongst ASEAN member states in the ‘preparation, compliance to and review of technical regulations’⁷ stages. In addition, the guide was to be used by regulators to adopt more efficient and transparent regulations and practices.

As indicated earlier in the chapter, the ASEAN Economic Community 2025 Blueprint emphasises GRP and good governance under Section B.6 (Good Governance) and Section B.7 (Effective, Efficient, Coherent and Responsive Regulations, and Good Regulatory Practice). Among the strategic measures under B.7 are the undertaking of regular reviews of existing regulatory implementation processes and procedures for further streamlining, institutionalisation of GRP consultations and informed regulatory conversations with various stakeholders, the setting of possible targets and milestones concerning assessments of the regulatory landscape in the region, and capacity building on GRP and regulatory reform.

⁶ <http://www.asean.org/uploads/archive/20531.pdf>

⁷ <http://regulatoryreform.com/wp-content/uploads/2015/08/ASEAN-Good-Regulatory-Practice-GRP-Guide-2009.pdf>

The bias for GRP is also stated in the section of the ASEAN Economic Community 2025 Blueprint on trade in goods, specifically embedding GRP in implementing domestic regulations, so as to minimise the compliance costs of meeting non-tariff measures. This is similarly repeated in the measure on standards and conformance, specifically, embedding GRP in the preparation, adoption, and implementation of standards and conformance rules, regulations, and procedures.⁸

Further work to promote good regulatory practice has been pioneered by cooperation between ASEAN and the Organisation for Economic Co-operation and Development (OECD). In 2014, the ASEAN–OECD Good Regulatory Practice Network was established to consolidate ASEAN and OECD endeavours on regulatory practice, including the exchange of best practices amongst members. The ASEAN–OECD Good Regulatory Practice Network meetings provided a government-to-government platform to discuss GRP, bringing together regulatory policy officials from ASEAN, OECD, and other institutions, including ERIA, with the objective of supporting AMSs in implementing GRP.

At a meeting of the ASEAN–OECD Good Regulatory Practice Network in 2017, discussions continued as to how the network can promote GRP through support for the ASEAN Secretariat. It also discussed the regulatory challenges faced by small- and medium-sized enterprises (SMEs), which comprise around 95% of business enterprises in AMS. Thus, their involvement and ability to be heard is critical as it is essential that there are opportunities for SMEs to contribute fully to the economy and to become integrated within global value chains.

Thus, at the ASEAN level, the discourse around GRP is growing. However, in the absence of international regulatory alignment or enforcement mechanisms, regulatory reform must be tackled at the country level. At this level, countries in the region are moving at differing paces. Nonetheless, in virtually all of them, there is a growing political commitment to improve the regulatory regime in the countries and, in most cases, with the expressed objective of improving the ease of doing business in the countries. For the case of Viet Nam, joining an

⁸Taken from ASEC (2016), *ASEAN 2025: Forging Ahead Together*. Jakarta: The ASEAN Secretariat, pp. 63, 76–77.

extra-regional grouping where the pursuit of GRP is a binding commitment, as with the Comprehensive Program of Trans-Pacific Partnership, the creation of obligations on a country has become a catalyst for regulatory reform and the implementation of good regulatory practices in the future.

3.2 | National Initiatives

The seven countries included in this volume have all been undertaking regulatory reforms, albeit at different speeds and with different outcomes. Progress in regulatory reforms has been dependent upon the body politic of each country which defines and affects political will and the ability to implement and change laws, institutional structures, and reform.

3.2.1. Malaysia⁹

Malaysia has been assiduous in reviewing and improving administrative procedures, reviewing and improving the quality of existing and new regulations, and improving the quality of its regulatory management system, especially since the Ninth Malaysia Plan (2006–2010). Indeed, improving the country's regulatory regime (i.e. improving the quality of its regulations, strengthening its institutional capacity, and instituting GRP principles in the bureaucracy) has been a major pillar of the country's competitiveness and growth strategy, especially since the Tenth Malaysia Plan (2011–2015).

Of special interest is the country's drive for the modernisation of business regulations overseen by a high-level public–private task force called PEMUDAH, established in 2007, with its various working groups composed of government officials and private sector leaders. The secretariat of the PEMUDAH Task Force is MPC. The MPC also works with the National Planning Development Committee in the implementation of the National Policy on the Development and Implementation of Regulations, launched in 2013 and which sets out the policy principles institutionalising GRP in the country.

⁹ This section drew on information shared by Mohd Yazid Abdul Majid of the Malaysia Productivity Corporation.

The MPC has been at the forefront of conducting reviews on regulations to create a more competitive business environment since its origins in 1962. Having MPC as an autonomous agency to carry out this work has given Malaysia a long history of advancing regulatory reform, a task embedded in Malaysia's national development plans.

Thus, the Tenth Malaysia Plan (2011–2015) mandated MPC to carry out regulatory reviews to facilitate the ease of doing business. These reviews draw on the expertise and perspectives of different representative stakeholders from the public and the private sectors. MPC has since undertaken several initiatives under the Modernising Business Licensing programme to simplify the processes and procedures aimed at enhancing a regulatory environment that is business-friendly and supports the nation's overall developmental goals. These initiatives culminated in the introduction of the National Policy on the Development and Implementation of Regulations, which aims to implement GRP in the rule-making process across all federal ministries and agencies.

The Eleventh Malaysia Plan (2016–2020)¹⁰ reiterates the government's commitment to regulatory reform through efforts to transform the public services for greater efficiency and productivity. This includes eliminating unnecessary bureaucratic processes including approval for licences and permits as well as rules and regulations that are not in line with current needs.

The MPC has also been mandated by the Services Sector Blueprint (2015–2020)¹¹ to undertake initiatives on sectoral governance reform to remove structural barriers and outdated regulations by accelerating and increasing the efficiency of sectoral governance reform and ensuring that the best regulatory development practices are in place for new regulations by expanding and accelerating the adoption of the National Policy on the Development and Implementation of Regulations.

Among the five strategic thrusts of the Malaysia Productivity Blueprint launched in May 2017 is 'Ensuring Robust and Accountable Eco-System which aims

¹⁰ *Eleventh Malaysia Plan: Strategy Paper 18 – Transforming Services Sector* <http://rmk11.epu.gov.my/pdf/strategy-paper>

¹¹ <http://www.epu.gov.my>

mainly to address regulatory constraints and developing a robust accountability system to ensure effective implementation of regulatory reviews'. The blueprint recommends expanding the guillotine approach, which is used widely around the world to rapidly streamline regulations. The guillotine approach requires each ministry to list business regulations within their purview and highlight regulations that are no longer relevant or justified. A review of all business regulations is also necessary, specifically focusing on cross-agency and cross-ministerial regulations.

The development of the RURB methodology by MPC can be understood in the above mentioned context of MPC's role as a critical cog in the review and improvement of business regulations in the country.

3.2.2. Viet Nam¹²

In Viet Nam, RURB fits in with an ongoing, agenda for structural reform, where institutional reform, to support the micro level and enhance microeconomic efficiency, has been acknowledged. The RURB is one way to achieve this, alongside other instruments for reform such as regulatory impact assessments and international regulatory cooperation.

Viet Nam has been aggressive in streamlining its government administrative procedures, exemplified by Project 30, and in improving the quality of regulations in the country. Project 30, formally known as the Master Plan to Simplify Administrative Procedures, is a comprehensive inventory and review (as to necessity, legality, and user-friendliness) of all of the administrative procedures on the four levels of government of Viet Nam. The aim was to simplify and/or delete at least 30% of all administrative procedures as well as reduce by 30% the administrative and compliance cost of such procedures. The achievements of Project 30 have been remarkable, with 93% of all the administrative procedures to be streamlined indeed streamlined by the end of 2014.

¹² This section drew on information shared by Nguyen Anh Duong of the Central Institute for Economic Management, Viet Nam.

The success of Project 30 led to the program called Regulation 19/NQ-CP in 2014 which is a continuing initiative aimed at improving the business environment, with targets benchmarked to the average of the top four AMSs in the EODB indicators. The end of 2017 was set as the target for Viet Nam to be at least equal to the average of the ASEAN4¹³. This was not achieved, however, for reasons that included slow progress on indicators such as starting a business, enforcing contracts, providing e-services for the public relating to business, and production activities. On issues in which progress was slow, there is a lack of enforcement mechanisms over the agencies responsible for furthering reform.

Despite these initial setbacks, however, Viet Nam raised its overall ranking by 31 places in the 2018 EODB report (see Table 1).

Table 1: Changing Rankings for Ease of Doing Business

	Country	EODB Ranking	
		2013 *	2018 **
1	Brunei	79	56
2	Cambodia	133	135
3	Indonesia	128	72
4	Malaysia	12	24
5	Philippines	138	113
6	Thailand	18	26
7	Viet Nam	99	68

Note: * <http://www.doingbusiness.org/-/media/WBG/DoingBusiness/Documents/Annual-Reports/English/DB13-full-report>.

** <http://www.doingbusiness.org/-/media/WBG/DoingBusiness/Documents/Annual-Reports/English/DB2018-Full-Report.pdf>; p.4

Source: World Bank, 2018.

Viet Nam's joining the Trans-Pacific Partnership (now the TPP-11 or the CPTPP) is indicative of its resolve to push further domestic regulatory reform and to instill its commitment to regulatory coherence. In addition, through its commitment to the Renewed APEC Agenda for Structural Reforms 2016–2020, Viet Nam aims to adopt good regulatory practices, including regulatory impact analysis, public consultation, ex post review, RURB, and international regulatory cooperation.¹⁴

¹³ Including Malaysia, the Philippines, Singapore, and Thailand.

¹⁴ Note: CIEM represents Viet Nam at the APEC Economic Committee, responsible for RAASR.

3.2.3. Philippines¹⁵

The National Competitiveness Council (NCC)¹⁶ is the lead agency to amend, consolidate, delist, and repeal regulations in the Philippines. Its current format was established by Executive Order No. 44 in June 2011. A key objective of NCC is to create a more competitive business environment. Fostering strong public–private sector dialogue is a central tenet of this, as is pushing forward an Action Agenda for Competitiveness.

From within NCC – and its nine working groups focusing on areas including anti-corruption, business permits and licencing system, transport, infrastructure, trade and logistics – it is Project Repeal,¹⁷ with its ‘Red Tape Challenge’, launched in March 2016, that most resembles RURB. Its focus is to cut red tape, similar to initiatives piloted in the United Kingdom and Korea. The Project Repeal also includes applying cost-benefit analysis / standard cost model to its work.

However, there are also differences between Project Repeal regulatory review and RURB. For example, Project Repeal looks at regulations per agency whereas RURB, being sector specific, applies an inter-agency approach. Other differences include Project Repeal not including an Issue Paper – important for setting the context of the review – as well as public consultations as a critical element of the process. However while existing regulations are not being regularly reviewed under Project Repeal, there is potential for it to do so.

As seen in Table 1, the overall competitiveness of the Philippines has improved since the establishment of NCC, the EODB ranking being just one of those included in the Global Competitiveness Report Card.¹⁸ Although the achievements listed in the Global Competitiveness Report Card are numerous,¹⁹ for now no studies actually link NCC to this improvement.

The Philippines enacted the Ease of Doing Business and Efficient Government Service Delivery Act on 28 May 2018. This law repeals the Anti-Red Tape Act and aims to make the process of putting up and running a business in the country

¹⁵ This section drew on information shared by Ma. Kristina P. Ortiz of the Philippine Institute for Development Studies.

¹⁶ For more information about the NCC, see: <http://www.competitive.org.ph/about-us/about-ncc>

¹⁷ See: <http://www.competitive.org.ph/node/1361>

¹⁸ See: <http://www.competitive.org.ph/rankings/>

¹⁹ See: <http://www.competitive.org.ph/achievements>

easier and more efficient as well as address the perennial and serious problem of red tape in the government by setting mandatory targets of processing times for different types of transactions (see Buban, 2018). Thus, there is now stronger legal foundation for regulatory improvement in the country assuming strong political will to implement it.

3.2.4. Thailand²⁰

Compared to Malaysia and Viet Nam, the drive towards streamlined procedures and improved regulations in Indonesia, the Philippines, and Thailand have been less systematic and government-wide up until very recently. Of the three, Thailand has the higher international ranking in the EODB ranking. Until 2015, Thailand's regulatory reform had been largely sectoral because ministries are given legal authority and large leeway in setting regulations, especially in light of the usual coalition governments in the country. Thailand has also mandated international regulatory cooperation on proposed new regulations to the Council of Ministers; however, international regulatory cooperation has been largely of unsatisfactory quality for legislative purposes. What may have tempered the potential adverse effects of new regulations is the Thai model of an inter-agency committee of officials from the issuing agency and related agencies affected by the regulation and outside experts (from, for example, academia and the private sector). Such inter-agency committee can issue, change, and scrap a regulation. (See Ongkittikul and Thongphat, 2018, this volume).

Nonetheless, Thailand issued in 2015 two landmark measures that provide strong legal foundation to government-wide efforts at improving the regulatory management system in the country. Specifically, the Royal Decree on Review of Law B.E. 2558 (2015) requires all portfolio ministries to report all laws under their responsibilities to be accessible to the public in English; review all laws every five years for improvement, revision, or deletion; and prepare an annual report on the implementation of the decree. The Licensing Facilitation Act B.E. 2558 (2015) mandates that government agencies requiring licences need to review every five years if such requirements need to be revised or stopped as well as to prepare licencing manual detailing rules, procedures, and conditions, and to set service link centres to accept request applications and provide

²⁰ This section drew on information shared by Sumet Ongkittikul of the Thailand Development Research Institute.

necessary information to the public. In addition, the Public Sector Development Commission needs to ensure that the workflow and period of the granting of the licences by the government agencies are in accordance with good governance rules and principles.

It is apparent that if the two laws get implemented well, Thailand would have a strong foundation to move aggressively forward in improving further its regulatory regime. RURB would be a significant mechanism for the review process of existing laws, regulations, and procedures as mandated in the Review of Law and in the streamlining of the licencing process in the country.

3.2.5 Indonesia²¹

Table 1 shows that Indonesia experienced the biggest improvement in its EODB ranking among the countries in this volume. Yet ironically, Indonesia has long-held reputation of having an unfriendly investment environment, where the regulations are restrictive, excessive, and/or poorly designed and administered. The significant improvements are a reflection of the improvements in the regulatory regime arising from the series of deregulation packages introduced since the late 2015, including improved investment facilitation, reduction in tariffs, some deregulation in investment banking, and opening up more sectors to foreign direct investment.

Despite the significant improvements in ranking, however, Indonesia's rank remains comparatively low in comparison with the major AMSs (Table 1). This suggests that there is much more room for improvement, with plenty of regulatory bottlenecks still remaining and hampering investment in Indonesia, especially at the local level.

The regulatory regime in Indonesia is prescribed by Law No. 12/2011 (with its implementing Presidential Regulation No 87/2014), an amendment to Law No. 10/2004. This law states that an academic draft must be submitted in support of the new law. The academic draft must include legal analysis – analysing whether or not the proposed law is in conflict with the existing regulatory framework – and an impact analysis, although lacking in specifics. In practice, the

²¹ This section drew on information shared by David Christian and Adinova Fauri of the Center for Strategic and International Studies, Jakarta.

academic draft as a justification for the law is a formality, and without economic analysis supporting the regulation, the impact of the laws has been limited. The law does establish a consultative mechanism for different ministries and agencies to work together, but does not include a framework for the review of existing regulations, and the academic script process is not being applied to justify ministerial or local regulations.

To boost the business climate and overcome the deficiencies of the current regulatory framework, the government of President Joko Widodo launched an initiative to cut regulations. In December 2015, it was widely and erroneously reported that around 42,000²² regulations would be cut. In reality, this is the approximate number of all regulations in Indonesia based on a recent survey by the National Development Planning Board. Of these, only a fraction are related to business.

How the cuts are being made and by which state agency appears unclear and uncoordinated, as different state offices manage their own regulatory reform programmes. For example, the Coordinating Ministry for Economic Affairs is primarily in charge of the production and evaluation of ‘economic policy packages’, while both the Office of President and the Vice President’s Office each pursue their own deregulation initiatives – for example, the Vice President’s Office focusing on those affecting SMEs. The National Development Planning Board has approached the issue by mapping every regulation and, in 2015, issuing a national strategy for regulatory reform. However, as a strategy, it does not provide any guidelines for implementation. Task forces have been established to look at different sectors and identify where regulations are hampering business, but these task forces are mandated only to produce recommendations.

The Coordinating Ministry for Economic Affairs has been responsible for issuing the 16 high-profile ‘economic policy packages’ issued up until August 2017. Resulting from the first 15 packages, around nine regulations have been repealed, 31 revised, 35 merged, and 89 replaced, alongside 49 new regulations that have been added to the books. However, identifying the regulatory

²² Retrieved from: <https://www.cnnindonesia.com/nasional/20151209002854-20-96921/jokowi-cukur-42-ribu-regulasi-listrik-agraria-dan-energi/> 22 January 2018.

bottlenecks has been ad-hoc and mostly confined to certain sectors rather than applying a systematic and comprehensive approach. The process has also been top-down with little involvement from the business sector.

Thus, in Indonesia, there is yet no single institution leading or coordinating regulatory reviews, or requiring periodic reviews. Still, new regulations are being created without the need for strong justification and economic analysis. Indeed, the situation in Indonesia has been further complicated by a 2017 Constitutional Court ruling that has removed the right of the Ministry of Home Affairs to revoke local-level regulations from Indonesia's 34 provinces and 502 districts, the sources of many of the problematic regulations.

It is worth noting that the spate of deregulation packages as well as regulatory and process improvements have been undertaken after Indonesia's commodity export boom ended with significant declines in commodity export prices. In contrast, there was not much reform during the commodity boom period before the 2007–2008 global financial crisis. That is, Indonesia tends to undertake reforms when the overall economic climate is less favourable. Since the country has not yet returned to its previous boom period and as the competition for investment has heated up even within ASEAN, the pressure for Indonesia to reform further and be more competitive remains substantial. In light of the above, RURB can contribute to deepen the participation of the private sector in the regulatory reform process in the country and engender more structured and robust 'regulatory conversations' between the private sector and the government regulators including at the local level.

3.2.6 Cambodia²³

Addressing issues related to RURB is one of the development objectives identified by the Royal Government of Cambodia in its 2013 Rectangular Strategy, Phase 3, and its National Strategic Development Plan 2014–2018. The Industrial Development Policy 2015–2025 has also emphasised improving both the legal environment to enhance competitiveness and the investment climate by promoting trade facilitation, providing market information, and reducing

²³ This section drew on information shared by Oum Sothea of the Royal University of Phnom Penh – Adelaide Policy Studies Center.

business transactional fees. It specifically set a target to reduce and abolish repetitive and non-transparent procedures.

An important action is related to the review of various regulations and to mainstream regulatory impact assessment, following technical assistance provided by the Asian Development Bank. While international regulatory cooperation is not mandatory, it is gradually shaping the way in which regulations are introduced. When effective, international regulatory cooperation can contribute in providing relevant information to decision-makers (in various regulatory agencies/ministries) concerning the costs and benefits of introducing new regulations. This includes crucial analysis of whether the proposed regulation is redundant or overlaps with existing regulations. Thus, impacts and related problems or concerns can be analysed and consultations with stakeholders, including the private sector, can be held.

The RURB fits well with practical needs and is in line with the government's reform agenda to improve regulatory efficiency and business environment in Cambodia. If systematically implemented, RURB will contribute to an improvement in the efficiency of public service delivery and investment, reducing the cost of doing business and lowering entry barriers, strengthening business confidence and predictability of government decisionmaking and inter-agency coordination, improving trade facilitation, and cross border transport processes.

3.2.7 Brunei Darussalam²⁴

Government efforts to introduce policies and create a business-friendly environment have helped to improve the country's EODB ranking to 56 in 2018 (see Table 1), putting Brunei ahead of ASEAN neighbours, including Indonesia (72) and the Philippines (113). Although, Brunei's overall ranking is 56, certain areas still need improvement.

These efforts began on 1 April 2011 when the government engaged all district offices and municipal boards to speed up the miscellaneous licence issuance.

²⁴ This section drew on information shared by Haji Masairol Haji Masri of the School of Business and Economics, Universiti Brunei Darussalam.

Onebiz,²⁵ an on-line business licencing system, was developed to facilitate this by streamlining, simplifying, and integrating the application processes of licences from various government agencies that previously were done separately by applicants. This involved 14 government departments and agencies that were responsible for producing licences and approvals.

Before 2015, it could take up to 101 days and 15 procedures to start a simple or low-risk business in the country. This changed when the Business License Act was amended on 1 January 2015. According to the World Bank report, it now takes 14 days for potential investors to start a business in the country. To start a business, an applicant has to register for a certificate at the Ministry of Finance before obtaining a business licence. With the introduction of the online business registration portal, through Registry of Companies & Business Names under the Ministry of Finance, it takes one working day to process and approve the incorporation certificate of business registration for companies classified as 'simple and low risk'.²⁶

'Low-risk' or 'simple' businesses are able to operate once registered and in possession of the registration of certificate and an occupational permit. This improvement benefits SMEs, which make up the majority of business, and will help promote a more favourable business environment for local and foreign companies.

In December 2015, the government established 'Business Environment' under the 'Prime Minister's office, and later placed under the Department of Energy and Industry'. Accordingly, the Ease of Doing Business Unit and National Standards Centre, which were previously under the Ministry of Industry and Primary Resources, now operate under the department's Business Environment Division. This administrative change provides a special focus on EODB.

Another government initiative was the establishment of a 'delivery unit'. On 6 March 2014, with the consent of H.M. the Sultan of Brunei Darussalam, the unit was created under the Prime Minister Office. Chaired by the Crown Prince, who is also the senior minister at the Prime Minister's Office, the unit aims to identify

²⁵ OneBiz, <http://www.mpri.gov.bn>

²⁶ Registry of Companies & Business Names, <http://www.roc.gov.bn>

priority areas within government agencies and provide assistance and advice in the planning and monitoring of projects. The unit, known as PENGGERAK, stands for Piloting Exclusive National Goals, Gearing Excellent Results and KPIs.²⁷

[4] RURB Methodology

The RURB methodology used by the country teams was pioneered in the region by MPC. As institutionalisation of GRP and experience of RURB in each country differs, the studies should be seen against the backdrop and varied experiences of implementing regulatory reforms in the different national environments.

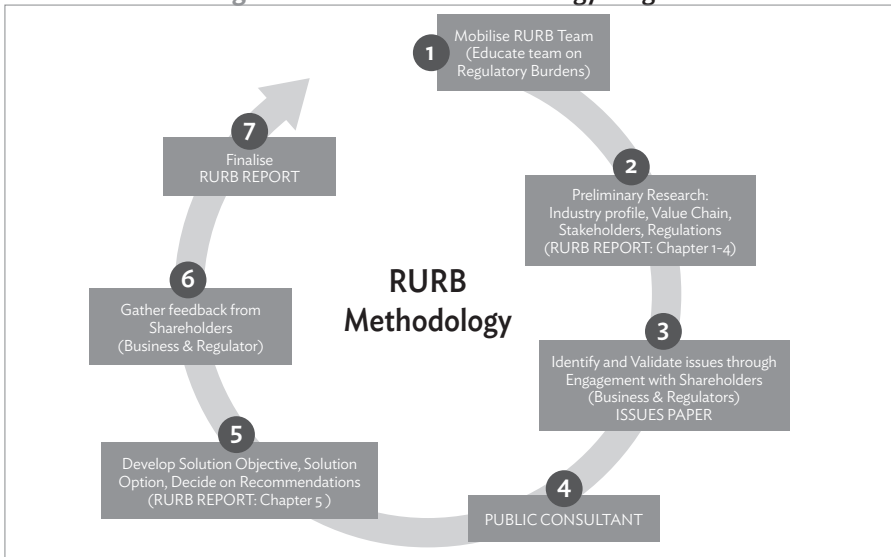
The RURB methodology requires problems and solutions to be identified and proposed based on dialogue between two stakeholders: regulators and business. These dialogues are mediated by an agency playing the role of honest broker between the two sides. Introducing ‘informed regulatory conversations’ and an independent agency can help overcome the otherwise persistent problems of intransigent interests and a lack of awareness of the other side’s perspective on issues. The multiple steps to be followed for RURB are illustrated in Figure 1.²⁸

The first step is to select the industry or sector to focus on. Following the identification of the sector, all regulations affecting the sector, in addition to the responsible regulators for the different regulations, are listed and mapped onto the value chain for the sector. For the purposes of this study, studies used the MPC definition of a regulation, which includes laws, by-law, and rules and directives issued and maintained by an authority to regulate behaviour. Guidelines and administrative circulars are included in this definition of a regulation.²⁹ Regulatory instruments include licence, permit, registration, notification, payment, and deposit.

²⁷ Penggerak, <http://www.jpm.gov.bn>

²⁸ Slide from presentation, ‘RURB: Reducing Unnecessary Regulatory Burdens on Business’, RURB Methodology, by Dr Izhar Che Mee, Renaissance Hotel, Kuala Lumpur, 12 September, 2015.

²⁹ ‘A Guide to Reducing Unnecessary Regulatory Burdens: Core Concepts’, Malaysia Productivity Corporation, 2014.

Figure 1: The RURB Methodology Stages

Source: Malaysia Productivity Corporation.

Once collected and listed, the regulations are analysed to identify the purpose and function of the regulations. Questions developed around the regulations are then written up in an Issues Paper, which is then shared with the stakeholders: regulators and those representing the private sector (both individual companies and business associations) in public consultations. These consultations can take on a variety of forms, including sharing on websites, by email or hardcopy to businesses, as well as actual meetings.

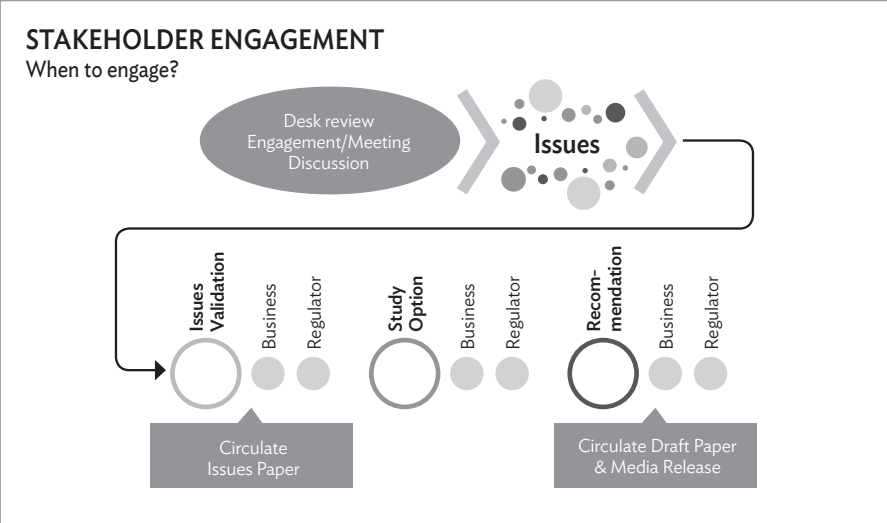
Based on the feedback, the study team next identifies solutions to the problems and proposes recommendations and options concerning each regulation found to be burdensome. Studies should also note where regulations are meeting their objectives, where they can be improved, and where they can be simplified without any risk. Around 12 weeks are needed for the feedback period if the issues are complex. Figure 2 shows the different stages of stakeholder engagement.³⁰

Central to deciding the effectiveness and efficiency of regulations is an assessment of compliance costs and administrative costs. The former are the costs encountered by a business in complying with regulations. This takes

³⁰ Slide from presentation, 'RURB: Getting buy-in from Stakeholders: Regulators and Businesses', by Mr Mohd Yazid Abdul Majid of MPC, Hotel Renaissance, Kuala Lumpur, 12 September, 2015.

into account factors including time, internal resources, hiring expertise, and payments to regulators. Administrative costs are the costs encountered by a regulator to administer or enforce the regulations, including time and the number of staff to process and approve applications. Solutions are then shared with both the business community and regulators for a round of feedback. After feedback is received from all sides, the final report is drafted.

Figure 2: Stages of Stakeholder Engagement



Source: Malaysia Productivity Corporation

The steps in Figure 1 do not include the ‘solutioning’ stage of the RURB process, where the solution agreed to by both the regulators and the private sector are pilot tested and eventually implemented if the results warrant its full implementation. This is the ultimate rationale for the RURB process: the engendering of a consensus by both the regulators and the private sector on a specific path or option that reduces the regulatory burden on the private sector. The MPC’s experience of solutioning is that the pilot testing, refinement, and evaluation of the solution can be a lengthy process (see Box 1, Chapter 2 by Majid, Goh and Lok,).

[5] ERIA's Study on Reducing Unnecessary Regulatory Burdens

In applying the RURB methodology for the ERIA project, a number of adjustments and allowances had to be made. First, most of the country teams are researchers or from research institutions, unlike MPC which is a government institution with the mandate to help the private sector on productivity initiatives. As such, MPC has a clear government mandate to review business-related regulations. Having a mandate, being known and with a track-record make it easier for MPC to reach out to both the private sector and regulators, and for its findings to have an impact. The ERIA project, by contrast, is primarily a research project, albeit applied research, with the end aim of understanding the RURB concept and methodology and determining its applicability to other AMSs.

Second, although the RURB methodology includes finding solutions to issues and generating options to address these problems, this project did not apply solutioning. This is because solutioning the piloting of options in the implementation stage, based upon agreed options, as noted above, is time consuming and presupposes the making of political and inter-agency decisions around options that are beyond the scope of research institutions and this study.

Third, it was not possible to obtain quantitative analysis on the cost and benefits of the options examined. For the most part, the studies rely on qualitative analysis, in part because of the lack of data but also due to the time constraints imposed by this study.

These shortcomings aside, the country studies in this volume were able to test the RURB methodology in relation to the mapping of issues, establishing regulatory conversations, and coming up with an array of options to issues encountered. Furthermore, the results of the country studies indicate that despite the limitations stated above, RURB done well can add significant value to the regulatory reform process in AMSs.

5.1 | Industry Case Chosen

The first stage in the application of RURB to other AMSs is the choice of the industry or sector for the case study. The list of industries or sectors chosen for the AMSs is given in Table 2. The industries or sectors chosen by the country research teams are either ASEAN priority industries/sectors or of significant policy and development import on a given AMS. This volume also includes a special paper on a successful RURB case for regulatory reform in the sewerage works in Malaysia, which provides a number of important lessons of interest for other AMSs.

Table 2: Study Sectors and Participating Research Organisations

Country	Research Organisation	Sector
Brunei	University of Brunei Darussalam School of Business and Economics	Halal meat processing sector
Cambodia	Royal University of Phnom Penh – Adelaide Policies Studies Center	Agro-industry
Indonesia	Center for Strategic and International Studies	Automotive industry
Malaysia	Malaysia Productivity Corporation	Warehousing services
Philippines	Philippine Institute for Development Studies	Tuna industry
Thailand	Thailand Development Research Institute	Road passenger services
Viet Nam	Central Institute for Economic Management	Fishery exports

The following gives a brief description of the industries or sectors chosen:

Brunei Darussalam: Halal industry

Reliance on the oil and gas industry has made Brunei vulnerable to world fluctuations in oil and gas prices, e.g. the low oil prices of below US\$60 per barrel particularly affecting the country’s export earnings and government revenue. To address this, the government of Brunei plans to reduce its dependence on oil and gas by diversification, with the halal food industry – specifically, halal food (meat) processing – as one of the industries identified as new sources of revenue. It notes that in 2012, the global halal food sector was valued at US\$697.52 billion and expected to reach US\$829.74 billion by 2016.³¹ Brunei Halal became a focus of national planning with the announcement of Brunei Vision 2035 (along with the 9th National Development Plan 2007–2012). Besides halal products, Brunei also aims to develop itself in halal certification and as a service provider.

³¹ See: www.apfoodonline.com.

As Brunei's export of processed meat greatly depends on the price of imported products – Brunei is not producing its own meat – the ability to grow the sector is very dependent upon the regulatory environment for both the export and import of meat. The Brunei Darussalam country study provides an overview of the current state and future potentials for halal industry in a global context and details the regulatory restructuring designed, being implemented, and need to be done to promote Brunei's Halal Industry.

Cambodia: Agro-industry

Cambodia's agro-industry plays an important role in its economy, with 49% of the labour force employed in the agricultural sector. However, the sector contributes only around 26% of Cambodia's GDP as development of the agro-industry is constrained by several factors, including the complexity of regulations and licencing processes facing businesses working in this sector.

Noting the potential of the sector, the Royal Government of Cambodia, in its Rectangular Strategy, Phase 3, and its National Strategic Development Plan 2014–2018, intends to address burdensome regulations in the agro-industry as a development objective. This should help to reduce consumer prices along with time and costs for operating agro-business in Cambodia in a bid to increase competitiveness in both regional and global markets.

Indonesia: Automotive industry

The automotive sector is strategic for Indonesia as it is a leading export sector for the country and can propel Indonesia more deeply into global production networks, bring a large number of jobs, and support local SMEs. Nevertheless, production capacity in the Indonesian automotive sector lags behind that of Thailand despite having a huge domestic market. A major reason for this is that Indonesia's relatively competitive automotive production is offset by external bottlenecks and regulatory problems. Making the automotive industry a bigger export earner and a more dynamic driver of manufacturing growth in Indonesia calls for a reduction in regulatory burdens on the industry.

Malaysia: Warehousing

In Malaysia, around 40% of jobs are linked to export activities. This necessitates the logistics and trade facilitation sectors to work seamlessly so Malaysia can retain its competitiveness. A central element of the logistics and supply chain

management is warehousing, but this sector is facing many challenges to stay competitive as the demands on the sector are changing rapidly due to changing technologies and operations moving to large conglomerates that can afford to provide a wider range of services.

To remain competitive, the burdens acting as a drag on warehousing and preventing this sector from becoming more efficient need to be re-examined. Reform should benefit independent warehouses the most as they struggle to provide the specialised services, such as pre-retail services, demanded by clients. Increased efficiencies will allow SME warehouses to upgrade and meet the new demands on them.

Philippines: Tuna industry

The Philippines study focuses specifically on the tuna industry, of which the Philippines is a leading producer. However, the extent and number of regulations imposed on the industry is high, leading to pressure to improve the regulatory framework of the tuna industry. The regulatory burdens on the sector make many aspects of business difficult, such as in acquiring business permits, registration and licences for all types of fishing vessels, and certificate of product registration. Addressing these issues is important especially in light of the falling local tuna production since 2009.

Viet Nam: Fisheries industry

Fisheries is also the focus of the Viet Nam study. In Viet Nam, the sector has grown rapidly and, by 2014, fishery exports rose to nearly US\$8 billion following quick expansion in domestic aquaculture. This growth coincides with and, to some extent, relies on imports of fishery products for domestic processing. However, the import of fishery products has been insufficient to keep up with the demand for exports. To address this, blocks in the supply chain of fishery exports need to be addressed, especially the blockages related to imports, production and processing, and exports.

Thailand: Bus service industry

In Thailand, poor regulations around the bus service sector have resulted in operational inefficiencies and low-quality and unsafe services. The Thailand study therefore sets out to identify the impediments for operating passenger

bus services in compliance with existing regulations while reducing unnecessary regulatory burdens around business registration.

Malaysia's sewerage works: A success case

In an invited special paper for the volume, the case study on the sewerage works approval process in Malaysia demonstrates how the process of a regulatory and permitting agency—to address complaints of the private sector stakeholders—may call for reframing the issue and an intense examination and discussion on the true goal of an agency's legal mandate. The reframing of the issue and the results of the intense internal discussion within the agency and the associated accountabilities of alternative options enabled the agency to develop more cost-efficient risk-based approval processes that the private sector stakeholders welcomed.

5.2 | Key Findings and Insights

5.2.1. Importance of regulatory mapping and engagement with the private sector stakeholders

One of the key stages of the RURB methodology is the mapping of the regulations affecting the chosen industry or sector and interviewing key private sector stakeholders on the regulations they face and what they consider as burdensome. The country studies zeroed in on a few of the regulations of interest to the private sector. The discussion of the regulations in the country studies reveal a number of points, including:

- Well-intentioned regulations end up being ineffective or burdensome because of difficulties in implementation. An excellent example is the government-borne import duties (BMDTP) fiscal incentive programme of Indonesia wherein the government pays for the import duties of certain goods because they are not produced locally or the domestic substitutes are of poor quality and do not meet the needs of domestic industries that the government prioritises for development, such as the automotive industry. The BMDTP programme is conducted on an annual basis because its overall budget is regulated by the state budget law. However, utilising this facility involves long and involved processes and takes a long time. For firms, this means having their documents, industrial activities, and import plans verified

by PT Surveyor Indonesia, getting a certificate of industrial verification, and submitting their revised import plans to the Ministry of Industry before they can tap the facility. For the government, both the Ministry of Industry and the Directorate of Budget of the Ministry of Finance need to prepare the budget execution list that would allow withdrawal of funds for the programme. Firms would report their application for BMDTP to customs together with their revised import plans. Only after the Ministry of Finance has decreed that the specific company is entitled to BMDTP would the firm be able to take advantage of the facility. As this facility is on an annual basis, businesses tend to have only five months of each year to utilise it, rather than a programmed 12 months, thereby leading to substantial underutilisation of the facility. (See Aswicahyono et al., 2018, this volume.)

Implementation issues characterise many of the burdensome regulations faced by Philippine businesses. For example, starting a business involves securing a business registration and a mayor's permit. However, the number of days, signatures, clearance requirements, and processes differ very widely among municipalities and cities in the country. Similarly, exporters and fish processing plants need to secure licence to operate from the Food and Drug Administration as a requirement for hazard analysis and critical control points certification. However, there are less than a handful of Food and Drug Administration offices in the country to service thousands of food and beverage establishments spread all over the country; the on-line facility for applications is inefficient and not user friendly, and the on-site visits by Food and Drug Administration inspectors tend to get delayed. Also, local governments do not have a uniform process for issuing licences for municipal fishing vessels while the offices of Maritime Industry Authority and those of Bureau of Fisheries and Aquatic Resources can be in separate towns or cities, thereby making the process of registration and licencing of commercial fishing vessels more time consuming. (See Llanto, Oritz, and Madriaga, 2018, this volume.)

An example from the Malaysian study (see Warehousing Services chapter, Majid, Goh and Lok 2018, this volume) concerns businesses having to apply for multiple permits for various approvals, with the same information being resubmitted for each permit. Although there is no objection to the intent and purpose of the regulation, companies are incurring costs while

implementing the required regulations because they have to wait lengthy periods before receiving their planning and development approval, and the information businesses need to supply for obtaining different permits is duplicated.

Inadequate facilities can also stymie well-intentioned regulations. An example is that concerning testing requirements on imported fishery products in Viet Nam (Vo and Nguyen, 2018, this volume). In this case, both regulators and business agree with the importance of testing imported fishery products for health and safety reasons. However, it is the lack of available testing facilities that causes problems for importers. The problem, therefore, relates to implementation rather than intent, so should avail itself to mutually acceptable compromise. Similarly, limited and inefficient local laboratory facilities and technology for testing is also a problem for the halal sector in Brunei where meat can be kept at customs for too long a period (see Ahmed, et al., 2018, this volume).

Another example of a regulation designed with good intent but not providing benefit is from Viet Nam, where the study notes how both owners and direct producers of food products are required to train on food safety. This underestimates the professionalism of the business sector as those investing in business start-ups are aware of food safety and the need to employ qualified staff if they are to succeed (see Vo and Nguyen, 2018, this volume). Similarly, in the Malaysian study (see Warehousing Services chapter, Majid, Goh and Lok, 2018, this volume), we read about a regulation which requires warehouses to follow the same fire safety requirements irrespective of whether the warehouse is storing dangerous goods or not. As the author notes, a ‘one-size-fits-all’ policy is inappropriate. The frequency of environmental self-assessments and inspection, as noted in the Indonesian study (Aswicahyono, Christian, and Fauri, 2018, this volume), is another example.

- Regulations can impose unwarranted burdens on firms because of the lack of clarity of the regulations or their processes are based on a lack of understanding of the businesses that the regulations are meant to regulate. Regulations that lack clarity can be illustrated by the Brunei study concerning the insufficient guidelines for the halal certification process,

and by Malaysia's case, where there is a lack of transparency about rules and regulations concerning freight forwarding. From Viet Nam, product labelling is another example. In this instance, one inter-ministerial circular states all imported products must include Vietnamese language labelling while another decree states that such labelling is only required for imported goods intended for the domestic market. In Indonesia, conflicting regulations concerning environmental licencing in industrial zones are apparent. The private sector in the Philippine study also complains of the lack of clarity of guidelines on the procedures and schedule of fees for vessel licencing, including *barangay* (district) and *purok* (village) clearances and fees.

Similarly, regulations imposed on businesses without a clear understanding of the sector, and which can result in unintended consequences, can be illustrated with an example from Viet Nam. Designed without a clear understanding of the sector – in this case, who is importing fish and where the people who buy imported fish for export are purchasing from – Viet Nam's regulation results in creating difficulties for fish importers. A regulation on the minimum wage in Viet Nam supports a government wage policy, but when forced on the fishery sector, creates difficulties for businesses to follow. Viet Nam also requires onsite checking of exports before being able to benefit from a drawback in import duties. However, there is no link between onsite checking and drawback, making the regulation devoid of sense. (See Vo and Nguyen, 2018 this volume.)

From the Malaysian country study, there is a regulation that requires all developments to follow the provision of parking spaces in relation to the size of the development, without taking into account that a warehouse does not require the same parking provisions as developments for other types of usage. As a result, warehouses are unable to optimise their use of space productively.

In summary, the discussion above indicates that regulatory mapping and interviews with the private sector provide good insights as to which regulations are burdensome for the private sector and which regulations are ineffective. Many of the regulations are not 'unnecessary' per se, but the burden is 'unnecessarily large' because of the implementation problems or the regulations

are burdensome because the benefits are miniscule relative to the compliance cost.

5.2.2. Regulatory conversations and the crafting of the options and recommendations or agreements

The regulatory conversations and in-depth discussions with the stakeholders have proven to be fruitful in the crafting of possible solutions to the problems. Some solutions seem straightforward while others require legal or major policy changes. The Philippine study provides many examples of such straightforward solutions agreed upon by both the regulators and the private sector stakeholders. Thus, as examples, the following are some of the agreed upon courses of action (see Llanto et al., 2018, this volume):

- Local governments to provide clear guidelines on the procedure and schedule of fees for registration and permits, including barangay and purok clearances and fees;
- Local governments to implement the Joint Memorandum Circular No. 1 (of the Department of the Interior and Local Government, the Department of Trade and Industry, and the Department of Information and Communication Technology)³² requiring the release of business permits and licences within two days, and the use of a simplified application form;
- The Bureau of Fisheries and Aquatic Resources and the Maritime Industry Authority, the two permit- and licence-granting agencies, to establish one-stop shop offices in General Santos City fish port complex, as both agencies are located in different parts of the region. This complex is the most important tuna unloading and processing zone in the country.
- The Food and Drug Administration to conduct training and accreditation seminars in accessible locations (to the concerned firms) and not just in Metro Manila, Cebu, or Davao.

The Philippine country study contains many more examples.

³² Note that the name ‘Department’ in the Philippines is equivalent to ‘Ministry’ in other AMSs. The Philippines largely follows the American system of classification of agencies.

The Malaysian country study on warehousing (Majid, Goh and Lok, 2018, this volume) also provides examples of recommendations that are relatively straightforward and operational in character. Examples are the following:

- Establish, publish, and maintain guidelines on good warehousing practices, as the recommended solution to the problem of the lack of clarity and different practices by local authorities on how to operate a warehouse.
- Adopt special lane to cater low-risk development (e.g. warehouses) and develop a checklist and/or user manual as the recommended solutions to hasten the release of construction permits.
- Create a checklist and standards specific for various categories of warehouse in terms of fire requirements, instead of the one-size-fits-all fire safety requirement for both dangerous and non-dangerous goods that leads to higher compliance costs to warehouses catering to non-dangerous goods.

The Indonesian country study provides a number of examples of relatively straightforward recommendations and/or agreements after the authors evaluated other alternatives. Thus, for example, with respect to the BMDTP issue (AswicaHyono, at al., 2018, this volume):

- Start conducting early the initial verification (before the beginning of the calendar) instead of the practice of starting the initial verification process in January, because the verification process by PT Surveyor Indonesia takes more than three months.
- Create a ‘track-record’-based mechanism exempting trusted firms from the initial verification discussed in the previous item.
- Use the online information system developed in mid-2016 to speed up the validation process of the revised import plans of firms eligible for BMDTP.

The other country studies have similar examples where the recommended or agreed solutions are relatively straightforward. Also, some of the recommendations such as those in the Philippine and Indonesia country studies only require greater inter-agency coordination. The many examples of such relatively straightforward solutions suggest one major merit of RURB: Facilitated regulatory conversations between regulators and the concerned private sector can generate practical solutions on a number of largely implementation or operational issues. The more regular and continuous the facilitated regulatory

conversations among the regulators and the private sector is, the greater are the possibilities of finding better ways of implementing and even designing regulations that meet the goals of the regulations while at the same time reducing the regulatory burdens to the private sector.

The country studies indicate that there are suggested solutions to certain issues that would require changes in policy or in law. Thus, for example, in the case of Brunei Darussalam, the reduction in the number of officials for on-site audits of abattoirs for halal certification (agreed upon by the relevant agencies during the ‘regulatory conversation’ among regulators and the private sector) would require an amendment to the Halal Meat Act. In a similar vein is the recommendation in the Indonesian country study to revise the Government Regulation No. 142/2015 to exempt tenants located in industrial zones from preparing full environmental licence as an incentive to attract companies to industrial zones, especially those designated as special economic zones.

The Thailand country study (Ongkittikul and Thongphat, 2018, this volume) includes a policy recommendation of developing an efficient and demand-driven quality control system that would incentivise the bus operators and render the new quality control system effective. In the case of Cambodia, while the issue of informal payments in exports and imports can be addressed to some extent in the short run through the publication of official fees and the establishment of real-time complaint and reporting mechanisms, the long-term solutions recommended are related to stricter integrity measures and the increase in government salaries to more decent levels (Oum et al., 2018, this volume).

Arguably for these issues that require significant policy changes, a more institutionalised mechanism of government and private sector interaction that can monitor, review, and examine policies and programmes, new and old, would be needed to push for the solutions that require major policy changes or changes in law. This is because significant changes in policy and law involve much more time and consultations, and likely, changes in institutional mindsets, as the Malaysian case study on the national water services agency discussed below indicates.

5.2.3. Using RURB to reframe a regulatory institution's mindset: The case of Malaysia's National Water Services Commission (SPAN)

Indeed, the case of the Malaysian sewerage works application process (Naidu, 2018, this volume) indicates that long-lasting solutions may require total regulatory buy-in, serious institutional review, and rethinking and reframing of mandate and processes. The title of Naidu's paper, 'The Journey of Regulatory Reform in Removing Bureaucracy from the Sewerage Works Approval Processes in Malaysia', is telling. It is a journey because sometimes it takes a lot of time and a circuitous process which, in the case at hand, involves institutional reframing of the approach to achieve the goals of the institution.

We learn from Naidu that regulators can suffer from complacency and a failure to challenge their own assumptions. She writes, 'SPAN routinely engages stakeholders..to understand the challenges and impacts of the regulations. Although real estate developers.. have frequently raised issues...it has been assumed that the complaints..arise from their desire not to comply with requirements..' After the study was initiated in response to complaints heard by MPC, 'SPAN undertook an evidence-based study..to show, through facts, that the existing sewerage works approval procedures are the most appropriate for Malaysia.' These assumptions were all challenged through hard reflection as the case history proceeded.

That reframing ultimately meant the need to 'remove the bureaucracy' or rather more like transforming the bureaucratic approach into a risk-based approach, with the bureaucracy having a clear understanding of the various types of risk they deal with that are associated with the procedures involved and with the approvals issued. The result has been to ease up on the approval procedures for the lower-risk applications (where the majority of the applications fell), which allowed SPAN, Malaysia's sewerage agency, to reallocate human resources away from the desk-bound approval process and into on-the-ground monitoring and enforcement for enhanced quality of the sewerage works and infrastructure.

A key insight from the SPAN case is the importance of the purpose and intention of review. Naidu's involvement in the review of sewerage works approval processes began as part of her work at SPAN, and in response to complaints

received by MPC. Thus from the start, there were actual problems to redress, the reasoning behind the review was clear, and it was part of an institutionalised way of carrying out review.

It must be pointed out that the journey that Naidu described in the paper started with a study by MPC on all related approval permits for the construction industry. The study gave the industry players a platform to complaints and frustrations on SPAN, with respect to the approval process. Note that the issues were raised before but it took the MPC study to move SPAN to act on them. Two plausible reasons for acting on them are that (i) the MPC study was meant to improve Malaysia's scoring in the global Ease of Doing Business, which is a stated Malaysian government policy; and (ii) MPC has high credibility in both the government and private sectors, in part because it is the secretariat to Malaysia's PEMUDAH Task Force as well as MPC's recognised performance, professional competence of its staff, and overall impartiality. Thus, to a large extent, MPC became the *de facto* intermediary between the private sector and SPAN.

5.2.4. RURB, consensus-making, and the role of the intermediary

The country studies show that regulatory mapping, analysis of regulations and options, and engagement with the private sector and regulatory agencies, can unearth many instances of regulatory burdens, both in design and implementation, leading to unnecessarily large regulatory burdens. In addition, practical recommendations or agreements to reduce the unnecessarily large burdens can be generated.

In light of the above, the country studies in the ERIA project show that RURB has a huge potential as a support mechanism for the institutionalisation of GRP in AMSs and ASEAN. The RURB studies in this volume were implemented as an academic exercise, to show the potential benefits of regulatory review using the RURB methodological approach, with its own structured and disciplined way of identifying regulatory burdens. The studies were carried out in 'real time', where the concept and practice of regulatory review differs from country to country, so affecting the ease or difficulty of implementing an RURB study.

At the same time, RURB is about fostering a consensus-making approach to regulatory reform. Consensus coming from all stakeholders is genuinely considered in the development of options through on-going dialogue. Engagement with stakeholders must by necessity be involved, in-depth, and on-going to establish the relationship of trust, facilitate mutual understanding, and establish the status of trusted intermediary. This must necessarily be time consuming. The time commitment needed for a successful RURB is because of the actual time needed to make arrangements, meet and gather feedback from all stakeholders, in addition to the more understandable time needed to build trust among the public and private stakeholders. Naidu pointed out another reason for the time taken, which is for the task force members [in the SPAN case] to rid themselves of prejudices and avoid being influenced by ingrained assumptions. Thus, while this project is an academic study, the Malaysia sewerage works case shows that regulatory reform and RURB is, in reality, not an academic exercise in as much as it impacts on people and institutions.

This suggests that the status and role of an intermediary agency to act as interlocutor between regulators and business is critical to the eventual success of RURB. Stakeholders require confidence in the neutrality of the intermediary and belief that it will act as honest broker in developing solutions to problems. The interlocutor in the regulatory conversations would need to have credibility and persistence and clear understanding of the concerns of both the regulators and the business sector being regulated. Where RURB has already been institutionalised and the intermediary has a mandate from the government, this comes more naturally. The MPC benefits from its long-standing history and mandate of carrying out this work, and MPC is a trusted player by regulators and business community, both sides accepting it is trying to find the best possible solution. In Viet Nam, CIEM has been pioneering this, and also benefits from its mandated position to implement RURB studies, and a regulatory environment supportive of regulatory review.

Where RURB is not well established and no organization is mandated to carry out this work, undertaking a successful RURB is more difficult. As an example, in Indonesia, the Centre for Strategic and International Studies took on the role of intermediary for the study. However, as an academic organisation with no legal status for involvement in regulatory review, implementing RURB has proven to be difficult and time consuming because the initial reaction of the stakeholders

was one of wariness, defensiveness, and less willingness to finding common grounds.

Also, where there is yet no mandate to do regulatory review, the intermediary may face expectations from the private sector that the agreed-upon solutions would need to be pushed by the research institution through the policymaking process in the country. The Philippine Institute for Development Studies, which undertook the country study, faced the dilemma of managing such high expectations from the stakeholders. The credibility of the Philippine Institute for Development Studies for the private sector stakeholders lies in that the institution is a government institution with known strong linkages with policymakers and regulators.

It is apparent from the discussion above that as an intermediary, the ability to have a successful fruition in terms of the adoption of the RURB recommendations or agreements depends on having a mandate to carry out RURB. Without a legal mandate, even if solutions are accepted (verbally), the most the intermediary can do is to promote the findings of its study.

At the same time, the studies show the strength of RURB as a methodology for identifying problems and proposing solutions based on intensive dialogue between stakeholders, and how crucial trust is as an element to carry out the role of intermediary in the process. We see through the studies that the ability to perform the role of intermediary varies from one country to another, based on the mandate of the intermediary, the track-record of the intermediary, and the trust the intermediary can instil amongst stakeholders.

5.2.5. Regulatory reform and regulatory review

Naidu cautions that '[i]t is important not to simply introduce regulatory reforms as an academic exercise'. She notes that '[r]egulatory reforms should be based on the principles of good governance and, thus, should be participatory, consensus-oriented, transparent, responsive, effective, efficient, equitable, and inclusive'. She goes on to note that '[a]n effective engagement process provides valuable information that can be used to design effective regulatory or non-regulatory solutions'. Indeed, as Majid, Goh and Lok (this volume) note, regulatory review should ideally be ingrained in the normal order of governance,

part of '[a] well-functioning regulatory system...essential to enhance governance and promote stability, productivity, progress, and prosperity, while at the same time protecting public health and safety and the environment'.

Where regulatory reform is not an engrained way of thinking, study findings at most can influence key players to be attracted to RURB as a helpful tool for promoting regulatory reform. But reforming the workings of government will remain a massive challenge, so progress towards reform will remain incremental. Where regulatory review is being implemented systematically, applying RURB is easier but, it should be noted, the regulatory review approach being applied is still generally less intensive and engaging than the iterative RURB methodology.

In Viet Nam, the task of conducting regulatory reviews is handled by an agency responsible for preparing regulations. This brings three advantages. First, the drafting agency has access to whatever data are available on the subject. Second, the agency has the capacity to gather comments from the stakeholders already involved in consultations. Third, it is cost effective as the process does not need to be contracted out to an independent reviewer.

However, in-house reviews contain downsides that weaken their credibility as they can be seen to lack independence. If the review is carried out by the agency tasked with drafting regulations, it may be difficult to get fresh insights into the impact of the regulation as outside stakeholders may be unwilling to express their true thoughts when talking to the regulator. Finally, if done in-house, there may be less incentive to make a thorough and comprehensive review.

Another issue that affects the representativeness of regulatory reviews is the number of businesses engaged in the informed regulatory conversations. Furthermore, if the dialogue partner is a business association, it must be representative of the sector and its members. Thus, for example, the Vietnam Association of Seafood Producers and Exporters has many members and it can speak to the regulators on behalf of all members. However, other sectors tend to be dominated by a few big players that dominate the business association to the detriment of smaller members. In such a situation, the RURB process is less likely to suggest findings that benefit all members proportionately. Conversely, one should remember that for RURB to be successful, the government needs to be well represented. If the government does not

understand the objectives of the RURB study, it may not send the most appropriate officials along to the regulatory dialogues. Without the correct level of officials, it will be more difficult to formulate acceptable solutions and to get buy-in for supporting options. This poses a problem for RURB where the process is not already understood and accepted.

[6] Concluding Remarks

Against a backdrop of various national and regional efforts to promote GRP, the case studies show that RURB is a helpful tool for identifying regulatory problems and generating options to address them. The studies also show the extent to which regulatory burdens are hampering business, even in countries where regulatory review is embedded within governance systems and which rank highly in the EODB reports.

The country studies show that RURB can successfully identify problematic regulations, sectoral-wide and along the value and supply chain, and suggest options as solutions. A key strength of the methodological approach is the emphasis it places on dialogue as a key way to generate ideas, build trust between regulators and business, and create consensus between all parties about workable and agreed, if not best, solutions, to regulatory burdens without compromising health and safety concerns.

Informed regulatory conversations between stakeholders reveal and expose issues which can be agreed simply and potentially addressed without the need for an elaborate regulatory reform. Thus, through a process of mapping and robust consultations, changes can potentially be agreed at a minimum cost, but bringing a real, tangible and immediate impact on businesses. In other cases, findings will highlight more complex situations, ones which will take time and trust, along with improved institutionalised mechanisms, to bring about improvement, but still showing how the process of change must have inclusiveness.

Informed regulatory conversations highlight the different perceptions and nuanced understanding of all parties. Such subtleties are not captured by top-down, ministry-led initiatives to reduce regulations. RURB therefore offers

an opportunity to look beyond regulations and the problems created by their implementation through administrative rules and procedures that themselves can become a source of problems. Moreover, RURB, through dialogue with stakeholders, allows for an assessment of regulations, an evaluation of which ones are still needed or not, and an understanding of how the regulations work on the ground. The intermediary acts as a feedback loop from business to regulators who otherwise may fail to see the impact of regulations. Policymakers ideally make decisions based not just on qualitative judgements but also quantitative ones. The review of recent academic studies highlights the benefits that can accrue to business from regulatory reform. Cost-benefit analysis, or standard cost analysis, should thus be integral to the RURB approach as it allows the intermediary agency to prioritise different options, and the policymaker to make a decision based on quantitative data.

It should be noted that RURB has been designed to cut the burdens on business. Thus, it is private sector-oriented. However, it should also be remembered that implementing regulations costs the government money too, so cutting unnecessary regulations can create savings for the state, too.

As an academic study and in the absence of a legal framework that mandates RURB, the findings for most of the country reports are illustrative of the benefits that could be gained from RURB, without expectation of implementation. Indeed, even where a mandate does exist, as the case study from Malaysia shows, new sets of problems and challenges can emerge to challenge GRP even where regulatory review is longstanding and integral to a country's governance practices.

Where RURB and regulatory review had been absent or weak, conducting the country studies was fraught with difficulties. Without a history of dialogue between stakeholders or a belief that regulators work in good faith to try and bring about a win-win situation, it was difficult for the intermediary organisation to generate the options to various burdens. Thus, without even taking into consideration the regulatory burdens and the options suggested, the dialogue process involved in RURB in itself was an important first step to be taken to help show the potential value of this exercise. The results of this study are therefore

important as an evidence-based contribution that can help change mindsets by highlighting how RURB can engender beneficial outcomes to all stakeholders.

All countries in the region have enacted reforms to improve the regulatory environment in their country, but the impacts of these initiatives vary from country to country based on the approach to reform. The experiences of many countries in the world suggest that system-wide reforms with high levels of political buy-in lead to much more successful results. Thus, it is best to institutionalise GRP as the anchor of the system-wide approach to reform. The country studies indicate that the RURB methodology is a useful complement to and tool for the institutionalisation of GRP in all AMSs. It is also clear that the benefits of RURB are most apparent in an environment where RURB has the support and commitment from the most senior level officials.

The RURB works best where the practice is located within an independent body or is carried out by actors with a mandate to conduct RURB and follow-up on the findings. Where a clear mandate does not exist, regulatory reform lose direction and slows to the pace of inter-ministerial and agency coordination and standard operating procedures.

The studies in this volume show the potentially large benefits for business – and indeed the economy as a whole – in countries embracing RURB to improve business-related regulations. Where this is achieved, RURB will support the flowering of stronger, more efficient and competitive economies, improving employment prospects and livelihoods for the populace.

REFERENCES

- Divanbeigi, R. (2015), 'Business Regulations and Growth', Policy Research working paper; no. WPS 7299, World Bank.
- Aghion, P. B. (2008), 'The Unequal Effects of Liberalization: Evidence from Dismantling the License Raj in India', *American Economic Review* 98 (4), 1397–1412.

- Ali, D. A., Deininger, K. and Duponchel, M., 'Using Administrative Data to Assess the Impact and Sustainability of Rwanda's Land Tenure Regularization', World Bank Policy Research Working Paper No. 7705. June 16, 2016. Available at SSRN: <https://ssrn.com/abstract=2811353>
- Bruhn, M. (2008), 'License to Sell: The Effect of Business Registration Procedures on Entrepreneurial Activity in Mexico', World Bank Working Paper 4538.
- Buban, S.M and Nagallo, J., 'Trade Facilitation in Philippines and Results from ASTFI Baseline Study', Chapter for ASEAN Seamless Trade Facilitation Index. Unpublished manuscript, ERIA, 2018
- Ciccone, A. and E. Papaioannu (2007), 'Red Tape and Delayed Entry', European Central Bank, Working Paper Series No. 758.
- Clarke, G. R. (n.d.), 'Does Over-regulation Lead to Corruption?', Academic and Business Research Institute (AABRI) Manuscript.
- Djankov, S., R. L. Porta, F. López-de-Silanes, and A. Shleifer (2002), 'The Regulation of Entry', *Quarterly Journal of Economics*, February, 117(1), 1–37.
- Dreher, A. a. (2005), 'The Economic Costs of Corruption: A Survey and New Evidence', Public Economics 0506001, EconWPA.
- Fisman, R. and V. S. Allende (2010), 'Regulation of entry and the distortion of industrial organization', *Journal of Applied Economics Universidad del CEMA*, vol. 13, 91–111.
- Freund, C. and B. Bolaky (2008), 'Trade, Regulations, and Income', *Journal of Development Economics*, Volume 87, Issue 2, October 2008, 309–321.
- Galiani, S. and E. Schargrotsky (2010), 'Property Rights for the Poor: Effects of Land Titling', *Journal of Public Economics*, Elsevier, Vol. 94 (9–10), 700–729.
- Gamboa-Cavazos, M. and F. Schneider (2007), 'Bankruptcy as a Legal Process', Working Papers. Department of Economics, Harvard University.
- Kenny, C. (2007), 'Construction, corruption, and developing countries', Policy, Research working paper ; no. WPS 4271, World Bank.
- Klapper, L., L. Laeven, and R. Rajan (2006), 'Entry Regulation as a Barrier to Entrepreneurship', *Journal of Financial Economics*, 82, 591–629.
- Malomo, F. (2013), 'Factors Influencing the Propensity to Bribe and Size of Bribe Payments: Evidence from Formal Manufacturing Firms in West Africa', In: Pacific Conference for Development Economics.

- Norbäck, P.-J., L. Persson, and R. Douhan (2014), 'Entrepreneurship policy and globalization', *Journal of Development Economics*, 110, 22-38.
- Parker, D. a. (2012), 'Measuring Regulatory Performance.' The Economic Impact of Regulatory Policy: A literature Review of Quantitative Evidence. OECD.
- Poel, K., W. Marneffe, and S. Bielen (2014), 'Administrative Simplification and Economic Growth: A Cross Country Empirical Study', *Journal of Business Administration Research*, vol. 3(1), 45-58.
- Yakovlev, E. and E. Zhuravskaya (2011), 'Unequal Effects of Liberalisation on Diversification of Russia's Regions', European Bank for Reconstruction and Development Working Paper No. 128.

CHAPTER 2

A Comprehensive Horizontal Review on Existing Regulations to Create a Conducive Business Environment

Mohd Yazid Abdul Majid

Goh Swee Seang

Lok Lee Lee

Malaysia Productivity Corporation (MPC)

[1] Introduction

World Bank reports indicate that improving regulations could lead to the creation of a better business environment. To reaffirm this finding, the secretariat established under the ambit of Malaysia's Special Taskforce to Facilitate Business (PEMUDAH) closely monitored improvement initiatives from October 2011 to September 2017. *Doing Business 2018* (World Bank, 2017) shows that the Dealing with Construction Permits ranking for Malaysia improved tremendously to 11 out of 190 economies, from 113 out of 183 economies (World Bank, 2011).

The causes of slowdown in productivity are related to weakening demand and/or supply constraints brought about by cyclical and structural factors, slowing investment, more complex skills requirements, and a weak regulatory environment (Van Ark, 2015). Van Ark also underscores that the relationship between productivity growth and regulations is not linear. He stresses that regulations could increase entry costs and affect overall levels of competition and innovation, with implications for productivity.

[2] What Regulations Are Being Reviewed?

A well-functioning regulatory system is essential to enhance governance and promote stability, productivity, progress, and prosperity, whilst at the same time protecting public health and safety and the environment. Many regulatory policies have already proven their worth, supporting structural reforms, entrepreneurship, and market openness.

However, impacts should be assessed and regulations reviewed systematically to ensure that they meet their intended objectives efficiently and effectively in a changing and complex economic and social environment. Aspects of economic regulations that restrict entry, access, exit, pricing, output, normal commercial practices, and forms of business organisations should be periodically reviewed to ensure that the regulations' benefits outweigh the costs, and that alternative arrangements cannot equally meet the regulations' objectives with less effect on competition.

Regulatory intervention can often be justified where freely operating markets would deliver less than optimal levels and qualities of output, usually because the benefits the free market brings to individuals or businesses diverge from the benefits to society as a whole. When regulations are used appropriately, they address market imperfections so that total economic and social welfare is increased.

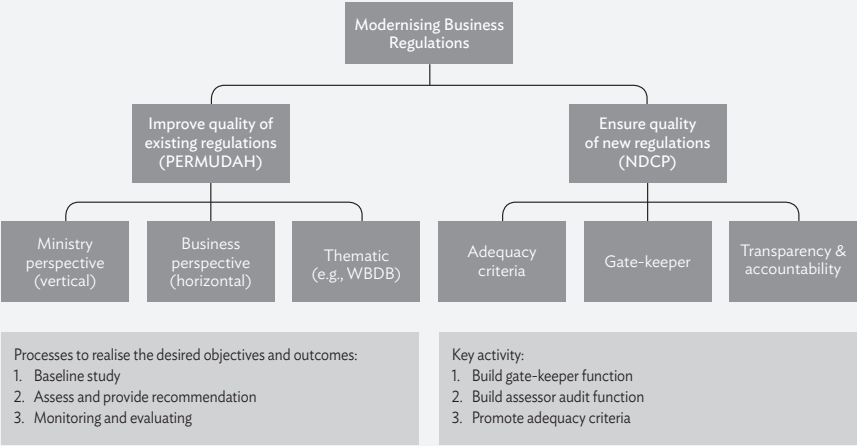
The regulatory environment has a substantial effect on the behaviour and performance of companies. Private sector participation in the economy and innovation require a regulatory environment that provides the necessary protections and guidelines, while promoting competition. Too often, Malaysian firms face a tangle of regulations that have accumulated over the years and now constrain growth. At the same time, regulations that would promote competition and innovation are absent or insufficiently powerful....

To achieve this goal, the Government will begin with a comprehensive review of business regulations, starting with regulations that impact the National Key Economic Areas (Prime Minister's Department, 2010).

**Box 1: Role of Malaysia Productivity Corporation
in Modernising Business Regulations**

Reviews of existing regulations involve public consultation with stakeholders and interested parties. Other processes within the Malaysia Productivity Corporation will focus on ensuring the quality of new regulations, particularly by applying regulatory impact analysis.

Regulatory Review Framework of Malaysia Productivity Corporation



NDPC = National Development Planning Committee; PERMUDAH = Special Task Force to Facilitate Business; WBDB = World Bank's Doing Business.

Source: MPC (2014).

[3] Reducing Unnecessary Regulatory Burdens

Regulatory burdens arise from the costs imposed by regulations and enforcement. While some burden on business is inevitable for regulations to achieve their objectives, regulations that are poorly designed, written, administered, or enforced can impose greater burdens than necessary. Differences in state regulations that address the same issue can also place additional burdens on businesses operating across jurisdictions. Regulations with the same objective, but imposing different requirements, can result in businesses having to plan and take different approaches to meet compliance in different geographical regions. If these different compliance activities yield similar outcomes, the differences can be viewed as unnecessary burdens. A business may also have to interact with more than one regulator, either within or across jurisdictions. Different approaches to enforcement by these regulators could also create additional burdens. Box 2 explains the types of regulatory burdens (MPC, 2014).

Box 2: Types of Unnecessary Regulatory Burdens

Often regulations have legitimate social, economic, or environmental objectives. Some burden on business is usually necessary to achieve the regulations' objectives, but unnecessary burdens can arise from the following:

- excessive coverage, that is, the regulation affects more economic activity than intended or required to achieve its objective (includes 'regulatory creep');
- subject-specific regulation that covers much the same issues as other generic regulations;
- prescriptive regulations that unduly limit flexibility, such as preventing businesses from
 - using the best technology
 - making product changes to better meet consumer demand, and
 - meeting the underlying objectives of regulations in different ways;
- overly complex regulations;
- unwieldy licence application and approval processes, excessive delays in obtaining responses and decisions from regulators;
- requests to provide more information than needed;
- requests to provide the same information more than once;
- rules or enforcement approaches that inadvertently result in businesses operating less efficiently;
- unnecessarily invasive regulator behaviour such as overly frequent inspections or irrelevant or duplicative information requests;
- overlap or conflict in the activities of different regulators; and
- inconsistent application or interpretation of regulations by regulators.

Source: MPC (2014).

Poor governance and lack of transparency and accountability are amongst the principal causes of unnecessary regulatory burden, resulting from poorly designed, written, administered or enforced regulations, which frequently provide opportunities for corruption.

[4] Good and Bad Written Regulations

Regulations that are written have enabled authorities to administer and enforce them using certain methods:

- a. filling out a form or fulfilling requirement;
- b. inspection at premise;
- c. notification by the business to authority;
- d. depositing documents to authority;
- e. licence requirements; and
- f. creating a culture of requirement, e.g., training for point collection.

[5] Good and Bad Administration and Enforcement

Recent studies by the Malaysia Productivity Corporation (MPC) show that many regulatory requirements were based on misinterpretation of primary legislation,

which led to using the wrong instruments or requesting unnecessary information from business (PEMUDAH, 2015). The World Bank found that the more the regulators imposed procedures, the more time was required for approval. In most cases, officers wrongly interpreted the regulations (Box 3).

Box 3: Misinterpretation of Regulations Leads to Inefficient Government Delivery

The Malaysia Productivity Corporation's analysis of development regulations shows that the parent acts and the subsidiary legislation are clear. The regulations insist only on a minimum set of documents. But local governments have introduced many forms and checklists and end up with piles of documents for development plan approvals. Industries must also submit hardcopies after submitting the documents online, adding to their frustration. The written regulations still insist on the original signatory, while the online documents seem 'invalid'. Thus, implementation is burdensome and costly. These weaknesses will make Malaysian companies uncompetitive and, in the end, the public will have to pay the price (MPC, 2014). The Khazanah Research Institute made a public statement based on their recent study:

Malaysian housing market is deemed seriously unaffordable, with the median house price at 4.4 times median annual household income. Many developed countries are around 3 times median annual household income.

The study mentioned inefficiency in the construction value chain as a main contributor to the expensive property in the country (KRI, 2015).

Table 1: Benchmarking on Dealing with Construction Permits in 16 Capital Cities in Malaysia, 2012 and 2015

No.	City	2012		2015	
		Procedure	Time (Days)	Procedure	Time (Days)
1	AlorSetar	51	262	47	314
2	Ipoh	58	306	33	270
3	Johor Bahru	66	192	66	453
4	Kangar	20	80	42	179
5	Kota Bharu	48	89	48	208
6	Kota Kinabalu	40	278	52	655
7	Kuala Lumpur	32	161	7	79
8	Kuala Terengganu	41	89	49	322
9	Kuantan	59	135	28	163
10	Kuching Utara	34	218	25	548
11	Labuan	57	111	52	251
12	Bandar Melaka	45	318	45	318
13	Georgetown	44	464	44	464
14	Putrajaya	51	292	51	292
15	Seremban	52	64	49	277
16	Shah Alam	80	129	49	339

Note: The procedures and times were based on interaction with local governments and technical agencies in major cities.

Source: MPC (2015b).

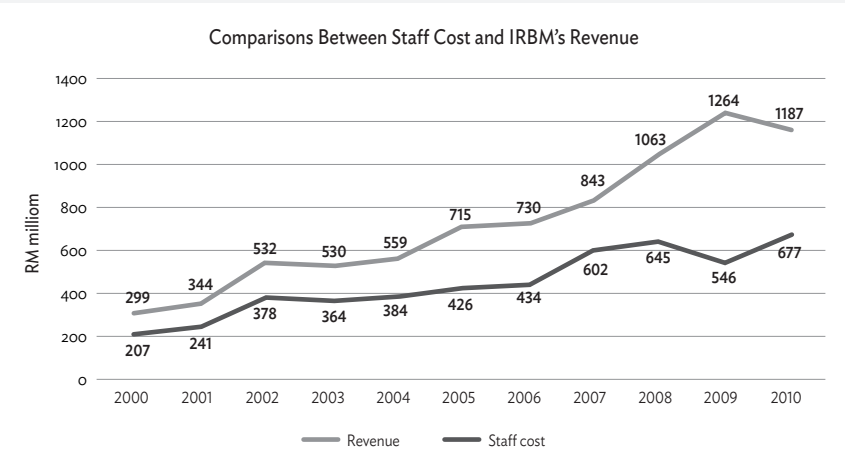
[6] Impact of Unnecessary Regulatory Burdens on Business

Reducing unnecessary compliance burdens has become an important part of improving business competitiveness and economic performance. Modernising regulations will lead to more competitive growth as it will lower the cost of doing business. How regulations are implemented, administered, and enforced can significantly impact compliance burdens (MPC, 2014).

Box 4: How the Inland Revenue Board of Malaysia Lowered Internal Operational Costs

The Inland Revenue Board of Malaysia (IRBM) has introduced various tax reforms and electronic services, among them e-Filing and m-Filing, which are free applications that enable taxpayers to complete and furnish their income tax return form electronically. This has not only eased submission but also increased revenue and decreased internal operational costs. The graph compares staff cost and revenue.

Figure 1: Comparisons Between Staff Cost and Revenue of the Inland Revenue Board of Malaysia



Source: Abdul Wahab (2013).

The IRBM's regulatory reform has made IRBM more productive and improved tax collection. Abdul Wahab also mentions that IRBM's risk management strategy reduced non-compliance amongst businesses. The current tax submission enforced by IRBM is much simpler and uses self-declaration (transferring the burden of proof to the owner), thus motivating businesses to comply.

Reducing administrative procedures and the complexity of government formalities undeniably reduces government administrative costs and provides more savings to businesses. Records show annual regulatory burdens are equivalent to 1.4% of gross domestic production the United Kingdom, 2.4% in Denmark, and 3.6% in The Netherlands. Most developed countries target reducing the cost of regulatory burdens by 25% (CEDA, 2013).

[7] Reducing Unnecessary Regulatory Burdens: Framework and Methodology

Reducing unnecessary regulatory burdens (RURB) to achieve effective, coherent, and responsive regulatory measures is similar to kaizen or continuous, systematic improvement though small, incremental changes to improve efficiency and quality. The RURB supports national regulatory reform to improve the overall regulatory regime such that policies and regulations fit together: i.e. to reduce redundancies and avoid conflicting policies and to ensure that policies and regulations complement one another in support of greater efficiency. The RURB differs from regulatory impact analysis as RURB focuses on existing regulations and is based on ex-post analysis, benefitting from implementation data. Analysis is undertaken from the business perspective to detect unnecessary regulatory burdens in manufacturing products or delivering services in the value chain. Thus, unnecessary costs arising from poor or excessive regulations as well as from poor implementation of the regulations are addressed.

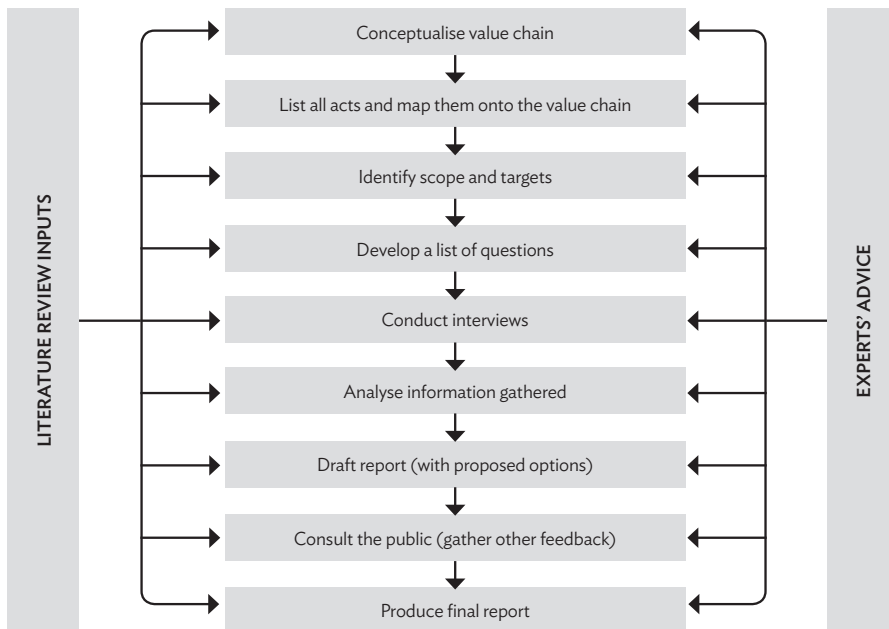
A typical MPC RURB report has five chapters:

Chapter 1: Mandate and purpose of study

-Important elements of this chapter:

- a. What is the purpose of this chapter?
- b. Is the mandate appropriate (strong enough) for the target group (reader)?
- c. Are the objective, scope, and boundary conditions established?
- d. Is the method (approach and/or rationale) sufficiently explained?
- e. Is the structure of the report laid out to guide the reader?

Figure 2: Process of Reducing Unnecessary Regulatory Burdens



Source: MPC (2015a).

Chapter 2: Economic performance of the country and the chosen sector

-Important elements of this chapter:

- What is the purpose of this chapter and/or analysis?
- What knowledge is obtained about the requirements of this sector?
- What are the important areas for regulatory interventions?
- Will this understanding of the industry help identify regulatory impediments?
- With this current understanding of the industry, are you comfortable moving forward?

Chapter 3: Definition of regulations, unnecessary regulatory burdens, and good regulatory practices

-Important elements of this chapter:

- What is the purpose of this chapter?
- Have regulations been explained in the context of this review?
- Are regulatory and unnecessary regulatory burdens and their significance appropriately explained? How are they captured and/or measured?
- What principles of good regulatory practice will guide the development of options?
- What are some examples of generic poor regulatory practices?

- f. Will this knowledge be sufficient to help you in the interviews and options development?

Chapter 4: List regulations imposed on the sector and the regulatory instruments

-Important elements of this chapter:

- a. What is the purpose of this chapter?
- b. Is the value chain (for warehousing) clearly (sufficiently) established to guide the regulatory mapping and stakeholders' analysis?
- c. Are the relevant regulations (subordinate regulations and the regulatory instruments) clearly identified?
- d. Are the main business stakeholders (business players and intermediaries) identified?
- e. Are the regulators (and intermediaries, if any) identified and their roles, functions, and objectives established?
- f. Are you confident that the knowledge is sufficient for your interviews and options development?

Chapter 5: Concerns, feasible options with recommendations

-Important elements of this chapter:

- a. What is the purpose of this chapter?
- b. What has been captured in the interviews? Have they been substantiated or supported by background (further literature) research?
- c. What is the analysis of regulatory and non-regulatory issues?
- d. Are you able to relate the issues to the regulations (or sections), the objectives (intention) of the regulations, the regulatory instruments (and regulators)?
- e. What are the assessments of the regulatory burdens? What are the objective measures captured to provide evidence?
- f. Are the burdens measured and/or analysed as compliance costs, interactions (procedures), time delays, duplications, interpretations, documentations, etc.?
- g. Are the options established based on the analysis' relationships with the good regulatory practice (GRP) principles?
- h. What are the options to reduce unnecessary regulatory burdens (some objective measures)?
- i. What do the stakeholders (business and regulators) say about the options?
- j. Are you satisfied with and confident about your assessment, analysis, and options?

The RURB team undergoes intensive training on good regulatory practice principles and techniques to detect burdensome regulations. Chapters 1–4 are fundamental for the RURB team to understand RURB principles before meeting with businesses. The RURB team should be able to explain what unnecessary regulatory burdens are, the impact of regulations on businesses, and the purpose of collecting regulatory issues. Once these chapters are completed, the RURB team should be prepared to meet the businesses and regulators to find out how regulations are implemented.

An issues paper should be forwarded to all stakeholders, from businesses to regulators. The issues will be captured and validated with regulators. The team will measure the administrative burdens by using the standard cost model. Based on the MPC Public Consultation Guideline, the team will wait up to 60 days to allow all stakeholders to provide feedback and recommendations. Regulators will be interviewed to know how they view the purpose of regulations and to validate concerns. Regulators usually discuss manpower distribution and technology barriers to inspection or validation of business applications.

In chapter 5, the team should be able to recommend an option for each concern. The option should be able to eliminate or reduce compliance costs or clarify how to adhere to regulations. Before closing the RURB report, the team should ask the businesses and regulators separately for their final comments on the draft report, which will be included in the final report.

The comprehensive study may require nine to twelve months (MPC, 2016a). It reviews regulations for the whole sector, and data collection covers the states or provinces that have small and medium-sized enterprises, big enterprises, and multinational companies. Views from various groups will help the RURB team measure the efficiency of administration or enforcement of regulations.

[8] Selection of Sector and Industry

The number of regulations has grown at an unprecedented pace over recent decades. Some regulations formulated a long time ago are still enforced. Until recently, the relevance and effectiveness of existing regulations have not been reviewed systematically, even though new regulations are being formulated to

meet the demands of an increasingly affluent and risk-adverse society and an increasingly complex global economy. The RURB team should comprehensively review business regulations, starting with those that impact key economic areas. Regulations that help improve national outcomes will be retained, while unnecessarily burdensome, redundant, and outdated regulations will be eliminated.

The selection of the RURB project should be based on government priorities. Investigations should involve the collection, review, and analysis of primary data from interviews with businesses and service associations and of secondary data from literature reviews.

Primary data should be collected through interviews of key stakeholders—business players, associations, representatives of professional bodies, field experts, and regulators. Secondary data are from many sources and classified as follows:

- a. regulations of Malaysia, particularly
 - primary regulations,
 - secondary or subsidiary regulations,
 - state and local government regulations,
 - government decrees or circulars, and
 - standards or guidelines;
- b. research papers published by international agencies such as the World Bank, Organisation for Economic Co-operation and Development, Asian Development Bank, and research agencies from developed countries, such as the Australian Government Productivity Commission and the United Kingdom Commission for Employment and Skills;
- c. research papers and reports commissioned by government agencies such as the Economic Planning Unit and the Ministry of International Trade and Industry of Malaysia;
- d. statistical data on employment from international and local sources; and
- e. other information derived from professional bodies, private businesses, and associations on policy, news, reports, and statistics.

[9] Value-Chain Analysis

Value-chain analysis is a strategy tool introduced by Michael Porter, which helps the RURB project team analyse business-cycle activities (Porter, 2001). Using the value-chain strategy, the RURB team can capture valuable and important activities from farm-to-plate or from start-to-closing-a-business. How detailed the value chain is will depend on the sector and complexity of the businesses. Many established value chains can be retrieved from the internet. With the assistance of local experts, the value chain can be harmonised and adapted to the local situation.

The team has to restrict or scope the RURB project. Once the activities are mapped, regulatory instruments (e.g. licences, permits, inspections) should be listed in a regulatory database. Next, the team should identify the stakeholders. This value-chain exercise is important as it will speed up the gathering of information to help businesses diagnose and pinpoint the burdensome and critical areas for improvement.

[10] Stakeholder Analysis and Regulatory Mapping

Previously, many policies had been introduced without or with insufficient consultation, which led to business and investor uncertainties and concerns. The introduction of new government agencies without proper analysis also contributed to redundant regulations. Businesses had to adapt to the difficulties and absorb the additional cost for one or two years. Unfortunately, most businesses simply transferred the burden to customers. A proper analysis of value chain and in-depth revision of the sector will help the team identify the regulations involved and map them according to business flow and/or key cycle stages of the business (Box 5).

Box 5: Business Life Cycle of Professionals in Construction Industries in Malaysia

The value chain of delivering professional services to the construction industry begins with the setting of professional practices, and is then followed by other processes.

Figure 3: Professional Services Regulations Value Chain from the Setting up to the Closure of Professional Practice

PROCESS	PARTIES	PROCEDURES
Setting up of practice	Professional boards	<ul style="list-style-type: none">• Comply with academic qualification, practical experience, and examination requirements• Obtain practice registration approval from the board
Registration of business	Companies; Commission of Malaysia (SSM)	<ul style="list-style-type: none">• Register with SSM before forming corporate or partnership practice
Service registration with government	Government agencies	<ul style="list-style-type: none">• Register with Ministry of Finance before rendering services to government agencies• Register with various technical agencies as a requirement of government tender process
Non-profession statutory registration	Customs Department; Inland Revenue Board (IRB)	<ul style="list-style-type: none">• Register with Customs Department for service tax requirement• Register with IRB for personal or company tax deduction
Delivery of professional service	Professional boards; government agencies; local governments	<ul style="list-style-type: none">• Register with various technical agencies as a certified service provider, e.g., National Water Services Commission; Planning Malaysia
Completion or termination of practice	Professional boards; SSM	<ul style="list-style-type: none">• Deregistration of practice with professional boards• Closing or winding down of company with SSM

Source: MPC (2016c).

[11] Identification and Validation of Unnecessary Regulatory Burdens on Business

Unnecessary regulatory burdens arise from sources that can be categorised under three broad headings:

- a. poor writing of regulations
- b. poor enforcement and administration
- c. unnecessary duplication and inconsistency

Box 6: Regulatory Mapping for Development Process Flow in Malaysia

Key Federal Government Regulations	Key Cycle Stages	Key State and Local Government Regulations
<ul style="list-style-type: none"> • Town and Country Planning Act 1976 • National Development Planning • National Land Code (NLC) 1965 • Land Conservation Act 1959 • Land Acquisition Act 1960 (Act 486) • Federal Territory (Planning) Act 1982 (Amended 2006) • Federal Housing Act 1960 • Uniform Building By-Law 1984 • Building and Common Property Act 2007 • Free Zone Act 1990 • The Street Drainage and Building Act 1974 • Environmental Quality Act 1984 • Registration of Business Act 1956 • Housing Development Act 1966 	Development plan	<ul style="list-style-type: none"> • National Development Plan • State Planning Committee <p>Local Governments</p> <ul style="list-style-type: none"> • City of Kuala Lumpur Act 1971 • Town Planners Act 1995 • Local Government Act 1976 • Planning Department of Local Government Guidelines • State Planning Rules • State Irrigation and Drainage Guidelines • State Land Enactments
<ul style="list-style-type: none"> • Building Codes Health, safety, fire protection, accessibility, and resource conservation • The Street Drainage and Building Act 1974 • Environmental Quality Act 1984 • Government Contract Act 1949 • Contract Act 1950 • Drainage Work Act 1954 • Federal Roads Act 1959 • Water Services Industry Act 2006 • Uniform Building By-Law 1984 	Building plan	<ul style="list-style-type: none"> • Local Zoning • Local Government Act 1976 • Uniform Building By-Law 1984 • Various technical departments, service provider guidelines <p>JKR Fire Department JPS Land Office State Planning Office JMG JAS TNB Water operator</p>

JKR – Jabatan Kerja Raya (Public Works Department)

JMG – Jabatan Mineral dan Geosains (Mineral and Geoscience Department)

JAS – Jabatan Alam Sekitar (Environment Department)

TNB – Tenaga Nasional Berhad (Electric Utility Company)

Source: MPC (2016b).

11.1 | Poor Writing of Regulations

Regulations can unnecessarily increase regulatory burdens in several ways:

Unclear or questionable objectives. A lack of clarity gives rise to uncertainty about what is expected of the regulated and the regulators. It also increases the potential for regulators to use their own discretion in determining the intent and priorities of legislators and can lead to inconsistency between regulators interpreting the same piece of legislation. Regulatory uncertainty discourages investment and could increase compliance costs.

Conflicting objectives. Sometimes regulations (possibly enforced by different regulators) can have conflicting objectives, e.g. safety considerations that suggest

generous spacing, and environmental regulations that seek to minimise a facility's 'footprint' and hence its environmental impact.

Overly complex regulations. Complex laws are likely to require legal interpretation, making compliance more costly and time consuming and regulators' expectations harder to determine.

Excessively prescriptive regulations. Prescriptive regulations are typically more complex and onerous than objective- or performance-based regulation, are less flexible, can stifle innovation, and may not allow businesses to deliver the policy outcome at least cost.

Redundant regulations. Regulations might remain in force despite being overtaken by changed circumstances. While providing no benefits, such regulations will still involve compliance costs and could overlap with more recent legislation, causing regulatory confusion.

Regulatory creep. Regulations may influence more areas and activities than originally intended or warranted. This can stem from the use of subordinate legislation and regulatory guidelines.

11.2 | Poor Enforcement and Administration

Poor enforcement and administration of regulations can arise from several sources:

Excessive reporting or recording requirements. Requirements beyond the minimum required to enforce a regulation unnecessarily increase compliance costs.

Inadequate resourcing of regulators (including inexperience or lack of expertise). This can delay approvals and potentially lead to poor regulatory decisions. It can also prompt regulators to seek additional, and potentially spurious, information because of a lack of experience or expertise, or to circumvent statutory time limits.

Overzealous regulations. These can increase compliance costs and discourage investment. Inadequate resourcing of regulators can lead to problems, but so can over-resourcing if it results in imposing excessive regulations or micro-management of regulated businesses.

Regulatory bias or capture. Regulators may be ‘captured’ by interests they deal with regularly and, therefore, make decisions favourable to those interests. Such interests could include the businesses being regulated (or a particular business or businesses), or lobby groups such as environmental or community groups.

11.3 | Unnecessary Duplication and Inconsistency

Regulatory duplication and inconsistency between jurisdictions are not inherently bad. They may stem from different circumstances between jurisdictions and, from a competitive federalism perspective, can lead to better overall outcomes. However, duplication and inconsistency can impose costs:

Duplication of regulations. The need to provide information to multiple regulators and go through multiple processes can add unnecessarily to compliance costs. The existence of multiple regulators also creates incentives for ‘forum shopping’, where participants may seek the forum where they are most likely to obtain a favourable outcome. It can also create uncertainties regarding the boundaries of responsibility for each regulator.

Inconsistency of regulations. Regulatory inconsistencies can occur within or across jurisdictions and increase regulatory burdens. Inconsistency is likely to present problems for businesses operating in multiple jurisdictions.

Variation in definitions and reporting requirements. Variation can occur between regulators within jurisdictions, although it is typically a more significant problem for businesses operating in multiple jurisdictions. Such variation can increase compliance costs.

To register concerns or regulatory issues, the team should consult a broad range of stakeholders. Formal meetings should be conducted with business associations and local and foreign companies to get their feedback on the concerns raised and to quantify compliance costs. There are two types of compliance cost: paperwork and non-paperwork (Box 7).

Box 7: Categories of Compliance Costs

Paperwork compliance costs

These include the costs imposed on the administrative structures of a business due to filling out forms and providing information. It also includes record-keeping costs and the cost of obtaining advice from external sources in the course of providing information.

Non-paperwork compliance costs

These include human capital and physical investment costs, costs of modifying output to conform to regulations, capital holding costs associated with regulation-induced delays in business projects, costs associated with dealing with inconsistent and duplicative regulations across jurisdictions, and the cost of time spent in meeting regulatory requirements such as audits and inspections.

Source: Australian Productivity Commission (2008).

Each concern of businesses should be validated with the right regulators and authorities mandated to enforce the regulations. If the concern or claim is true, then it will be registered in the report.

[12] Develop Solution Options

To develop coherent and transparent rules and efficient processes, resources should be adequately allocated. The RURB team must consider using focus groups and interviews to refine concerns and uncover their root causes. Measuring the impact of a problem using regulatory tools such as the standard cost model allows the focus group to sense the magnitude of existing regulations. The results from calculating the cost will justify regulators' deliberating further with businesses or stakeholders, which will facilitate discussions on alternative options to replace the cumbersome regulations. When assessing the regulations, the team can adopt six core principles (Box 8).

Box 8: Six Core Principles for Assessing Regulations and Their Administration

- Principle 1 : Have a proportionate and targeted response to the risk.
- Principle 2 : Minimise adverse side effects of those necessary to achieve regulatory objectives at least cost.
- Principle 3 : Have a responsive approach to incentivise compliance with regulations.
- Principle 4 : Ensure that all written regulations are consistent and that regulators interpret and apply them consistently. Avoid duplication and overlap of regulations and regulators.
- Principle 5 : Adopt transparency criteria so that parties are regularly consulted, businesses know their legal obligations, and all regulations can be easily accessed by everyone.
- Principle 6 : Promote accountability so that businesses can seek explanations for regulators' decisions and appeal them, and so that probity provisions are adopted to reduce corruption.

Source: MPC (2014).

[13] Decide and Recommend a Solution

When deciding on recommendations to overcome the hindrances caused by poor regulatory requirements, the choice is amongst the following:

- a. rules that prescribe how an outcome is to be achieved where the focus is on the methods of operation or inputs;
- b. performance-based rules that specify a particular outcome without prescribing the method to be used to achieve it (although it is often precise about the outcome);
- c. principle-based goals that indicate the broad intention and rely on agents to meet the spirit rather than the letter of the law; and
- d. system-, process-, or management-based regulations where businesses develop their own risk management strategies, which are audited by regulators.

The RURB team should act as a neutral party when evaluating suggestions from businesses or business associations. No single approach is best in all circumstances. Prescriptive regulations are only justified when the risk is very high or significantly affects small businesses that do not have sufficient resources. Large companies prefer performance- or principle-based regulations, which enable them to identify the most cost-effective way to comply with regulatory requirements. System-based regulations allow businesses to analyse the risk of potential hazards to products or services. Often the processes are available but not systematically applied.

[14] Spectrum of Regulatory Options

Regulatory and non-regulatory solutions can be developed to ensure greater accountability and transparency around regulationmaking, improved processes for assessing the impacts of regulatory proposals, and more effective consultation with those affected by regulations (Box 9). The options and recommendations are only potential solutions. To ensure that the recommended options are practical, they should undergo regulatory impact assessments with adequate cost–benefit analysis and public consultation.

[15] Lessons Learnt

MPC has conducted three types of RURB projects: comprehensive review, fast track, and solution creation. Each serves different needs and has different final outputs. The RURB study is a comprehensive review of key economic areas and requires nine to 12 months of work. The RURB fast track focuses on pressing issues requested by businesses, usually multinational corporations or local investment promotion agencies, and is completed in four to six months. Finally, RURB solution creation combines the fast track with kaizen solutions and pilot-testing, and is for immediately transforming demanding areas. Based on MPC's experiences, implementation is limited to a single regulator and a company willing to share all their internal data to identify quick solutions to remove barriers.

All RURB studies have resulted in lowering operation cost, which is valued using the compliance cost indicator. Total compliance cost saving was RM 7.3billion (MPC, 2016b). The breakdown according to the type of RURB study is in Table 2.

Deregulation is not a good solution in any economy; the purpose of having regulations is to protect public health and safety and the environment. What we need are smart regulations that will stabilise the market, and implementation that is cost effective and time saving. The engagement of the private and public sectors will provide a comprehensive view of all best-practice elements of building a well-controlled environment. Collaboration will enable identification

of quick and practical solutions and minimise the risk of unexpected consequences.

Box 9: Spectrum of Regulatory and Non-Regulatory Options

Sometimes a mix of options should be considered. Some groups, especially small businesses, experience regulations differently while others present less compliance risk. Have you considered whether a mix of policy options would be more effective and efficient?

- **No regulation.** There may be good reasons for regulating but these must be weighed against not regulating. One benefit of not regulating is that no regulatory offsets need to be found.
- **Better enforcement of existing regulations.** Sometimes better staff training, enforcement, or a different management focus to address cultural, behavioural, or systems issues can be an effective means to achieve the desired outcome.
- **Principles-based regulations.** These allow affected groups maximum flexibility in achieving compliance. For example, where a market operates inefficiently, light-touch regulations may lay down rules for the participants on how to agree on prices. More heavy-handed regulations may involve government itself determining the price. Light-touch regulations must be implemented to ensure that those affected understand their legal rights and obligations; otherwise, the regulations may not be effective.
- **Self-regulation.** This consists of industry-written rules and codes of conduct enforced by the industry. 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 not critical 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 foodhandling, healthcare, or aviation. Self-regulation should be approached carefully where previous attempts to achieve compliance or penalise non-compliance have failed.
- **Quasi-regulations.** This approach covers a wide range of rules or arrangements that are not part of explicit government regulations 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 is a solution where industry develops and administers its own arrangements and government provides legislation to enforce them. Such legislation can set out mandatory standards but may provide for enforcement through a code overseen by the industry.
- **Explicit government regulations.** So-called black-letter law, these comprise primary and subordinate legislation and are probably the most common form of regulation. They are usually used as a regulatory tool where perceived risk is high or public interest and achieving compliance are critically important. Such regulations must be drafted in plain language and sunset requirements observed.
- **Alternative instruments.** With each of these regulatory options, alternative instruments may be available to address the problem or issue set out in a regulatory impact statement, including the following:
 - No specific action, that is, relying on the market 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 such as bans, recalls, licence revocation, or negative licensing.
 - Service charters.
 - Standards, which may be voluntary, compulsory, or performance based.
 - Other mechanisms such as public information registers, mandatory audits, and quality-assurance schemes.

Source: Australian Government Guide to Regulation (March 2014). More information can be found at www.cuttingredtape.gov.au.

Table 2: Projects to Reduce Unnecessary Regulatory Burdens, 2014–2016

	RURB Projects	Compliance Cost (RM million)	Compliance Cost Saving and Other Benefits (RM million)
RURB Study (comprehensive review)			
1	Healthcare–Private Hospital	145.8	36.4
2	Growing Palm Oil	641.3	160.3
3	Downstream Oil and Gas	1,592	398
4	Logistics	715	178
5	Construction	1,032	258
RURB Fast Track			
1	Construction	22.5	24
2	SME ICT Services	300	200
3	Professional and Technical Services	N/A	0.55
4	Healthcare Sector	N/A	44.7
5	Accreditation on Tertiary Education	N/A	2
6	Legal Services	N/A	0.55
RURB Solutioning			
1	Cargo Clearance at Free Zone	316	150
2	Maintenance Repair and Overhaul	98	61
3	Commercial Vehicle Licensing	6.1	5.4
4	Individual Permit Vehicle Application	100	80
5	Construction Permits (Kuala Lumpur)	116	58
6	Construction Permits (states)	1,116	580
7	Freight Movement in Free Zone	275	85
8	Cargo Clearance in Free Zone	165	45
9	Dangerous Good Permits	15	5
10	MAQIS Import/Export Permits	635.4	330.4
	Total	7291.1	2702.3

ICT = information and communication technology; N/A = not available; SME = small and medium-sized enterprise; RURB = reducing unnecessary regulatory burdens.

Source: MPC (2016a).

REFERENCES

- Abdul Wahab, N. S. (2013), 'Corporate Tax Administration in Malaysia: Managing and Improving Compliance', *Journal of Advanced Management Science*, 1(4), 426–429.
- Committee for Economic Development of Australia (2013), Australia Adjusting: Optimising National Prosperity. The Committee for Economic Development of Australia. Melbourne: CEDA.
- Khazanah Research Institute (2015), Making Housing Affordable. Kuala Lumpur: Khazanah Research Institute.

- Malaysia Pruductivity Corporation (2014), *A Guide to Reducing Unnecessary Regulatory Burden: Core Concepts*. Petaling Jaya, Selangor, Malaysia: Malaysia Productivity Corporation.
- Malaysia Pruductivity Corporation (2015a), *'Issues Paper: RURB Medical Professionals'*. Petaling Jaya: Malaysia Productivity Corporation.
- Malaysia Pruductivity Corporation (2015b), *Kajian Mendapatkan Permit Urusan Permit Pembinaan Bandar-bandar Utama Malaysia*. MPC, PCD. Petaling Jaya: Malaysia Productivity Corporation.
- Malaysia Pruductivity Corporation (2016a), *Annual Report on Modernisation of Regulations 2016*. Petaling Jaya: Malaysia Productivity Corporation.
- Malaysia Pruductivity Corporation (2016b), *Reducing Unnecessary Regulatory Burdens on Business: Construction*. Petaling Jaya: Malaysia Productivity Corporation.
- Malaysia Pruductivity Corporation (2016c), *'Report on RURB Professionals Services to the Construction Industry'*. Petaling Jaya: Malaysia Productivity Corporation.
- Pasukan Petugas Khas Pemudahcara Perniagaan (2015), Minutes Of Pasukan Petugas Khas Pemudahcara Perniagaan (PEMUDAH) Meeting 4/2015 . The Special Taskforce to Facilitate Business (PEMUDAH). Petaling Jaya: Malaysia Productivity Corporation.
- Porter, M. E. (2001), 'The Value Chain and Competitive Advantage, Understanding Business: Processes', In D. Barnes, *Understanding Business: Processes*. London: Routledge.
- Prime Minister's Department (2010), Tenth Malaysia Plan: 2011–2015. Putrajaya: EPU.
- Prime Minister's Office (2015), 11th Malaysia Plan. Putrajaya: Economic Planning Unit.
- Van Ark, B. (2015), Productivity as the Driver in Building Competitiveness. MPC Productivity Competitiveness Conference. Shah Alam: Malaysia Productivity Corporation.
- World Bank (2011), *Doing Business 2012: Doing Business in a More Transparent World*. Washington DC: The World Bank.
- World Bank (2016), *Doing Business 2017: Equal Opportunity for All*. The World Bank. Washington DC: The World Bank.
- World Bank (2017), *Doing Business 2018: Reforming to Create Jobs*. Washington: World Bank Publications

CHAPTER 3

Regulatory Reform in the Sewerage Works Approval Process in Malaysia

Punita Nook Naidu

Regulatory Expert and Practitioner

[1] Background

The water services industry in Malaysia is regulated by the National Water Services Commission (SPAN). Established in 2007 through the Suruhanjaya Perkhidmatan Air Negara Act 2006 (Act 655), SPAN is tasked to regulate water services through the enforcement of the Water Services Industry Act 2006 (Act 654). Malaysia's water services industry refers to all aspects of water treatment systems, treated water distribution systems, and sewerage systems. Prior to SPAN, the state governments controlled the water resources, raw water treatment and treated water distribution in the respective states while the federal government was in charge of the sewerage sector.

In Malaysia, 70% of the population is connected to sewerage treatment plants largely funded by private real estate developers. The installation of sewerage infrastructure is mandatory for developers before they can obtain approvals or certificate of fitness to occupy the properties. Upon completion, testing, and commissioning, the sewerage assets must be handed over to the government at no cost for operation and maintenance. Due to the nature of this funding, private developers seek options to reduce the costs of sewerage infrastructure and recover full capital costs from property buyers.

More often than not, cheaper options and cost-cutting exercises impact on the selection of sewerage infrastructure sites, design process, and construction works, as well as equipment and materials used. To ensure that the general quality of sewerage infrastructure is not sacrificed, stringent multilevel approval procedures were established administratively in 1996.

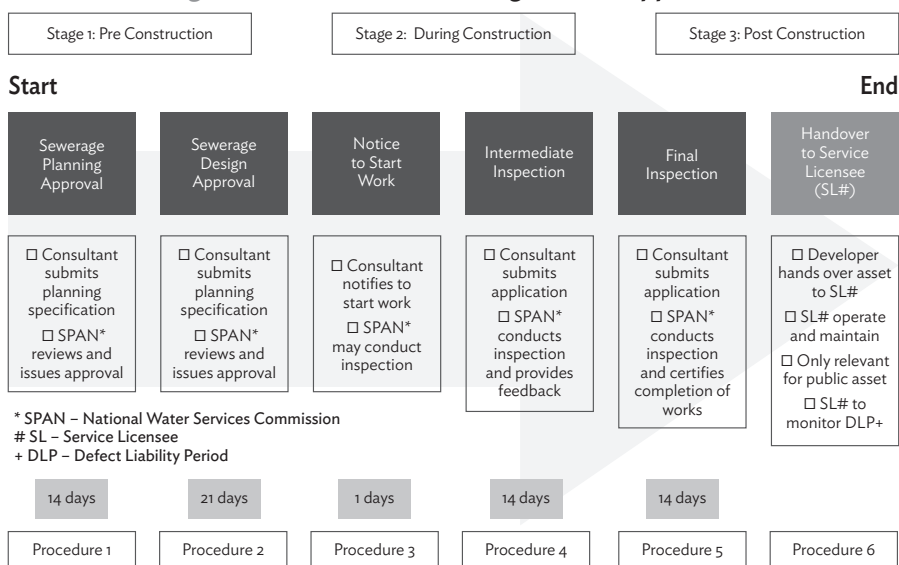
These procedures, later documented in *Malaysia Sewerage Industry Guidelines Volume 2: Sewerage Works Procedures*, were used until July 2013 under the Sewerage Services Act 1993. Since 2008, SPAN has used those familiar procedures so as not to disrupt operations of the industry. Furthermore, because SPAN is confident about the comprehensiveness of the methods it uses, it does not see the urgency of strategically reviewing the existing methods and their suitability in the present environment.

[2] Introduction

SPAN routinely engages stakeholders on various platforms to understand the challenges and impacts of the regulations. Although real estate developers and consultants have frequently raised issues regarding the approval procedures, most of these have been managed on a case-to-case basis, as it has been assumed that the complaints by developers arise from their desire to not comply with the requirements or are attempts to further cut the cost of sewerage infrastructure.

In response to similar complaints, the Malaysia Productivity Cooperation (MPC), in 2011, initiated a study on all related approval permits for the construction industry. This was intended to improve Malaysia's ranking in the overall index of 'Ease of Doing Business' to enhance competitiveness at the international level.

The MPC initiative gave industry players another platform to voice their frustrations and grievances. In response to the issues raised, SPAN undertook an evidence-based study through a task force to show, through facts, that the existing sewerage works approval procedures are the most appropriate for Malaysia. The task force's vision for this study was to establish transparent, uniform, practical, and enforceable sewerage works approval procedures in accordance with the provisions of Act 654. Figure 1 shows the ideal flow of sewerage works approvals. In reality, however, applicants have to submit multiple applications at each stage until the application is deemed to be satisfactory.

Figure 1: Ideal Flow of Sewerage Works Approvals

Source: Punita Nook Naidu and Nurul Ashikeen Kamaruzaman (SPAN).

Using ‘Quick Scan’ to determine the root cause of the problem, the task force found that the problem statement had, since the start, been erroneously framed as ‘The quality of sewerage infrastructure left much to be desired’ (Figure 2). However, the brainstorming session that had sought to root out the cause of the problem revealed that none of the reasons relate to sewerage works approval procedures as raised by stakeholders. To address the stakeholders’ concerns, the problem statement was reframed as ‘The quality of sewerage works approval process is not producing the desired results’. Once done, several main causes of the new problem statement emerged.

The task force then embarked on a survey mission to gather and analyse the stakeholders’ feedback and experiences. This exercise took time, as it required the task force members to rid themselves of prejudices and avoid being influenced by ingrained assumptions. The stakeholders selected as the task force’s collaborative partners were those who provided feedback with daring and generosity. Through intimate and extended engagement, the task force gained the stakeholders’ trust and confidence and were able to convince the latter of their sincerity in conducting this study. With the task force members gaining a better understanding of the stakeholders, working towards a single agenda to establish transparent, uniform, practical, and enforceable sewerage works approval procedures became an easier job. With a special bond and a high level

Figure 2: Redefining the Problem Statement

PROBLEM STATEMENT: The quality of sewerage infrastructure left much to be desired			
No	Primary Reason	Secondary Reason	Tertiary Reason
1	Under investment in public sewerage infrastructure by (federal) government		
2		Lack of public body to oversee public investment in sewerage infrastructure	
3	Ineffective enforcement?		
4		Challenges collecting sewerage capital contribution (SCC)	
5			Developers only willing to pay under certain circumstances; otherwise they have limited incentive to contribute
6	Developer has insufficient incentive to deliver quality sewerage system		
7		Tariff is too low	
8			Inadequate mechanism to collect the tariff
9			Public do not see the advantages (benefit) of paying the tariff

PROBLEM STATEMENT: The quality of the sewerage works approval process is not producing the desired results			
No	Primary Reason	Secondary Reason	Tertiary Reason
1	It is too bureaucratic		
2		Inefficient procedures	
3			Too many layers/ approval stages required without adding value
4			Reviews are based on formalistic rather than substantive issues/ aspects of the submission
5		Time consuming	
6			Multiple requirements, forms and checklists
7			Tradition (doing it as it has always been done)
8			Physical interactions required at each stage of approval process (not only site inspections)
9			Consultants (designer, planner, draftsman) are poorly prepared for inspections because they are paid little by developers

Source: Punita Nook Naidu and Iwan Nazri Mohd Nordin (SPAN).

of confidence established with the task force members, the stakeholders could now securely share their views about the inner workings of the industry and issues of integrity that had never been talked about before.

At the end of the first stage of the study, the task force concluded that the then-existing procedures could not resolve the problem of low quality of sewerage infrastructure. Moreover, those procedures were deemed unfair to industry players who were performing their job responsibly and ethically, while unable to prevent unscrupulous industry players from committing offences repeatedly. While requiring a lot of interactions between applicant and approver, those procedures could not bring sufficient value or results nor could they provide the desired platform or facilitate in enabling enforcement actions.

The problems that triggered the additions of new requirements and procedures were never resolved despite the perceived improvement in the approval process. For instance, even if issues related to quality of construction and to structural failures could not be resolved through the approval process, additional procedures and requirements were still imposed without a systematic analysis. In most cases, the persons or entities that caused the issues would get away with no actions taken against them while more processes, requirements, and control mechanisms were imposed on the whole industry.

In addition, as the procedures were administratively imposed, approvers wielded a wide range of discretionary powers in interpreting the approval procedures, thus creating confusion and dissatisfaction amongst industry players.

This mechanism of sewerage works approval has been in use for about 15 years and has been deeply entrenched at all operating levels. Hence, knowing and understanding the challenges is the first step in solving the problem to transform the industry as it requires behavioural change as well. To physically drive the transformation agenda, it is critical to obtain buy-in from stakeholders who have the most influence in providing the necessary support to see this initiative through. The task force gained the support of the Chief Executive Officer of SPAN to turn the situation around. This endorsement gave the group a mandate to pursue the matter in a practical sense with the intention of implementing the stated outcome.

[3] Sewerage Works Approval Transformation Initiative

The findings of the first study were the beginning of the sewerage works approval transformation (SWAT) programme. The first minilab — an intense brainstorming and intimate engagement session — to initiate SWAT was held in early 2013 to review and draft the new sewerage works approval procedures. To prepare for the minilab, the task force explored best practices from local sectors and other countries, which included a risk-based system, building codes, one-stop-shops and online services. It was decided that a multi-pronged approach be implemented in phases to transform the sewerage works approval procedures.

3.1 | Design of the SWAT Minilab

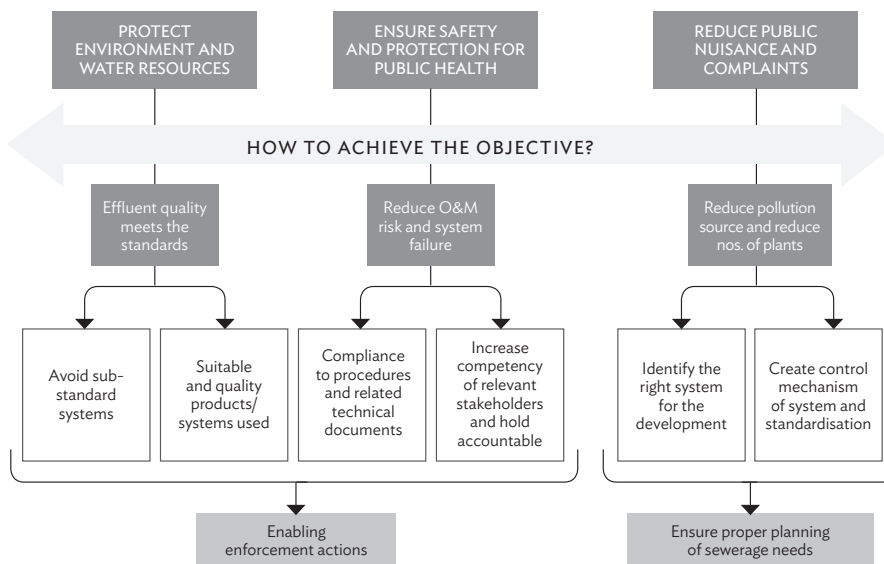
The task force designed a framework to guide discussions and collect feedback from the minilab, which was constructed so the participants could lay foundations throughout various levels of discussions. The fundamental principles established were used as the basis to determine the sewerage works approval procedures. The step-by-step approach was critical in helping the participants discuss and arrive at consensus at each level. This method helped the task force hold the participants accountable for the decisions they had made during the earlier stages of the minilab.

Twenty SPAN officers participated in the minilab. They were selected to ensure the group had a mix of diversified experience and represented various departments and regional offices. The participation was limited to SPAN officers to avoid arguments and conflicts with external stakeholders. Hence, the discussions amongst SPAN officers were candid, transparent, and less defensive.

The participants were divided into two groups. Both groups deliberated on the same topics and presented their findings. This approach motivated the groups to compete in delivering the expectations at each level. The groups challenged each other to defend their findings and eventually came to a consensus at every level of the deliberation. The methodology created ownership of the output of deliberation and reduced denials when the final output was derived.

3.2 | Deliberation of the SWAT Minilab

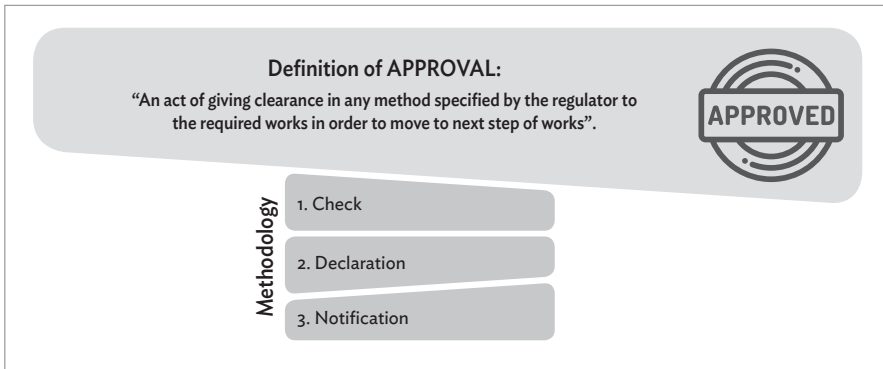
The minilab deliberation began with a reflection on Section 45 (1) of Act 654 which states that '[n]o person shall construct, alter, modify, disconnect or close up a water supply system, sewerage system, septic tank, individual internal sewerage piping or common internal sewerage piping unless the relevant plans or specifications which requires the approval of the Commission have first been approved in writing by the Commission'. The deliberation of this section helped to establish the true purpose of this clause. The output of the session is shown in Figure 3.

Figure 3: Results of Reflection on Section 45 (1) To Discover its Objective

Source: Punita Nook Naidu and Nurul Ashikeen Kamaruzaman (SPAN).

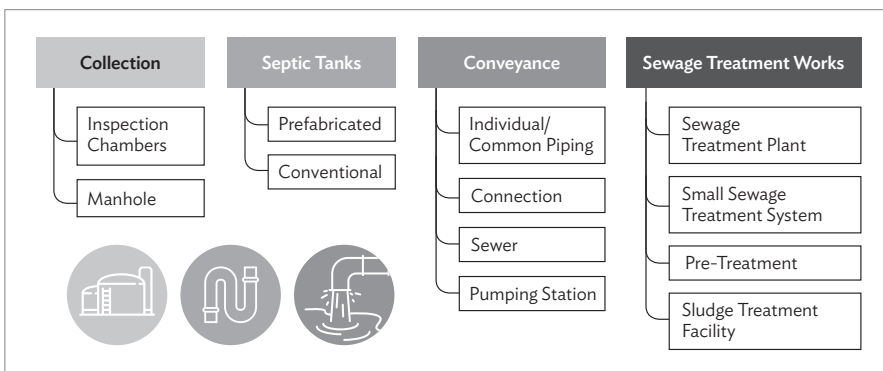
It was followed by an exercise to determine how to achieve the objective of Section 45 (1). Eventually, the observation made from this exercise showed that the ultimate objective of Section 45 (1) has nothing to do with the number of approval procedures used. Rather, the objective was to have a mechanism that would enable enforcement actions in the event of non-compliance and facilitate proper planning of sewerage infrastructure.

The minilab participants further dissected Section 45 (1) by defining and describing all the relevant terms. These were later used to deliberate on and develop the risk-based approval method. After defining ‘approval’, the minilab identified various approval methodologies such as those based on detailed checking, declaration of applicants, and through notifications, as shown in Figure 4. Each approval method was described in detail and the accountability of the stakeholders such as SPAN’s appointed approvers, and submitting persons in relation to various types of approval methodology was specified. Different approval methodologies shifted the dynamics and degree of accountability across the stakeholders. This segment of deliberation was crucial in creating awareness amongst the SPAN officers of how much accountability they are willing to assign to themselves in the various stages of sewerage infrastructure implementation.

Figure 4: Definition of Approval and the Methodology

Source: Punita Nook Naidu and Nurul Ashikeen Kamaruzaman (SPAN).

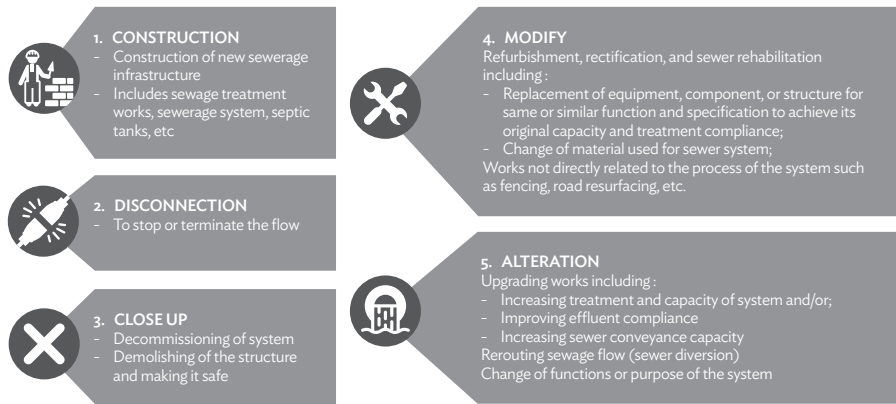
Prior to this exercise, SPAN officers and their appointed approvers had the notion that the professional submitting persons were accountable despite the former’s involvement during the design and construction stage through the issuance of technical comments on the work performed by the latter. The minilab also deliberated and described the types of infrastructure (Figure 5) and types of works (Figure 6) as provided for in Section 45 (1).

Figure 5: Types of Sewerage Infrastructure

Source: Public Consultation Paper, 18 June 2013, Sewerage Works Approval Transformation (SPAN).

The description of sewerage works and categorisation into the relevant groups were used to determine the suitable approval procedures. The detailed categorisation of all the components of Section 45 (1) set the foundation for guiding the minilab participants to perform a risk analysis for practicality and relevance of procedures to be imposed to transform the approach that had been used since 1996.

Figure 6: Types of Sewerage Works

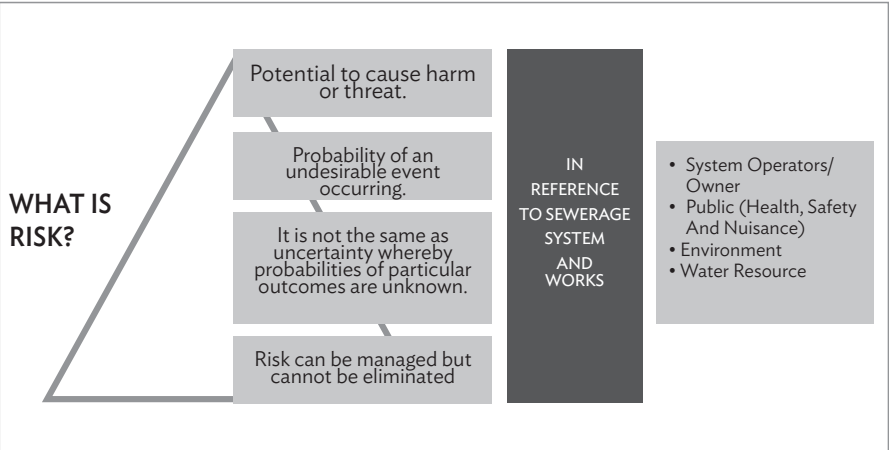


Source: Public Consultation Paper, 18 June 2013, Sewerage Works Approval Transformation (SPAN).

3.3 | Outcome of the SWAT Minilab

After establishing the fundamental principles of the sewerage work approvals and the foundations on the ultimate objective, the minilab designed the risk matrix of sewerage work approval procedures by priming the participants to understand and become aware of what is considered as risk as articulated in Figure 7. The participants then determined the stakeholders causing the risk or being impacted by it, the risks associated with the procedures, and the risks associated with the approvals issued. Prior to the risk-based model, the procedures used were immaterial to the type of works and infrastructure.

Figure 7: Definition of Risk



Hence, all works and infrastructure were considered high risk. However, as shown in Figure 8, most of the works and infrastructure had been categorised according to the risk-based model. The analysis shows that the majority of applications submitted for approval actually fall in the lower-risk category based on a scale of 1 (lowest risk) to 5 (highest risk).

Figure 8: Risk Matrix for Sewerage Works Approval Procedures

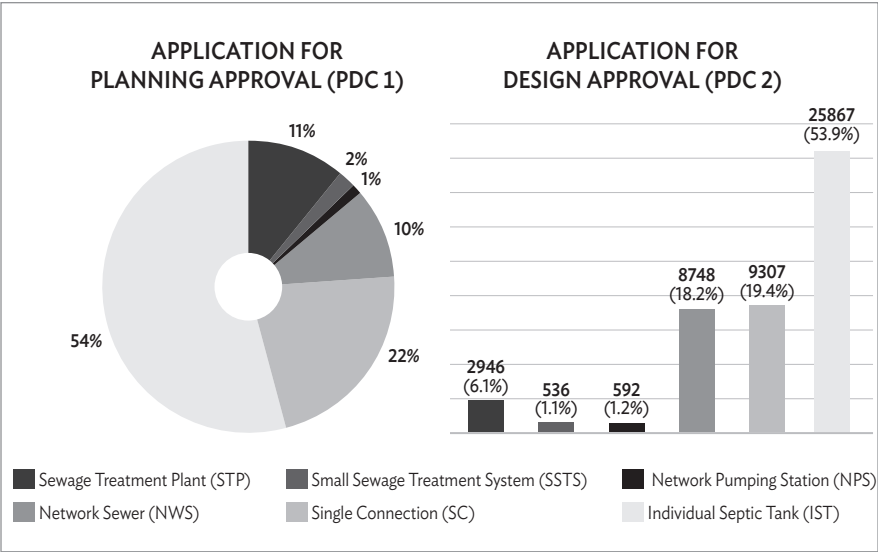
	Public							Private										
	Sewerage Infrastructure																	
List Of Works	Connection	Sewer	Pumping stations	Sewage treatment plant	Small sewage treatment system	Sludge treatment	Inspection chambers, Individual/ common piping, Connection	Sewer	Pumping station	Sewage treatment plant	Small sewage treatment system	Sludge treatment	Pre-treatment	Septic tanks				
Construction	1	2	5	5	1	5	1	2	3	3	1	3	3	1				
Alteration	1	2	5	4	1	4	1	2	3	3	1	3	3	1				
Disconnection	1	2	4	3	1	N/A	1	2	3	3	1	N/A	2	1				
Close up	1	2	3	3	1	3	1	2	3	3	1	3	2	1				
Note: Risk Scoring (at scale of 1 to 5)	1	Least risk: Very low impact, confined and localized harm/threat						List Of Works	Public							Private		
	2	Slight risk: Low impact, limited spread of harm/threat							Sewerage Infrastructure									
	3	Moderate risk: Reasonably impactful, harm/ threat extended beyond localize limit							Connection	Sewer	Pumping stations	Small sewage treatment system	Sludge treatment	Pre-treatment	Septic tanks			
	4	High risk: High impact, wide spread harm/threat							Construction	5	5	5	4	5	5	5	4	
	5	Very high risk: Very high impact, wide spread harm/threat and difficult to manage							Alteration	5	5	5	4	5	5	5	4	
								Disconnection	5	5	5	4	5	5	5	4		
								Close up	5	5	5	4	5	5	5	4		
Current Approval mechanism has the same procedure for all type of sewerage infrastructure and works irrespective of size and criticality																		

Source: Public Consultation Paper, 18 June 2013, Sewerage Works Approval Transformation (SPAN).

Seventy-eight percent of sewerage planning applications and 74% of sewerage design application are for infrastructure and works belonging in the ‘least risk’ category (1). About 62% are applications for final inspection as shown in Figure 9 and Figure 10. Hence, any improvement in the lowest risk category is a quantum leap in eliminating bureaucracy in the process and reducing unnecessary regulatory burdens.

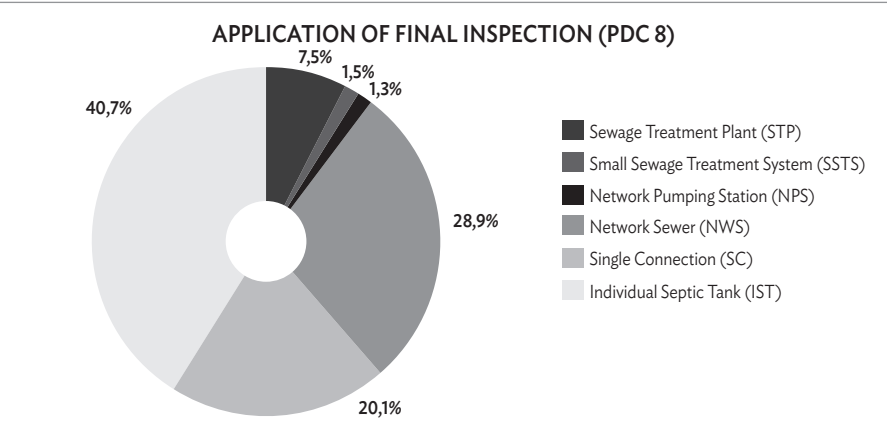
This transformation will free resources currently locked behind the desk-processing application, which can then be mobilised for monitoring and enforcement works. The new procedure established using the risk-based matrix was expected to cause a paradigm shift in eliminating bureaucracy in the process (Table 1).

Figure 9: Number of Sewerage Planning and Design Applications



PDC = planning design and construction (the original approval procedure); SWAT = sewerage works approval transformation.
Source: Indah Water Konsortium, 2011.

Figure 10: Number of Sewerage Applications for Final Inspections



Source: Indah Water Konsortium, 2011.

Table 1: Results of Sewerage Works Approval Transformation

Sewerage Works Approval Process	Original Procedure	Low Risk Segment	Improvement %
No. of Procedures	25	2	92
Ideal Application Processing Time	94 days	21 days	78
No. of Documents Prepared by Approvers	9	3	67
No. of Documents by Applicants	138	13	90
Approvers' Operating Cost	RM 560.00 per application	RM 148.75 per application	73
Applicants' Operating Cost	RM 1,862.90 per application	RM 1,021.40 per application	45

Source: Punita Nook Naidu and Mohd Roslee Mahyudin (SPAN).

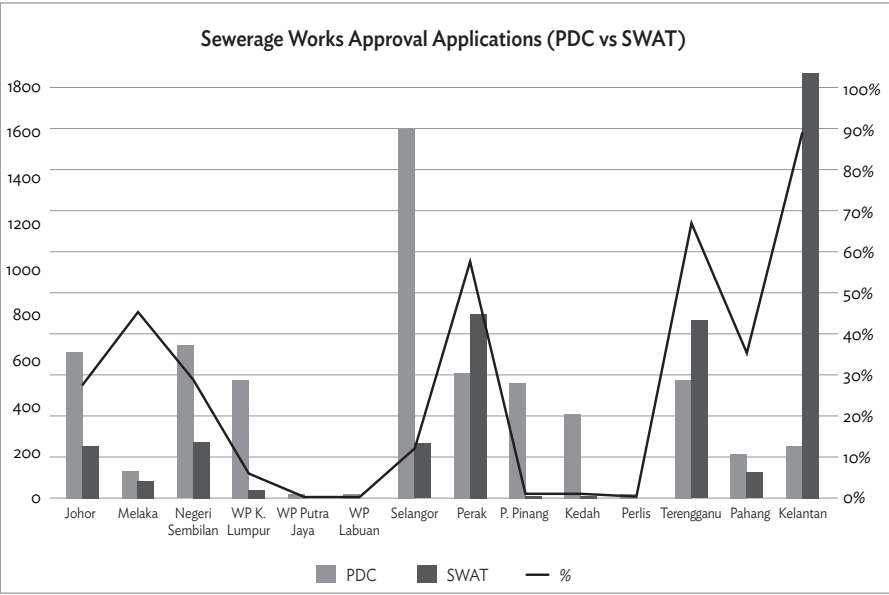
With bureaucracy's part removed, the annual cost savings for approvers and applicants are RM 4.3 million and RM 8.8 million, respectively. The most impressive feat in this transformation is that each approving officer will be freed of 14 working days in a year. Hence, the unlocked resources could be used for other functions that create better value.

3.4 | Implementation of the SWAT - Low-risk Segment

The recommendations derived from the findings of the minilab were brought to public consultation in June 2013. However, while the consultation was ongoing, a 2009 rule based on the former approval procedures was gazetted in July 2013. Meanwhile, the results of the public consultation were unanimously in favour of the SWAT recommendations. To circumvent the gazetted rules, SPAN decided to start implementing the new procedures for the low-risk segment by developing the necessary checklists, forms, and guidelines. SPAN also organised nationwide road shows to create awareness amongst approvers and stakeholders such as consultants and developers through their respective member associations. It also made available relevant information through its own and stakeholders' websites. Posters and brochures to create awareness were printed and distributed to the approvers and other stakeholders for circulation.

It had been anticipated that the uptake rate of using the new procedure would skyrocket within the first few months of its launching in early 2014. The task force monitored the progress on the uptake rate on a monthly basis. The monitoring results, however, were shocking, with the uptake rate averaging below 30%. The targeted or planned numbers were not being met. In some states, as shown in Figure 11, no submission for sewerage works using the new procedures was made despite the benefits they could deliver.

Figure 11: Uptake Rate of the Transformed Procedure in 2014 across States



PDC = planning design and construction (the original approval procedure); SWAT = sewerage works approval transformation.
Source: Punita Nook Naidu and Mohd Roslee Mahyuddin (SPAN Water Konsortium, 2011)..

3.5 | Assessment of the First Phase of SWAT Implementation

The task force regrouped to develop strategies in understanding the ground sentiment and improve the uptake rate of the new procedures. The results showed that despite going through proper channels to establish an evidence-based approach to develop this method and having the full support of SPAN’s board, their influence on the actual ground operations was not as anticipated. For this assessment, the task force engaged randomly selected applicants who had used the original instead of the new procedures. After assuring these applicants that the specifics of information they would provide would not be revealed or shared with approvers, the task force obtained feedback that led to an understanding of the inner circle operations at the ground level.

The feedback showed that about 50% of the applicants were not fully aware of the existence of the new procedures. The assessment also revealed that most of the applicants in the low-risk segments are very small firms, with some operated

through single ownership, and are rarely members of any association. SWAT's engagements and consultations prior to the implementation of SWAT had been with representatives of various associations.

A quarter of the applicants assessed stated they had been discouraged by the approvers to use the new procedures as the latter anticipated problems during the final clearance stage. The task force had underestimated the power play at ground level. With the procedures simplified and the empowerment of the professionals through self-regulation removed, the approvers' significant influence and control in the approval process have likewise waned. The sense of losing power is an emotional issue for the approvers and has a significant impact on their perceived social standing in the industry. That explains the shift in relationship dynamics amongst the task force, a fraction of SPAN officers, and approvers. The task force was facing hostility internally at the operational level (SPAN) and externally (approvers).

The rest of the feedback showed the applicants' personal preference for the original method due to their familiarity with it. Further analysis revealed that approval processes are controlled by middle persons or 'runners' who are neither project owners nor submitting persons (professionals). These industry players use to their advantage the complexities of the procedures to function as conduits between approvers and applicants. Hence, the simplified processes do not benefit them. The 'runners' are considered powerful in their own right as they can influence approvers and applicants through their long-established relationships.

3.6 | Rejuvenation of the Implementation Phase

After the assessment, the task force sent emails to small-scale firms to create awareness of the SWAT initiative. This sparked interest and created a buzz amongst the recipients. A special email channel was created to respond to and clarify inquiries either via email or telephone. The promotional season for the SWAT initiative was extended, which included SPAN, approvers, and associations representing stakeholders.

The task force also met with approvers nationwide not only to gather support for the initiative but also to explain and clarify matters. During those visits, SWAT banners and brochures were strategically placed for all applicants.

The task force held closed-group sessions with developers through their associations as the latter have significant influence in deciding if runners are necessary in facilitating the approval processes.

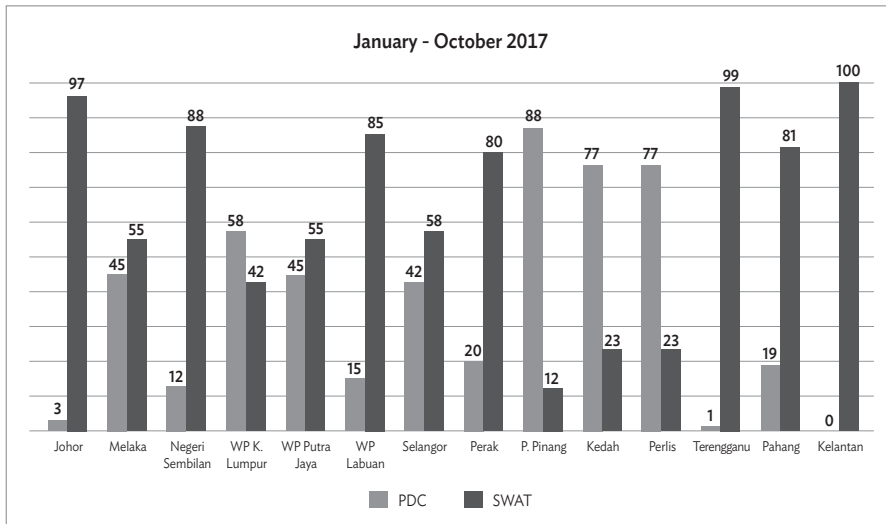
Pretending to be developers in the low-risk segment, the task force also made phone calls to approvers' offices to seek advice on the process of obtaining approval. They found out that some approvers still preferred the older procedures. This information was shared with the approvers' top management in the expectation that this would enable mechanisms that would mandate approvers to support the new procedures. The approvers' effort, however, proved to be insufficient.

To build up the pressure to transform, the task force organised a second nationwide tour with the state-level approvers, with the Malaysian Anti-corruption Agency participating to create awareness amongst approvers and SPAN officers on anti-corruption laws, corrupt practices and their implications, as well as integrity matters. It was expected that the approvers would foresee the risk associated with complex procedures and responsibilities associated with power.

The renewed efforts and initiatives raised the voluntary uptake rate of new procedures to 65% on average. In Johor, Terengganu, and Kelantan, almost 100% of the applications in the low-risk segment are using the new procedures (Figure 12). Yet, three states (Perlis, Kedah, and Pulau Pinang) were still below the average uptake rate in the first year the SWAT initiative was implemented.

3.7 | SWAT Initiative Today

The SWAT initiative is successful and has been used to promote reforms in other agencies. The SWAT experience has showcased possibilities of regulatory reforms despite challenges. SPAN has since amended the agreements with approvers to incorporate financial penalties in the event of non-compliance with the terms of contract, which include failure to meet the expected level of service

Figure 12: The Sewerage Works Application Pattern for 2017

PDC = planning design and construction (the original approval procedure); SWAT = sewerage works approval transformation.

Source: Punita Nook Naidu and Iwan Nazri Mohd Nordin (SPAN).

in processing applications. The financial penalty is a motivation for approvers to leverage the ease of new procedures.

The sewerage works approval procedures for the low-risk segment through voluntary participation have been in operation since 2014. The technical and operational issues that surfaced during their implementation have been gathered, analysed, and addressed. These data have been used in improving the second phase of SWAT, which includes the medium-risk and high-risk segments of approvals. The engagement and public consultation for the second phase have been completed. The necessary actions for a mandatory total transformation are currently underway. Some of the key actionable plans include amendment to the rules, development of technical documents as reference tools, development of suitable inspection mechanisms and tools, and leveraging technology through the development of an online sewerage works approval system.

[4] Lessons Learnt and Recommendations

Regulatory reforms should be based on the principles of good governance and, thus, should be participatory, consensus-oriented, transparent, responsive, effective and efficient, equitable, and inclusive. This ensures the reforms are justifiable and sustainable in the long term. In theory, a good governance approach for regulatory reforms is a perfect idea and a virtuous concept but extremely challenging. Although countries have made good governance a top priority in the decision-making process at all levels of government administration, only a few have come close to achieving a good governance approach in totality.

4.1 | Purpose

The motivation for regulatory transformation must be clear and transparent to gain the confidence of stakeholders. It is important not to simply introduce regulatory reforms as an academic exercise, which requires the reforms to be relevant and practical. The proposals for reforms must be based on actual science that includes comprehensive data gathering and analysis promoting predictability and reducing uncertainty. In the case of the SWAT initiative, it is crucial to establish and advocate that the procedures are neither regulatory objectives nor outcomes. The unnecessary regulatory burdens or bureaucratic interference must be minimised by adopting good governance to develop sewerage works approvals that are transparent, practical, uniform, and enforceable.

4.2 | Reform Drivers - People and Science

The support and encouragement team will be useful in managing the hostile environment during the initial stages of implementation, which is likely to happen in any type of regulatory reform project. The regulatory reform agenda should be based on evidence or facts from a critical analysis of the collected data. Science is objective and removes emotional bias. Results of data analysis must be rigorously questioned and tested to reduce margins of error.

4.3 | Practicality

It is common for the decision-making process to take more time when the approach used is more transparent and consultative. Regulators are held responsible for analysing feedback and responding to the decision-making process. It is critical for the regulators to assess each initiative to determine the extent of the good governance methodology that must be used in the regulatory decision-making processes. Regulators must be practical in addressing constraints to avoid allotting too many resources in the mechanism of achieving the decision rather than the decision itself. Other significant challenges and constraints are interference by lobby groups, lack of participation of certain stakeholders, and insufficient resources. Hence, incremental reforms are preferred as a better option than reforms implemented in one go. Furthermore, extended delays or updates from the regulators on the consultation exercise could be perceived as lack of interest or unwillingness to take action.

4.4 | Monitoring Mechanism

The monitoring aspect of the implementation phase is critical as a mechanism to check the desired output against actual results. A monitoring plan must be established before implementation. While observing the implementation phase requires patience, frequent assessments are essential in addressing the challenges and realigning targets and action plans. Monitoring is a proactive method to predict issues that are likely to surface. This can be followed up with necessary action plans to pre-empt new issues.

4.5 | Competency and Knowledge Development

Developing the competency levels and knowledge of all parties involved in the regulatory reform projects is vital for the proper implementation and success of reforms. During the initial stages of designing regulatory reforms, there is likely to be a lack of maturity and understanding by all the stakeholders, including the regulators themselves.

The regulators may face a competency gap in identifying and utilising suitable tools, especially activities that seek and provide feedback, data analysis, and regulatory impact analysis. While on-the-job learning is a common solution for most regulatory agencies, appropriate training should be planned and executed to enable strategically assigned personnel to acquire expertise for specific purposes.

Similarly, advancing stakeholders' competency and knowledge in the methodologies of regulatory reform will facilitate the progress of reform projects. Stakeholders will need the necessary experience and exposure in the regulatory reform exercises before they can provide valuable and relevant feedback.

4.6 | Systematic Engagement

The engagement process is used to improve transparency, responsiveness, accountability, and accessibility of the regulatory reforms from the beginning and to obtain buy-in from the stakeholders. An effective engagement process provides valuable information that can be used to design effective regulatory or non-regulatory solutions. Engagement enables informed decision-making and improves the accountability of the public service.

To ensure stakeholders are effectively engaged in the regulatory reform agenda, various techniques should be adopted. Some may require one-on-one engagements or focus group discussions (in small groups of similar stakeholders), which can be time-consuming compared to public consultations. This engagement method, however, is effective in obtaining authentic feedback without being influenced by irrelevant issues, which is common during consultations. Different stakeholders may require different forms of engagement, depending on the stages of the project. It is essential to identify the objective of engagement and the techniques best suited to its implementation, before any engagement is carried out.

CHAPTER 4

Brunei Darussalam: Halal Meat and Meat Products Processing

Ahmed Masood Khalid

Masairol bin Haji Masr

Nazlida Muhamad

Pang Wei Loon

UBD School of Business and Economics,

University Brunei Darussalam

[1] Introduction

This study focuses on the regulatory process governing the halal meat and meat products processing industry in Brunei Darussalam. The Brunei Halal certification is considered the most authentic certification of halal products in the country.¹ Several overseas business groups have visited Brunei and expressed interests in using its halal certification for their export market. The halal food industry has been identified as one of the niche markets for Brunei.

This report aims to identify import and export problems in the halal meat and meat products processing industry, and suggests improvements in the regulatory process that could help create a more efficient and business-friendly environment.

Specifically, this study looks into regulations on starting a business in Brunei as well as regulations in both the export and import markets in order to reduce the unnecessary burdens in halal meat and meat processing businesses.

This report is based on the issues identified in 'Issues Paper'² and the consultations with stakeholders and regulators that followed its issuance.

¹ See details and citations in Section 4.2 of this report.

² Issues Paper was the first report on this project submitted to the Economic Research Institute for

In the 'Issues Paper', we identified major stakeholders engaged in businesses related to halal meat and meat products processing. We also identified important regulators involved in business registration and halal certification. We first conducted a workshop of selected stakeholders who were provided an opportunity to register their concerns through questionnaires. We also interviewed selected stakeholders (major players) in the industry and had meetings with regulators to get more details on the processes. Questionnaires on business registration and halal certification process were sent to relevant authorities.

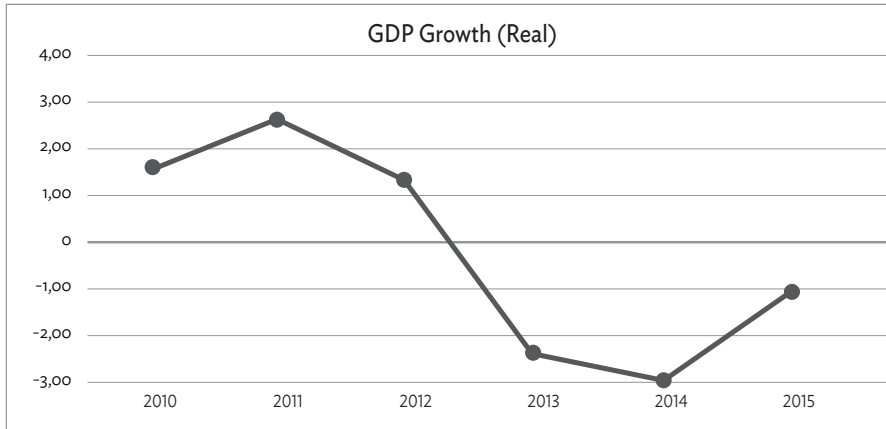
As a follow-up to the first phase of this project (Country Report), we engaged both stakeholders and regulators to specifically identify the bottlenecks and problems arising in the industry. Recommendations were proposed to ease each of the problems stated.

This report is organised as follows: Section 1 discusses the terms of reference. Section 2 presents a brief overview of the Brunei economy with focus on halal regulations. A discussion on the halal food industry, including halal certification, is provided in Section 3. Section 4 discusses the halal meat and meat products processing industry and the relevant value chain. Discussion on preparation of questionnaires, conduct of survey and interviews, and analysis is presented in Section 5. Section 6 makes concluding remarks.

[2] Brunei Economy: An Overview

Brunei is the fifth largest oil producer in Southeast Asia, with an average production of about 140,000 barrels per day (CIA World Factbook, 2014). It is the ninth largest exporter of liquefied natural gas in the world (GlobalSecurity.org, 2013). The oil and gas industry comprises about 90% of the country's exports and more than 60% of its gross domestic product (GDP) (Asian Development Bank, 2015). The revenues derived from the oil and gas industry have helped the nation achieved a GDP per capita of US\$27,000 in 2016 (World Bank, 2017).

ASEAN and East Asia (ERIA) in 2016. Its main objective was to identify areas of regulatory concerns faced by business in the halal meat and meat products processing industry.

Figure 1: GDP Growth of Brunei, 2010-2015

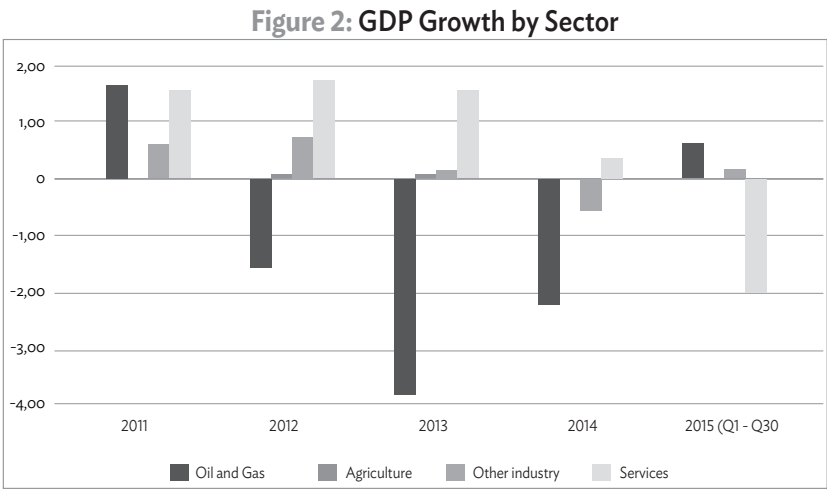
GDP = gross domestic product.

Source: World Bank.

Brunei is one of the very few countries where the state does not levy personal income tax on its subjects. Further, the government of Brunei provides free social services such as health, education, and subsidised housing for its citizens. The revenues generated through the oil and gas industry provide the much-needed income to cover these government expenditures. Brunei was able to maintain a current account surplus from 2001 until 2015 (IMF, 2015). Brunei's reliance on the oil and gas industry has made its revenue particularly vulnerable to the world fluctuations in oil and gas prices.

The current low oil prices of below US\$70 per barrel have particularly affected the country's export earnings and government revenue. Figure 1 shows the real GDP growth of Brunei's economy since 2010. It can be seen that the economy experienced a steady decline in real GDP starting from 2011. Since 2012, the country is officially in recession. A combination of falling oil prices and decline in oil production contributed to this negative growth in real output (See Figure 2).

Due to these two related factors, the government of Brunei has changed its strategy to be able to reduce the country's dependence on the oil and gas sector (Asian Development Bank, 2017). There is an urgency to diversify its economy towards non-oil industry and to promote a larger private sector by stimulating it to play a more active role in the economy.



GDP = gross domestic product.

Source: Asian Development Outlook 2016: Asia’s Potential Future Growth.

The government has already implemented Brunei’s 10th National Development Plan (2012–2017), the middle-term development plan under the country’s long-term development mission, also known as the Wawasan 2035. The main objectives of the Wawasan 2035 are to cultivate educated and skilled people, to have a quality of life that is amongst the 10 top nations in the world, and to achieve a dynamic and sustainable economy.

The halal food industry has been identified as one of the key industries where the country can venture into. However, as Table 1 shows, the share of any industry other than oil and gas in Brunei’s GDP is almost negligible.

As shown in Table 1, the industry sector, which covers oil and gas mining, construction, electricity and water, manufacture of food and beverage, and manufacture of apparels and textiles, is the dominant sector, making up about 67% of GDP. According to estimates of Brunei’s Department of Economic Planning and Development, the total output for the manufacture of food and beverage is only about B\$28.6 million, making up about 0.13% of the current GDP.

Brunei’s halal food became a focus of the national planning with the announcement of Brunei Vision 2035 (along with the 9th National Development Plan (2007–2012) under the Brunei Vision 2035. This is perhaps important given that the global halal food was valued at US\$697.52 billion in 2012 and expected to reach US\$829.74 billion by 2016. However, the industry also faces some challenges.

Table 1: Brunei GDP by Economic Activity, 2016

Sector	Values at Current Price (B\$ Millions)	% Share of GDP
Agriculture, Forestry and Fishery	196.1	1.1
- Vegetables, fruits and other agricultural produce	26.1	0.1
- Livestock and poultry	63.0	0.3
- Forestry	33.5	0.2
- Fishery	73.6	0.4
Industry	10,909.1	60.2
- Oil and gas mining	7,737.0	42.7
- Manufacture of liquefied natural gas and methanol	2,382.7	13.2
- Manufacture of apparels and textiles	35.9	0.2
- Manufacture of food and beverage products	29.4	0.2
- Other manufacturing	134.7	0.7
- Electricity and water	148.3	0.8
- Construction	441.1	2.4
Services	7,009.9	38.7
GDP	18,115.2	100

GDP = gross domestic product.

Source: JPKE Brunei, 2016.

As cattle farming is not suitable in the country, Brunei imports most of its raw meat mainly from Australia, the United Kingdom, Malaysia, China, and India. As shown in Table 2, Brunei's meat imports outweigh its exports by a large margin. Brunei mainly exports processed meat to states in neighbouring Malaysia such as Sabah and Sarawak. Given the size of the global halal market, there is definitely potential for Brunei's exports in halal processed meat. We note that only four companies in Brunei are involved in the meat industry. This study will look at the regulations in both the export and import markets in order to look at ways to reduce the unnecessary burdens on businesses.

Table 2: Import of Meat and Export of Processed Meat in Brunei

	Export (B\$ Thousands)	Import (B\$ Thousands)
2010	165	42920
2011	175	43219
2012	139	47284
2013	271	51190
2014	254	48338
2015	240	58498

Source: JPKE Brunei.

[3] The Halal Food Industry

3.1 | Regulatory Process on Halal Certification and Manufacturing

The halal food industry is gaining momentum due to the growing Muslim population and the increasing interest in Islamic lifestyle (e.g. dietary rulings, dress codes) among Muslims globally. Thomson Reuters (2017) reports that the global Muslim market spends about US\$1.173 billion on food (2015 estimates) or 16.6% of the global expenditure on food. According to the same report, in 2015 alone, revenues from halal food and beverages were estimated at US\$415 billion. This rising demand for halal food and beverages requires authentic halal certification based on Islamic laws. This obviously leads to a need for a good understanding of Shariah compliance and relevant regulatory structures, and the urgency to make such regulations more business friendly. As a country known for underlining Islamic law and values, Brunei is at an advantage to position itself in the halal industry. This is a good opportunity for Brunei to develop halal certification as a service industry and halal meat products processing as an export market.

3.2 | Brunei's Halal Food Industry

Brunei aims to benefit from the halal industry through the marketing of both halal certification and exporting of halal meat products. To achieve this, the government, in 2005, issued the first enactment of halal certificate and Halal Order 2005. This section discusses some important policies regarding this.

3.2.1. Halal Certification

In view of the growing global demand for halal products and a need for a formal regulatory framework for halal certification, Brunei launched its halal branding scheme called 'Brunei Halal' in July 2009, perhaps the first attempt to introduce a global halal brand to cater to the needs of Muslims around the world (Brunei Halal, 2012). Several institutions were then established to design appropriate regulatory framework to ensure consumers and manufacturers of strict halal compliance. The government first established Brunei Wafirah Holdings Sdn Bhd as owner of the Brunei Halal brand. Later, Ghanim International Food

Corporation Sdn Bhd was set up as a joint venture between Wafirah and Brunei Global Islamic Investment, and Kerry FSDA Limited, a Hong Kong-based logistics firm (Brunei Halal, 2012). The main function of Ghanim International is to provide halal label (Brunei Halal trademark) or certification to producers and manufacturers of halal products. This certificate is issued through the Halal Food Control Section of the Department of Shariah Affairs (Brunei Halal, 2012).

The Brunei Halal certification is internationally renowned for its credibility. The Ministry of Religious Affairs of Brunei, working with several other government agencies, is the only authority that delivers the halal certification in the country. Backed by the strongest religious institution in the country, the certification standard is internationally recognised by Muslim and non-Muslim countries.

The recognition of Brunei Halal certification has governments and international agencies approaching Brunei for collaborative efforts to certify products outside Brunei's borders. Agencies from Russia and Mexico are among those who have expressed interests to adopt Brunei Halal for their markets (Shahminan, 2012; 2015).

3.2.2. Recent Development

In September 2015, the ASEAN Economic Community decided to develop the halal food industry in the region (Euromonitor, 2015). In October 2015, the Brunei Economic Development Board signed a memorandum of understanding with AZ Food (B) Sdn Bhd and Catering & International Trading, a Tunisian company, to invest in halal food production and export facility in Brunei. Part of the agreement is to focus on food and sterilised products such as plastic trays for export (Borneo Bulletin, 2015). Accordingly, a \$90 million halal food production and export facility is agreed to be developed in Anggerek Desa Technology Park. The facility aims to prepare ready-to-eat halal meals using locally sourced raw materials, manufacture packaging materials, and assemble vending machines that will be used to distribute the packaged meals with a shelf life of 24 months. The food is planned to be exported within ASEAN and other regions. This will be a significant resource to cater to the demand of the growing Muslim population in the region.

Since 2016, several countries, including the Philippines, Thailand, Malaysia, Mexico, and Russia, have approached the Brunei government for possible joint ventures in the halal food industry. In December 2015, a 19-member delegation from Yunnan, China, visited Brunei to explore the possibility of collaboration in the area of halal certification (Kassim, 2015). The proposal is to use Brunei's halal certification for China's export market, which includes the Middle East. In 2015, the government established the Global Halal Industry Development Division under the Department of Energy and Industry of the Prime Minister's Office (The Brunei Times, 2015). To promote research and development, an agreement was signed with Sengenics, an international research and diagnostics firm, to establish its headquarters in Brunei to boost the local halal industry. Sengenics has officially opened its DNA sequencing and microarray facility at the Universiti Brunei Darussalam³. The total value of the project is expected to exceed US\$11 million (B\$16.5 million) over the next two years. The aim is to develop innovative commercial products to economically complement Brunei's halal hub strategy (The Brunei Times, 2015).

[4] Halal Meat and Meat Products Processing

This study has mapped out the regulations, corresponding regulators, and the procedures and processes to identify the key bottlenecks in the regulatory and process chain in halal meat and meat products processing. In particular, the regulatory map focuses on regulations in the following key activities in the value chain related to the halal meat and meat products processing:

- a. Starting business in each of the value chain of interest to the country for the selected priority integration sectors (PIS).
- b. Sourcing of inputs, domestically or internationally, in each of the value chain of interest to the country in the selected PIS. Note that domestic sourcing necessarily includes domestic logistics.
- c. Exporting the outputs in each of the value chain of interest to the country in the selected PIS.
- d. Meeting the standards/sanitary and phytosanitary measures for inputs and outputs in each of the value chain of interest to the country in the selected PIS.

3 Sengenics (2015).

The regulations and agencies that govern halal meat and meat products processing will be reviewed and analysed to identify areas where regulations can be improved, consolidated, or simplified without compromising underlying policy objectives. Any redundant, unnecessarily burdensome, and outdated regulations will be identified for removal as a way to reduce unnecessary regulatory burdens.

4.1 | Regulations and Regulatory Burden

Regulations are Acts, laws, by-laws, rules, or directives prescribed and maintained by an authority, especially to regulate behaviour. They can also include quasi-regulations such as guidelines and administrative circulars. A good regulatory regime should have a set of regulations that are legitimate, enforceable, clear, and administratively efficient.

The legitimacy of regulations implies the capacity of regulatory agencies to ensure production of regulatory outputs (and broader outcomes). Enforceability is critical to the success of regulatory framework. Enforcement agencies are expected to have the ability to apply regulations with a minimal degree of variations throughout the country. A good enforceability mechanism will automatically bring economic efficiencies. Regulations should be clear and simple, and guidance, in plain language. The consequences of non-compliance should also be made very clear. Simple and clearly stated regulations with an appropriate time to be effective help to increase awareness among businesses being regulated as well as to improve compliance. The complexity of government formalities and paperwork is also considered as a regulatory burden. Businesses spend considerable time and devote resources in activities such as filling out forms, applying for permits and licences, reporting business information, notifying changes, etc.

Regulatory burdens are the extra requirements, activities, and costs that businesses must deliver or bear in order to comply with regulations. These costs could be either in monetary terms through extra payment for obtaining licences; administrative cost to comply with conditions pertaining to inspections, shipment and transportation, and marketability of halal products; or non-monetary costs in terms of time spent on regulatory compliance. The extra requirements may also impact the productivity of businesses. These cost impacts include:

- a. Administrative and operational requirements, such as reporting, record-keeping, getting legal advice, and training;
- b. Requirements on the way goods are produced or services supplied, such as prescriptions on production methods, occupational registration requirements, and requiring professionals to use particular techniques;
- c. Requirements on the characteristics of what is produced or supplied, such as dangerous and restricted goods; and
- d. Loss of production and marketing opportunities due to prohibitions, such as ban on import/export of certain goods.

Unnecessary regulatory burdens arise when regulation is more burdensome than necessary in serving its objectives. Where regulation is poorly designed or written, or is not administered or enforced well, it may impose greater burdens than necessary. In reviewing existing regulations, those regulatory burdens which can be considered ‘unnecessary’ are of primary interest. The common types of unnecessary regulatory burdens experienced by business include:

- a. Excessive coverage by a regulation, i.e. the regulation affects more economic activities than what is intended or required to achieve its objective;
- b. Subject-specific regulation that covers much the same issues as other generic regulations;
- c. Prescriptive regulation that unduly limits flexibility, such as preventing businesses from using the best/latest technology, making product changes to better meet customer demand, and meeting the underlying objectives of regulation in different, more efficient ways
- d. Overly complex regulations;
- e. Unwieldy licence application and approval processes; excessive time delays in obtaining responses and decisions from regulators;
- f. Requests to provide more information than needed; requests to provide the same information more than once; and
- g. An overlap or conflict in the activities of different regulators, and inconsistency in application or interpretation of regulations by officials.

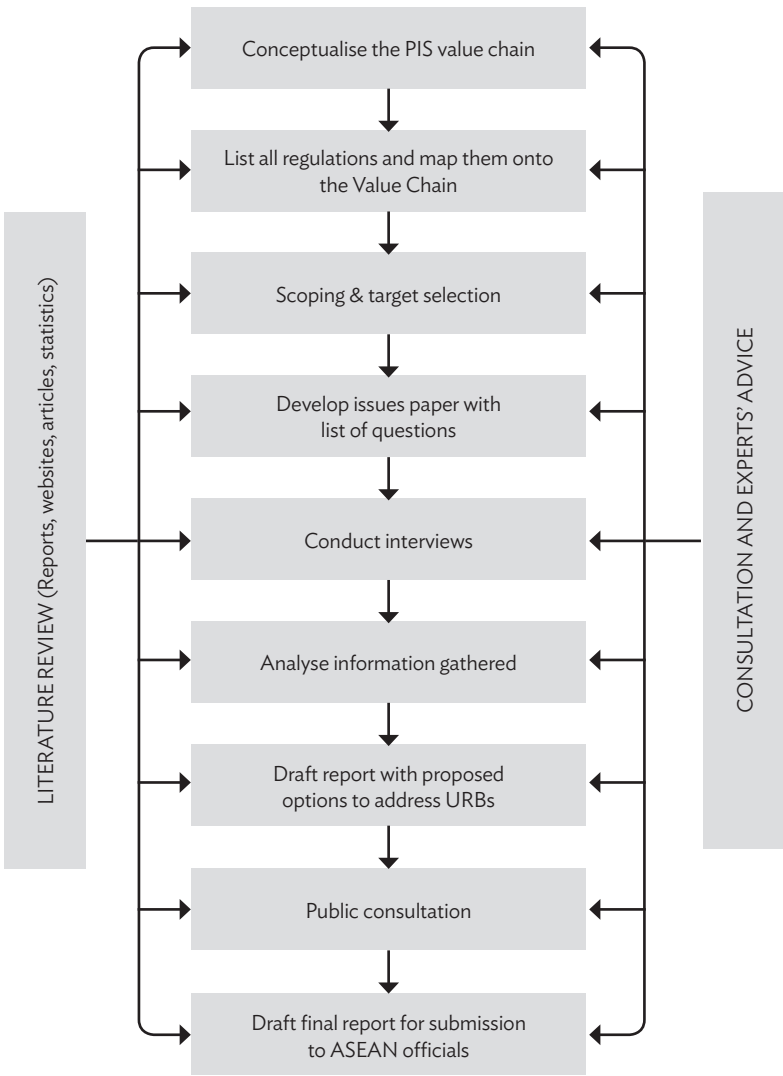
4.2 ■ Reducing Unnecessary Regulatory Burdens (RURB) Study Process

This study followed the approach of the Malaysia Productivity Corporation in identifying regulatory burdens and which of these are unnecessary that they could be reduced without compromising the achievement of the regulations' objectives. The study addressed written regulations and their implementation by regulators. It investigated the value chain of focused industry using primary and secondary data. Relevant government official websites, and published reports and articles were used to identify and detail the regulatory processes involved from import of raw materials to the domestic sale and export of final products. Processes and steps involved were discussed and analysed to find consistency with existing rules and regulations. The Brunei team took a slight diversion from the Malaysia Productivity Corporation's RURB study process by holding a meeting and distributing questionnaires to the businesses at the earlier stage of the study. This enabled the team to identify questions pertinent to the main focus that were incorporated in the issue paper.

At the second stage of the study, more formal interviews were conducted with the stakeholders as well as the relevant regulators. These interviews were based on questions identified in the issue paper. The opinions of the stakeholders and the regulators were also sought on questions/clarifications arising as a result of the team analysis of the data and reports.

The interview scripts were coded and analysed. Common issues were grouped together and recommendations were provided. In the next stage of the study, a public consultation was conducted where the stakeholders and the regulators were invited to provide a brief on the major findings of the study. Specific issues were discussed in detail and proposals and recommendations were made to overcome the identified issues that are presented in this report. In general, the team followed the standard Malaysia Productivity Corporation's RURB study process as summarised in Figure 3.

Figure 3: RURB Study Process



ASEAN = Association of Southeast Asian Nations, PIS = priority integration sector, RURB = reducing unnecessary regulatory burdens.
Source: Malaysian Productivity Corporation.

4.3 | Brief Description of the Halal Meat and Meat Products Processing and Value Chain

4.3.1. Halal Meat and Meat Products Processing in Brunei

Given the focus of this study, this section attempts to provide details of the regulatory mapping and value chain of the industry. The value chain depicts three main activities in halal meat and meat products processing: getting input of raw materials, processing of products, and moving products locally or exporting products. These are depicted in Figure 4.

In Activity 1, companies involved in halal meat and meat products processing need to make sure their raw materials are certified halal by the Ministry of Religious Affairs or by international halal certifiers recognised by the ministry. In the production stage (Activity 2), the companies need to abide by halal regulations that require certain criteria to be met in processing halal meat and meat products. Many issues regarding the production process and its facility may have been dealt with during the business registration process. However, due to the need to reapply for renewal of halal certificate, reinspection could be required on periodic basis. At the same time, companies need to consider their marketing decision in printing halal label on product packaging, which is performed during Activity 2. There are issues regarding printing the Brunei Halal logo with respect to the logo colour specification matching with product packaging materials (e.g. aluminium, paper). In the final activity (Activity 3), companies deal with issues on exporting the product that require them to abide with the importing country's rules and regulations.

Figure 4 : Value Chain of Halal Meat and Meat Processing Products



Source: Authors developed the figures for this study.

The regulation requirements and the regulators involved in each of the value chain activities are shown in Figure 5. The regulatory burdens identified are summarised in Table 3.

Table 3 illustrates the identified challenges as a result of regulations being enforced in all three activities. Businesses face challenges in the three main activities from importing raw materials to exporting products. Specific regulations that pose the biggest challenges are discussed in the next section.

Table 3: Value Chain Activities and Identified Regulatory Barriers

Activity 1: Inputs of Materials	Activity 2: Production	Activity 3: Export
Too many steps and agencies involved in the application to get certification of halal abattoir (Five steps)	Long process to acquire halal certification and halal permit: (6-8 weeks)	Importing countries' importing halal meat products regulations
Too many steps and agencies involved to apply for import permit (Seven steps)	High cost involved in acquiring halal permit for each product. Fee charged based on individual product.	
Sending five officers from various department for abattoir inspection (cost borne by importing companies)	Printing of product labelling - Halal logo costly to print due to colour restriction. Unused logo from previous year cannot be brought forward to next year.*	
Sending two officers from BKMh for slaughtering observation (cost borne by importing companies)		
Sample testing requirement by DoAA		

BKMh = Biro kawalan makanan halal, DoAA = Department of Agriculture and Agrifood.

Note: * Policy change to reduce the cost of printing is currently being considered by regulators.

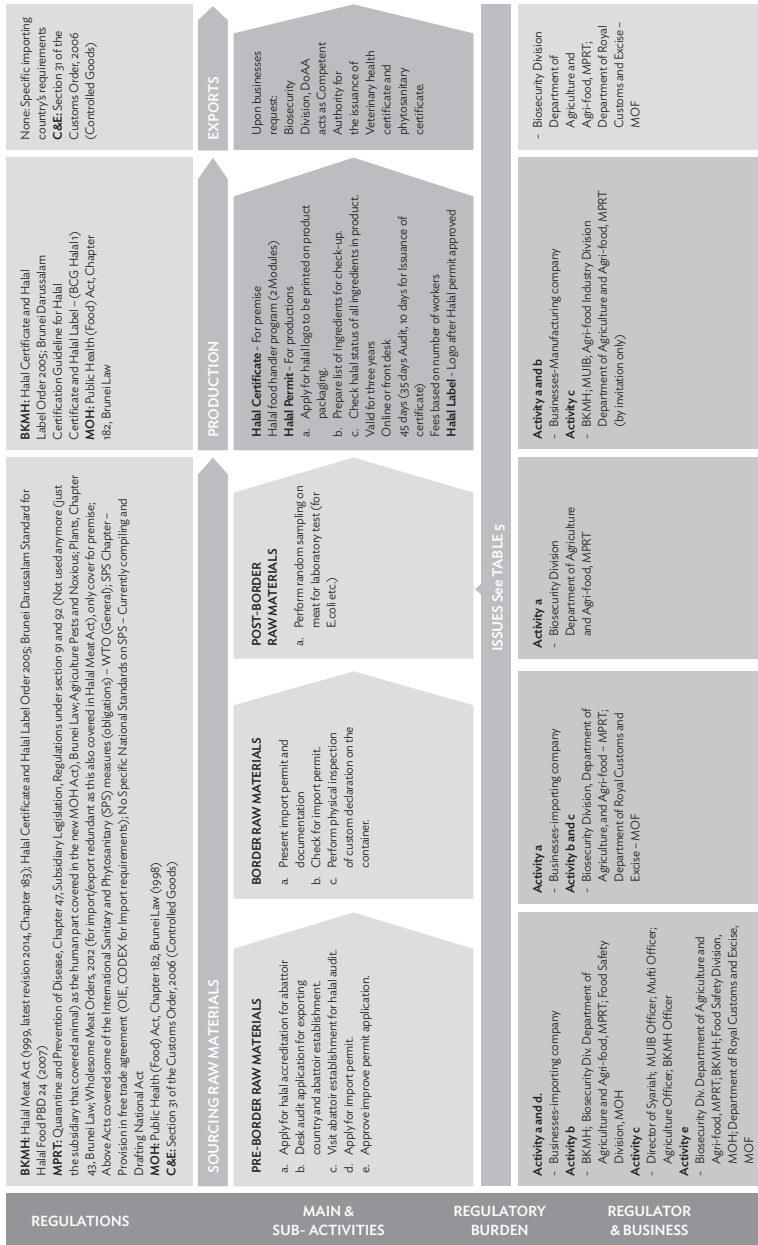
Source: Authors prepared the table based on information from interviews and published materials.

4.3.2. Regulatory Map of Halal Meat and Meat Products Processing

This section identifies the relevant regulations that govern halal value chain, from importing meat, halal meat, and meat products processing to export of halal products.

In processing halal meat and meat products, the regulations in setting up business mostly remain due to the strict regulation in maintaining halal standards. The main regulators are listed in Table 4.

Figure 5: Detailed Value Chain for Halal Meat Processing in Brunei Darussalam



BKMH = Biro kawalan makanan halal, MPRT = Ministry of Primary Resources and Trade, MOH = Ministry of Health, MUIB = Majlis Ugama Islam Brunei, MOF = Ministry of Finance, DoAA = Department of Agriculture and Agri-food, C&E = Customs and Excise, WTO = World Trade Organisation, BCG = Guideline for halal certification, OIE = World organization for animal health, CODEX = Codex Alimentarius Commission.

Source: Authors developed the figure from interviews and published materials.

Regulations on halal meat and meat products processing and the respective regulators that implement them are listed in Table 5.

Figures 6 and 7 illustrate steps in pre-border, border, and post-border sourcing of raw meat, with their respective certificates and permits, and halal certification and halal permit for premise and for processing meat produce, respectively.

Table 4: Government Agencies Involved in Halal Meat and Meat Products Processing

No.	Halal Certification	Import Permit	Halal Permit
1.	Majlis Ugama Islam (Department: Bahagian Kawalan Makanan Halal, Jabatan Hal Ehwal Syariah)	Majlis Ugama Islam (Department: Bahagian Kawalan Makanan Halal, Jabatan Hal Ehwal Syariah)	Majlis Ugama Islam (Department: Bahagian Kawalan Makanan Halal, Jabatan Hal Ehwal Syariah)
2.	Ministry of Health (Food Safety and Quality Control Division)	Ministry of Health (Food Safety and Quality Control Division)	Ministry of Primary Resources and Tourism (Agri-Food Industry Division, Department of Agriculture and Agri-Food) – By invitation only
3.	Ministry of Primary Resources and Tourism (Biosecurity Division, Department of Agriculture and Agri-food)	Ministry of Primary Resources and Tourism (Biosecurity Division, Department of Agriculture and Agri-food)	
4.	-	Ministry of Finance (Department of Royal Customs and Excise)	

Source: Authors developed the table from interviews and published materials.

Table 5: Regulations and Their Respective Regulators for Halal Meat and Meat Products Processing

No.	Regulation	Regulator
1.	Halal Certificate and Halal Label Order 2005	Ministry of Religious Affairs
2.	Brunei Darussalam Standard for Halal Food PBD 24 (2007)	Ministry of Religious Affairs
3.	Halal Meat Act (1999, latest revision 2014)	Ministry of Religious Affairs
4.	Brunei Darussalam Certification Guideline for Halal Certificate and Halal Label – Guideline for Halal Certification (BCG Halal 1)	Ministry of Religious Affairs
5.	Quarantine and Prevention of Disease, Chapter 47, Subsidiary Legislation, Regulation under Section 91 and 92	Ministry of Primary Resources and Tourism
6.	Wholesome Meat Orders, 2012 (Only cover for premise inspection)	Ministry of Primary Resources and Tourism
7.	Public Health (Food) Regulation (1998; 2000)	Ministry of Health
8.	Custom Order, Section 31, 2006 (Controlled goods)	Ministry of Finance – Department of Royal Customs and Excise

Note: Basically, No. 4 is supposed to be the 'user-friendly' guidelines for applicants. For Nos. 5 and 6, the Acts covered some of the International Sanitary and Phytosanitary (SPS) measures.

Source: Authors developed the table from interviews and published materials.

Figure 6: Sourcing Raw Meats

STEPS	ACTIVITIES	ACTORS & AGENCIES	ACTIVITIES	SUB-ACTIVITIES
1	Submit application for halal abattoir	Applicant and Board Committee*	PRE-BORDER	HALAL CERTIFICATE – COUNTRY & ABBATOIR a. Apply for halal accreditation for abattoir b. Desk audit application for exporting country and abattoir establishment. c. Visit abattoir establishment for halal audit.
2	Report on application	Board Committee to MUIB		
3	Decision	MUIB		
4	Inspection of the slaughterhouse	Inspectors team **		
5	Report	Inspectors team and MUIB		
6	Decision Meeting	MUIB		
7	Issue ‘slaughtering certificate’ /halal certificate	BKMH		
8 (1)	Submit application for import permit	Applicant (BDNSW Four Members)	IMPORT PERMIT - RAW MATERIALS	d. Apply for import permit. e. Approve improve permit application.
9(2.1)	Submit application for ‘Pegawai Pemerhati’****	Applicant (BDNSW - BKMh)		
10(2.2)	Submit application for halal logo	Applicant (BDNSW - BKMh)		
11(3)	Issue import license	Applicant (BDNSW - C&E)		
12(4)	Observation on the slaughtering activities	Applicant (BDNWS – Two HFCD Officers)		
13(5)	Import	Applicant	BORDER	INSPECTION a. Present import permit and documentation b. Check for import permit. c. Perform physical inspection of custom declaration on the container.
14	Arrival and custom declaration	Applicant DoAA and C&E		
15	Inspection and testing	Applicant DoAA	POST-BORDER	TEST a. Perform random sampling on meat for laboratory test (for E.coli etc.)

DETAILED ACTIVITIES	FOR ACTIVITIES 1,2 & 3 (A & B)	FOR ACTIVITIES 8,9,10,11,12 & 13 (D & E)	FOR ACTIVITIES 14 (A,B & C)	FOR ACTIVITY 15 (A)
	<p>COUNTRY & ABATOIR AUDIT – Existing Versus New Importer need to be registered with DoAA and apply for quota of import (no specific regulation)</p> <ul style="list-style-type: none">- Administrative – not in regulation- Apply through livestock industry division for quota <p>EXPORTING COUNTRY AND ESTABLISHMENT ACCREDITATION (DESK AUDIT) – POST 2015</p> <ul style="list-style-type: none">- Desk audit on competence authority of the exporting country (One time)- Desk audit on the exporting establishment- 1 month to process (if documentation complete) <p>Result submitted to BKM (Halal food control division) Meeting by LMPH (Halal permit committee)* to provides recommendation of whether to inspect or not (on-site) Provide Recommendation to MUIB to decide. * Board Committee members: Customs and Excise Officer, Director of Health, Director of Agriculture, MUIB secretary, Director of BKM</p> <p>FOR ACTIVITIES 4,5,6 & 7 (C)</p> <p>SLAUGHTER HOUSE INSPECTION **LMPH Inspection Committee consist of:</p> <ul style="list-style-type: none">- Director of Syariah- MUIB Officer- Mufti Officer- Agriculture Officer- BKM Officer <p>Each establishment to follow: Standard on Slaughtering PBD24 All costs for the LMPH committee to be borne by Importing Company</p> <p>Result submitted to MUIB LMPH provide Recommendation and decided by MUIB</p> <p>Halal certificate – YES or NO YES ----- Apply for import permit online BDN (Under C&E)*</p>	<p>IMPORT PERMIT APPLICATION Online application known as BDN (Under the management of the Royal Customs and Excise)*</p> <p>*DEPARTMENT OF ROYAL CUSTOMS AND EXCISE Approval permit application (BDNSW) - Examinations of approved documents from others agencies (4 Agencies)</p> <p>Steps (Consequently): Agriculture – Import requirements e.g. quota (1 day) BKM – Payment, notification to provide two officers for slaughtering observation (1 or 2 days to approve names), halal logo, on-site observations by two officers and report*** MOH – Health certificate to check before shipment (once all been slaughtered and tested) (3 days) C&E – Fill in First Schedule (1 day) • Custom controller to sign 'First Schedule' • Issue 'Seal' number for container</p> <p>**** Two BKM officers (All cost to be covered by Importing company)</p> <p>IMPORT APPROVAL PERMIT (BDNSW) Risk-Based System - Import Risk Analysis (IRA) Develop import requirement (Desk Audit & Site Audit) Issuance of import permit (through BDN (SW)) Phytosanitary certificate issued by Competent Authority of exporting country (Veterinary Health Certificate – VHC). - Laboratory results must be attached to the Veterinary Certificate from approved Laboratory. Process of issuance import permit is one (or) working day. - One permit is only valid for one consignment only. Fee payment: B\$700 per permit</p> <p>----- IMPORT</p>	<p>DEPARTMENT OF ROYAL CUSTOMS AND EXCISE Customs declaration - Container Inspection - 'Seal' number. - Unlock the container's lock (authorised by BKM)</p> <p>DOCUMENT (VHC) AND PHYSICAL INSPECTION BY AGRICULTURE DEPARTMENT - Import permit issued by DoAA, Brunei Darussalam; - Veterinary Health / Phytosanitary Certificate issued by Competent Authority of exporting country; - Certificate of treatment or vaccination; - Certificate of laboratory test results;</p>	<p>RANDOM SAMPLING TEST Once cleared and transported to Importer premise – under DoAA jurisdiction. Check items whether same consignments or not. Random Sampling for Lab Testing (First and Second Test) – Same sample - Microbiological analysis: e.coli, salmonella, coliform, etc - Veterinary Lab - 3-7 days depending on types of testing - Failed – retest - Retest consignment – release for processing only</p> <p>IF FAILED: FOOD SAFETY (MOH) Random Sampling for Lab Testing (Third Test) – New sample If failed – To return or destroyed</p>

BDNSW = Brunei Darussalam national single window, BKM = Biro kawalan makanan halal, MOH = Ministry of Health, VHC = veterinary health certificate, MUIB = Majlis Ugama Islam Brunei, DoAA = Department of Agriculture and Agri-food, C&E = Customs and Excise, LMPH = Lembaga Mengeluaran Permit Halal.
Source: Authors developed the figure from interviews and published materials.

Figure 7: Halal Certification Process (Production)

STEPS	1	2	3	4	5	6	7	8	9	10	11	12
ACTIVITIES	Submitted application	Decision: Approved-> Step 3 Not approved-> Step 1	Inspection	Report preparation & submission	MEETING Decision: Approved-> Step 6 Not approved-> Step 1	Report submission to MUIB	MEETING Decision: Approved-> Step 8 Not approved-> Step 3	Print halal certificate for approval	Submit certificate to MUIB committee	Certificates approval & Re-submit to BKMh	Make payments to MUIB	Issuance of halal certificates
ACTORS & AGENCIES	Applicant BKMh	Inspection committee BKMh	Inspectors BKMh	Inspectors	Inspection committee	Inspection committee	MUIB Halal committee	BKMh	BKMh	Secretary of MUIB	Applicants	
ACTIVITIES	PRODUCTION											
DETAILED ACTIVITIES	<p>Halal certificate - For premise Halal food handler program (Two modules)</p> <p>Halal permit - For productions</p> <p>a. Apply for halal logo to be printed on product packaging.</p> <p>b. Prepare list of ingredients for check-up.</p> <p>c. Check halal status of all ingredients in product.</p> <p>Valid for 3 years</p> <p>Online or front desk</p> <p>45 days (35 days Audit, 10 days for issuance of certificate)</p> <p>Fees based on no. of workers</p> <p>Halal label - Logo after halal permit approved</p>											

BKMh = Biro kawalan makanan halal, MUIB = Majlis Ugama Islam Brunei.
Source: Author developed the figure from interviews and published materials.

[5] Preparation of Questionnaires, Conduct of Surveys, and Analysis⁴

The research team used a survey and individual/team interviews to obtain information from the stakeholders and the regulators.

A questionnaire was used to obtain information from the regulators and followed up with one-on-one interviews. To obtain information from the stakeholders, the team identified all stakeholders related to halal manufacturing. The team arranged a formal workshop and invited several representatives from a list of businesses involved in manufacturing of halal products to participate. Aside from being asked to join informal discussions and deliberations on halal regulations, the stakeholders were also requested to answer two sets of questionnaires. These were followed up with one-on-one interviews, phone calls and/or e-mails to complete responses to the questionnaires. The results of the responses were analysed and are summarised in Table 6.

5.1 | Data Analysis

Table 8 summarises the information from the stakeholders' experience on regulatory process dealing with halal certification. The major issues and concerns identified include not only delays in business operations but also additional costs to obtain certification. Such costs are later passed on to consumers. Based on reports, we note a big difference in processing time to obtain halal certificates as experienced by different companies. This could vary from six months to a year. We also note that the established companies went through the long processing time a while ago before the on-line processing of applications. However, comments on the time and the different procedures to get halal and health certifications are certainly vital for us to be able to propose alternate measures to reduce the unnecessary regulatory burdens.

5.2 | Identification of Key Issues

⁴ Currently, the halal meat industry is very small in Brunei. To gather information, three to four main business entities were invited to a workshop and individually interviewed later. Given the small size of enterprises in this sector, it is not possible to perform a data analysis. The study only reports observations from this survey

Table 6: Summary of Responses (Halal Certification)*

Questions (Process/Rules & Regulations)	Responses
What information did you submit for the application?	Owner/ company profile; Business nature, Office address, Product formulation, Halal certification, supplier's info, Raw material
Assistance from officers about documentation [Not helpful: 0, Reasonable: 1, Very: 2]	1
Difficulty in compiling the information for the application [Difficult: 0, Reasonably diff: 1, Reasonably easy: 2, Easy: 3]	1
Problems faced in data collection (for application)	-
Information available in the manual or guidelines	No
Briefing about the process and next stage after submission of application	Mixed (Yes/No)
Processing time:	
a) Preparation of documents for initial application	2 weeks
b) First contact from officer after the submission of application	2 - 3 months
c) Grant of certificate (from the time premises checked)	6 months - 1 year
Rate the guidance provided in the manual. [Difficult: 0, Reasonably difficult: 1, Reasonably easy: 2, Easy: 3]	0 - 1
Number of different officers during the process	2 - 5
Rate the cooperation and support from officers. [not satisfied: 0, Reasonably satisfied: 1, Satisfied: 2]	1
Method of submission of application	By hand
Rate submission process. [not satisfied: 0, Reasonably satisfied: 1, Satisfied: 2]	0 - 1
Problems faced	Multiple examination of application; officers not well-informed, inconsistency in information provided by different officers; communication gap; Supplier's halal certificate is not acceptable.
Any specific issue or experience	No standard procedure

Note: The size of halal industry is too small. There are basically a few companies involved in the halal meat importing and processing. The survey was used to collect information without prior information on the size. However, more individual interviews were conducted to gather information reported in this study.

Source: Authors' findings based on stakeholders' survey.

5.2.1. Regulations and Regulatory Process

Our findings, based on the second stage of the study, i.e. interviews, further confirmed the following major issues.

Issue 1: Insufficient guidelines in processing halal certification

Issue 2: Long, cumbersome, and costly process in halal certification

Issue 3: Limited and inefficient local laboratory facilities and technology

Issue 4: Complicated technical specifications and costly regulatory requirements for halal logo print and usage.

5.2.2. Discussion on Issues

Issue 1: Insufficient guidelines in processing halal certification

Compiling information is not business friendly. Manuals/guidelines are insufficient and not up to date. Businesses rate the guidelines from 'difficult' to 'reasonably difficult'. Among the issues raised are the lack of details to guide companies in their expenses related to visits to abattoirs, and inconsistencies between the standards expected by the businesses and enquiries raised during inspections of their manufacturing plants. Another factor contributing to this issue is the ever-changing processes on the side of the regulators, which make conveying accurate and timely information a challenge to businesses. During the interviews with businesses, it was observed that the processes involved lack direction.

Issue 2: Long, cumbersome, and costly process in halal certification

Application process takes too long and/or is slow, taking from six months to a year before a halal certification is issued. Initially, companies need to contact the abattoirs they would like to import from. These abattoirs, in turn, need to be halal-certified by relevant ministries. Importing companies need to send two inspectors to witness the slaughtering and meat handling process per consignment, and certify the meat as halal.

The standard procedure for halal certification is very strict and time consuming. The Malaysian/Indonesia certification is more convenient for business in terms of process, approval time, and perhaps cost economy. But businesses in Brunei would not obtain certification from these countries since such certificates are not accepted by Brunei authorities. In Brunei, it takes two officers to check and verify the whole process, from slaughtering to meat packaging, thus increasing time and cost substantially. Specifically, the procedure involves two visits: the one-off factory halal certification visit where various officers from a relevant ministry are involved, and the importing/slaughtering stage visit where only officers from the Ministry of Religious Affairs are sent.

The ministry also requires an audit of the imported raw material sources. Many officers conduct the audit, making it very costly for the company. Lack of officers plagues foreign audit for the halal verification, and advanced notice is needed to book officers for the halal certification process. Should there be few officers during the requested period, the halal certification process and shipments are delayed. This process takes a long time even for newly established companies.

Furthermore, a halal certificate is needed for each premise and product consignment. The long time and high cost involved in the process are barriers for new firms getting into the market. As the cost is passed on to consumers, social welfare concerns are involved here. Companies bear all associated costs such as accommodation, tickets, and allowances. To cover the cost, large volume of products needs to be transacted. The more established and big firms monopolise the market. Also, the Brunei market is small and, hence, prices are not competitive.

Issue 3: Limited and inefficient local laboratory facilities and technology
Although meats are perishable, they are sometimes retained for too long at customs ports in Brunei for health security reasons. Health laboratories in Brunei are slow in testing products and sometimes produce different results from health laboratories outside Brunei. Also, they are not efficient and might not have proper collection and testing procedures. Thus, sometimes companies send samples of their products to health laboratories in Kota Kinabalu for another test that follows international health standards.

Issue 4: Complicated technical specifications and costly regulatory requirements for halal logo printing and usage

The Brunei Halal logo is too expensive to print. For one, the required colour scheme of the Brunei Halal logo increases the cost substantially for local businesses. For some local businesses, printing the Brunei Halal logo is a challenge as they need to have the logo custom-made overseas, e.g. Malaysia. Also, the standard Brunei Halal logo can only be printed on paper or plastic bottles but not on aluminium cans. Printing on aluminium cans further increases cost. Finally, the printed logo for imported meat is valid only for the year of its printing. Unused printed logos cannot be used for any future batch of products, thus causing substantial losses to businesses.

5.3 | Suggestions for Improvements

Round-table discussions with both the regulators and the businesses led to recommendations to the government agencies concerned to make policy changes. The sequence of discussions follows the activities as stipulated in the value chain in Figures 5 and 6.

5.3.1. Pre-Border Activities

a. Halal certification. Guidelines on the process of halal certification are insufficient. After consultation with the relevant agencies, all parties agreed they should be more transparent. More roadshows and consultations with the industry will be initiated especially if there would be changes to the existing rules and procedures. Consultations amongst the relevant agencies were also suggested to eliminate duplication of certification requirements. This will help address the concern as highlighted in Issue 1.

b. Halal certification for abattoirs. Most of the businesses have serious concern on the process involved in sending officers to certify abattoirs as it is observed to have impact on cost to businesses. It was recommended that the number of officers auditing the abattoirs be reduced and that a proper guideline on the logistics required for the visit be provided. In the Halal Meat Act (1999), the following officers are required to be present for on-site audit: a director of Syariah, an agriculture officer, and an officer each from MUIB, Pejabat Mufti, and BKMH.

During the consultation, the relevant agencies agreed to consider reducing the number of officers involved⁵. Any such changes, however, will require an amendment to the Halal Meat Act. This will help address the concern as highlighted in Issues 1 and 2.

c. Import permit. A related requirement under the Halal Meat Act (1999) is for slaughtering activities for every shipment to be witnessed by two BKMH officers. Businesses feel this to be costly.

The consultation dialogue suggested the following:

- The Act should be revised to allow an importing company to hire a qualified halal certifier at the country of origin to witness and submit report to the relevant agency.
- The Brunei government may engage local halal certifiers in the country of origin as their representatives.

⁵ The relevant agencies indicated a possibility of excluding the director of Syariah and an MUIB officer from the list as the task itself can be performed by the Pejabat Mufti officer, leaving the process with three officers to conduct on-site audits.

These initiatives may help reduce the cost of performing activity no. 12 for the import permit as shown in Figure 6. This will require an amendment to the Halal Meat Act. It will help reduce the cost highlighted in Issue 2.

d. Import permit. The approval steps within the online BDNSW system create longer approval time.

After consultation with the members of BDNSW committee, the representative of the Royal Customs and Excise agreed to suggest to their committee to change the approval process to allow an online simultaneous approval process involving different agencies. This will help address the concern highlighted in Issue 2.

e. Import permit. The existing regulation requires four agencies (Agriculture Department, BKMH, MOH, and Royal Customs and Excise) in the import permit approval through the online BDNSW system.

As a result of the dialogue, it was recommended that the number of agencies involved be reduced to three. This will require the Royal Customs and Excise to change the online BDNSW system. Amending the relevant provisions in the Act is deemed necessary. This will help eliminate duplication in obtaining import permit as highlighted in Issue 2.

5.3.2. Post-Border Activities

a. Sample testing

Businesses complain on the length of time it takes to test their consignments. After consultation with the Bio-Security Division of the Agriculture Department, the tests were deemed necessary as these are international requirements. If the outcome of the sample testing is positive of bacteria, a second test on the same sample will be conducted. According to the Bio-Security Division, international guidelines require the use of the same samples for re-test. If the second test produced the same result, the case will be referred to the Food Division of the Ministry of Health. However, per consultation with the Food Division of the Ministry of Health, a new sample will be collected for its laboratory to test. Its result might differ as samples used by both laboratories were different. This inconsistency creates confusion to companies.

Based on the consultation, it was suggested that the Bio-Security Division, MPRT, and the Food Division of MOHA should discuss the issue further. A national laboratory was also suggested and the need to invest more in it to maintain integrity of results. An improved laboratory will greatly improve tests reliability and efficiency of the processes, such as reducing the quarantine time for products especially perishable meats. This will help in eliminating or at least reducing Issue 5 as highlighted by the businesses in the previous section.

b. Production

i. *Halal permit.* A problem observed is the lengthy process in acquiring halal permits (45 days). The regulators associated this to the lack of qualified manpower. The only solution seems to be to hire more qualified staff. As highlighted by the businesses, another problem is the difficulty tracking the progress of application. At present, no officers are assigned to respond to queries.

It is recommended that officers be assigned throughout the process to specifically provide better interaction between applicants and concerned officers. This will perhaps improve efficiency and help address Issues 1 and 2.

ii. *Halal label.* The regulators took note of the issue of the Brunei Halal logo specification and its use after printing. The businesses had suggested allowing the reuse of the unused logo for at least the following year. The businesses had also suggested introducing changes to the logo colour specification. As the suggested changes will not require amendments to any specific Act, the regulators agreed to consider this suggestion. This will assist in eliminating or at least reducing Issue 4.

c. Export

i. Given that export-related processes are regulated by the importing country, there seems to be no issues involving domestic rules and regulations on exporting halal meat products. During interviews with the regulators, the team was informed that the Agriculture Department's BioSecurity Division only acts as the 'competent authority' for the issuance of veterinary health certificates and phytosanitary certificates as needed.

ii. Customs Order 2006, Section 31, on the prohibition of controlled goods.: The businesses raised no concern on this particular order although they raised some

non-regulatory matters. For example, government support is needed to provide exporting companies with information on how to facilitate entry into potential export market, rules and regulations on export policies of importing countries, economically efficient means to export, and assistance in obtaining necessary documentations for export.

[6] Concluding Remarks

The global business environment has become very competitive. Market participants who lack quick-thinking and decision-making competence are at risk of losing all or major parts of the market share. Under this competitive environment, the role of regulations becomes extremely important. A business-friendly regulatory environment is a critical precursor to the efficiency and success of businesses. Regulations are required to provide not only a safety net to investors but also to discipline market participants.

The discussion presented in this study is based on interviews and consultation with stakeholders and regulators. The analysis identifies a number of issues impacting the growth of halal meat and halal meat processing industry in Brunei Darussalam. The issues faced by businesses range from importing raw meat to processing meat products. We feel that regular consultations are needed between stakeholders and regulators. The study suggests several recommendations to reduce the unnecessary regulatory burdens as a way forward. These suggestions and recommendations are expected to address the current concerns raised by businesses and improve the processes involved in the halal meat and meat processing industry. This may help Brunei's future direction towards making itself a regional hub for halal industry and achieving its goal of economic diversification.

REFERENCES

Asian Development Bank (2017), *Asian Development Outlook: Brunei Darussalam*. <https://www.adb.org/sites/default/files/publication/237761/ado-2017.pdf> (accessed 6 May 2018).

- Asian Development Bank (2016), *Asian Development Outlook (ADO) 2016: Asia's Potential Growth*. <https://www.adb.org/publications/asian-development-outlook-2016-asia-potential-growth> (accessed 6 May 2018).
- Asian Development Bank (2015), *Asian Development Outlook: Brunei Darussalam*. <https://www.adb.org/sites/default/files/publication/154508/ado-2015.pdf> (accessed 6 May 2018).
- Borneo Bulletin (2015), 'Deal inked for Halal food production', 23 October 2015.
- Brunei Halal (2012), <http://www.brunei-Halal.com/> (accessed 6 December 2015).
- The Brunei Times (2016), 'PMO sets up four new divisions under the purview of Department of Energy and Industry'. <http://www.bt.com.bn/news-national/2015/12/06/pmo-sets-four-new-divisions-underpurview-department-energy-and-industry> (accessed 6 December 2015).
- Brunei Government (2016), Brunei Darussalam Statistical Yearbook, Department of Economic Planning and Development Statistics Division, Brunei.
- Economic Research Institute for ASEAN and East Asia (2015), 'Report of the ERIA Workshop and Training on RURB', Kuala Lumpur, Malaysia, 9–12 September, 2015.
- Euromonitor (2015), *Doing Business in the Halal Market: Products, Trends and Growth Opportunities*, Euromonitor International.
- GlobalSecurity.org (2013), Brunei Economy. <https://www.globalsecurity.org/military/world/brunei/economy.htm> (accessed 5 May 2018).
- Kasim, Leo (2015), 'Yunnan keen to collaborate with Brunei on Halal certification', The Brunei Times. <http://www.bt.com.bn/business-national/2015/12/17/yunnan-keen-collaborate-bruneiHalal-Certification> (accessed 30 January 2016).
- Sarmiento, Prime (2015), 'AEC to Help Grow Halal Food Sector', The Brunei Times. <http://www.bt.com.bn/business-national/2015/09/10/aec-help-grow-Halal-food-sector> (accessed 30 January 2016).
- Sengenics (2015), 'Sengenics Launches New Genomics and Immunomics Facility', 26 October, 2015. <https://www.sengenics.com/release/sengenics-launches-new-genomics-and-immunomics-facility-in-brunei/> (accessed 5 May 2018).

- Shahminan, Fitri (2015), 'Russia Seeks Brunei Expertise in Halal Industry Development', The Brunei Times. <http://www.bt.com.bn/business-national/2015/08/27/russia-seeks-brunei-expertiseHalal-industry-development> (accessed 14 January 2016).
- Shahminan, Fitri (2012), 'Mexico Keens to Help Develop Brunei Halal Industry', The Brunei Times. <http://www.bt.com.bn/business-national/2012/07/13/mexico-keen-help-developbruneis-Halal-industry> (accessed 14 January 2016).
- Thomson Reuters (2017), *State of the Global Islamic Economy Report 2016/17*, Thomson Reuters. <https://ceif.iba.edu.pk/pdf> (accessed 15 May 2018).
- The Brunei Times, <http://goo.gl/LJeDvt> (accessed 30 January 2016).
- The Brunei Times (2015), <http://www.bt.com.bn/news-national/2015/12/06/pmo-sets-four-new-divisions-under-purview-department-energy-and-industry> (accessed 30 January 2016).
- The Brunei Times (2015), <http://www.bt.com.bn/business-national/2015/10/27/Halal-industry-benefit-new-r-d-facility> (accessed 30 January 2016).
- The World Bank (2016), *Ease of Doing Business 2016*. <http://goo.gl/Z38Kwu> (accessed 6 May 2018)
- Wikipedia (2016), 'Economy of Brunei', <https://goo.gl/V2VaP0> (accessed 6 May 2018)
- World Bank (2017), *World Development Report*. <https://blogs.worldbank.org/taxonomy/term/15673> (accessed 6 May 2018).
- Worldometer (2018), 'Brunei Population', <http://www.worldometers.info/world-population/brunei-darussalam-population/> (accessed 5 May 2018).

CHAPTER 5

A Case Study of Cambodia's Agro-industry

Sothea Oum

Shandre Thangavelu

Monyrath Nuth

Asian Growth Research Centre

University of Adelaide

[1] Introduction

Agriculture is one of Cambodia's key industries. In recent years, however, its contribution to the economy has shrunk behind the manufacturing and service sectors. Despite this, agriculture remains central to Cambodian economy, employing millions of people including the poor and the most vulnerable groups of Cambodians. Because of the sector's significance, the Cambodian government has identified the agricultural sector as central to phase 3 of its rectangular strategy, and intends to increase added value to it through increased production, export, and investment (RGC, 2013a).

Existing research shows that the Cambodian agricultural sector continues to face tremendous challenges from unfair competitive practices, inadequate workforce, poor access to finance and utilities, high tax rate, and complex licencing and permit processes (World Bank, 2016). Agro-business operators have identified complex regulations and licencing processes as a constraint, though not a primary one. Such unnecessary regulatory burdens have not only contributed to increasing consumer prices but have also created additional costs for business compliance, resulting in reduced competitiveness (MPC, 2014) compared to other regional and global competitors. Thus, reducing unnecessary regulatory burdens (RURB) contributes in creating a favourable enabling business environment that could drive more investors into the sector, which is one of the objectives of the Cambodian government's rectangular strategy.

Evidence from other countries suggests that success in RURB lies in the central role of regulators in ensuring more transparent and accountable processes in enacting, enforcing, and reviewing regulations (MPC, 2014). This requires that regulators be adequately capable of leading consultative process with the private sector on issues and burdens for businesses that have been identified and addressed in a regulatory system. Good governance means guiding good regulatory processes so that unnecessary and burdensome regulatory issues are removed.

As RURB is important to Cambodia's agro-industry and is well aligned with the government's priorities and policies and its commitment to ASEAN, the Economic Research Institute for ASEAN and East Asia commissioned a research team¹ to conduct a study on RURB, with Cambodia's agro-industry as case study. The central aim of the study is to identify unnecessary regulatory burdens in agro-industry and to consider a systematic process of 'informed regulatory conversations' between and among key regulators and relevant stakeholders to improve Cambodia's business and investment environment.

To achieve the objective, a thorough research process was undertaken through review of literature, in-depth interviews with key stakeholders (12 agro-business people and 10 regulators), and two distinct workshops. The first workshop was joined by about 40 agro-business people who provided feedback on the design of the research project. The second workshop was a round-table dialogue, during which about 40 regulators and business people interacted and discussed the initial findings and offered insights into practical solutions for RURB.

To illustrate the study results, the rest of this report is organised as follows. Section 2 is an overview of the agro-processing industry in Cambodia, setting some scenes for a general understanding of the industry, and how regulations are crafted and implemented. Section 3 details the research processes with regard to how the industry was selected and how data were collected, analysed, and validated. The final section presents key research findings, divided into three sub-sections (institutional context and RURB, business start-up, and export procedures), followed by conclusions and policy recommendations.

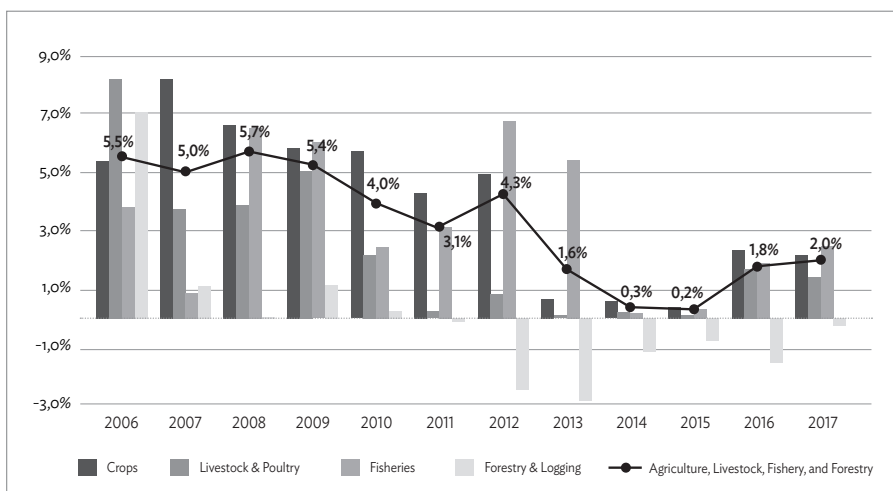
¹ The team consists of Dr. Sothea Oum, Mr. Theara Khoun, and other research assistants

[2] Agro-processing Industry in Cambodia: An Overview

Agriculture and industry were traditionally considered as two separate sectors in terms of their characteristics and roles in economic development. However, in the light of agriculture's technological advancement and integration into production chains and networks of industrial interdependencies, it is now considered as either 'agro-industry' or 'agro-processing industry' (FAO, 1997).

Agriculture has been pivotal in Cambodia's economy and its poverty-reduction efforts. In 2013, 49% of Cambodia's labour force engaged in this sector, compared with 20% in industry and 31% in services (CIA, 2018). Cambodia's agricultural gross production grew by 8.7% between 2004 and 2012, with significant increase in maize (20%), cassava (51%), sugarcane (22%), and vegetables (10%) productions, driven mainly by new technologies and quality of fertilisers, improved irrigation, and better access to markets (World Bank, 2015). Farm wages also grew significantly by 206% (compared with non-farm wages: up by 60%) in 2005–2013, converging with wages in other sectors (World Bank, 2015). However, since 2013, Cambodia's agricultural production has slowed down considerably (Figure 1).

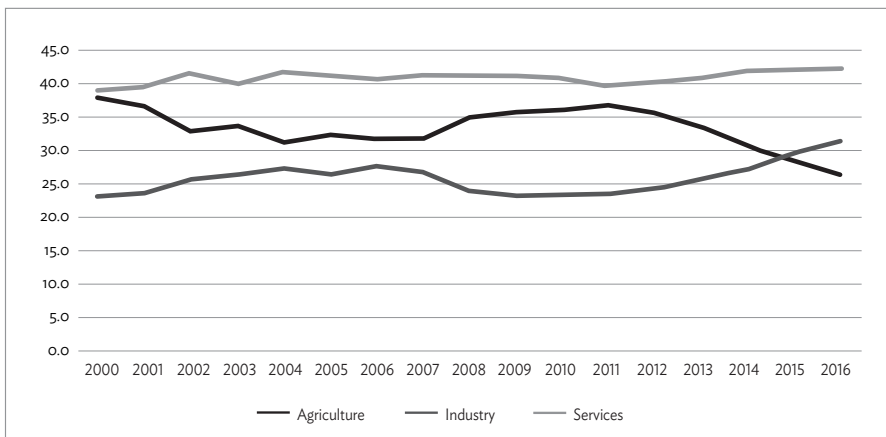
Figure 1: Cambodia's Annual Growth of Agricultural Sub-sectors (Constant Prices), 2005–2017



Source: Ministry of Economy and Finance, 2018.

As shown in Figure 2, despite the high share of Cambodia's total labour force in the economy, the share of the agricultural sector in the country's real gross domestic product steadily declined from 47% in 2000 to about 26% in 2016. In contrast, the industry (garments) and services sectors maintained a healthy growth. Similarly, agricultural export value was merely 6.8% in 2016, as opposed to 79% in garments and textiles (Figure 3).

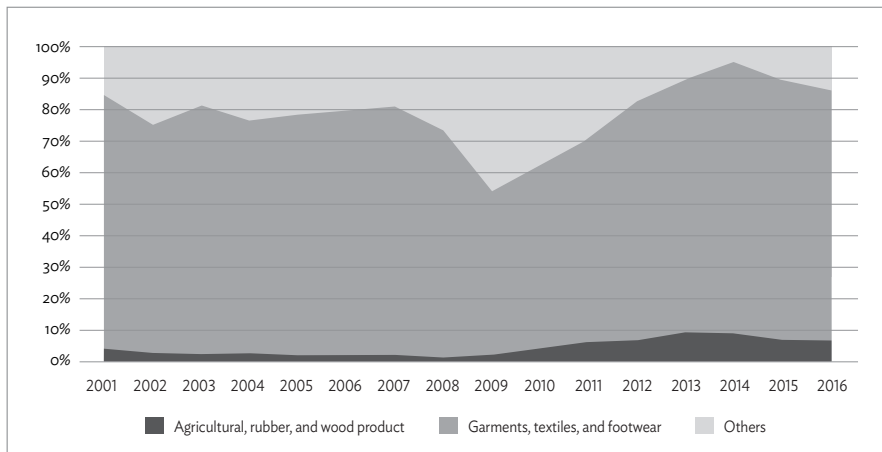
Figure 2: Key Indicators of Cambodia's GDP



GDP = gross domestic product.

Source: Asian Development Bank Statistical Database System.

Figure 3: Share of Cambodia's Export in 2015

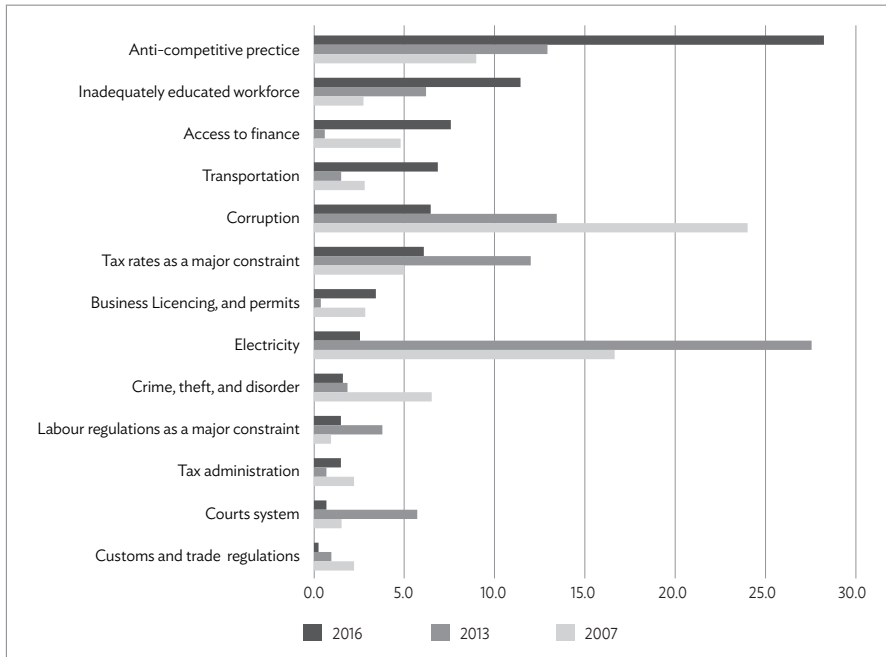


Source: Trade Map – International Trade Centre, 2018.

Despite the significance of Cambodia's agricultural export, several major constraints undermine its reaching full potential. First is the high cost of transportation. According to the World Bank (2015), Cambodia's transportation cost decreased from US\$15 per 100 kilometres per tonne in 2009 to around US\$10 per 100 kilometres per tonne in 2013 due to better road quality, increased truck availability, and greater competition among local transport companies. Still, the cost is relatively high compared to that of its neighbours (for instance, US\$7/100 km/tonne in Viet Nam and US\$5/100 km/tonne in Thailand) (World Bank, 2015).

Another challenge is the high informal fees, and corruption. According to an enterprise survey by the World Bank in 2016, corruption is the fifth major constraint faced by business owners in Cambodia (Figure 4). Similarly, the survey results also showed that most business owners reportedly used to pay unofficial fees, especially to secure government contracts, get import licences, and comply with other procedural requirements. Another study by Chheang and Hamanaka (2011) found that all the firms they interviewed raised concerns about the high unofficial facilitation fees required to export their products. Such informal payments inevitably pose direct and indirect burdens on business as these add to export cost and thus affect business competitiveness and the business climate in Cambodia in general.

The informal nature of Cambodia's agricultural exports is also quite burdensome. It is estimated that much of Cambodia's agricultural exports, especially rice, pepper, maize, and cashew nut, is informally exported to neighbouring Viet Nam and Thailand, but whose values and quantities are not found in official data (RGC, 2014). According to Oum and Thangavelu (2016), 97% of Cambodia's existing firms are not registered. The decision to stay informal is due to the perceived high costs of compliance to regulations. More specifically, in the context of poor governance and corruption, while registered firms incur high compliance costs, including taxes and non-tax expenditures, informal firms can evade taxes and licencing requirements by paying lower informal fees and thus maintain higher profit margins (Oum and Thangavelu, 2016; Chheang and Hamanaka, 2011). An important implication for the informal nature of agricultural firms is that they cannot export their products and agricultural commodities through formal means but have to export them informally to neighbouring countries (Oum and Thangavelu, 2016).

Figure 4: Major Constraints Faced by Firms in Cambodia (% of Responses)

Source: World Bank Enterprises Survey, 2016.

Given its high share of labour despite meagre share of gross domestic product and export value, Cambodia's agro-industrial sector has much potential to be bolstered. The promotion of agricultural export through trade facilitation and the reduction of procedural requirements have been among the top five priorities of the Cambodian government (RGC, 2013a; 2016). In particular, the Cambodian government aims to increase the share of agribusiness to 30% of real gross domestic product by 2025 in an effort to reduce the latter's reliance on garments production (RGC, 2016). Major developments include expediting the implementation of the national single-window service by streamlining and digitalising import, export, and business-related procedures at all international border checkpoints, and ensuring its integration with the ASEAN single-window service, and the commitment to reduce or abolish repetitive and non-transparent procedures (RGC, 2016). However, full implementation of these commitments remains to be seen.

[3] Research Methodology

This research relies on literature review and qualitative survey. The sampling strategy used for this study is purposive in nature. The research team identified research participants with direct experience in operating agro-business and in dealing with export processes, particularly those who were able to provide answers related to key regulatory frameworks and their practice. Given this, the research participants interviewed for this study were selected from the list of agro-businesses registered with Cambodia's Ministry of Commerce (MoC). Based on the list, only 42 companies are in the agro-industry for exports. Of these, about 30 have direct and regular experience in dealing with export processes. Twelve companies (or 40% of the total number of active agro-business companies) were interviewed.

While this sample size appears to be small, it provided the opportunity for the research team to interview research participants in detail and more accurately. This resonates well with the objectives of this study. Furthermore, irrespective of the sample size, the interviews led to no additional themes or explanations by research participants. This reflects the saturation of the data collected, as no additional information emerged from the interviews.

As a result of the data collection, key research findings were developed by the research team. To contribute in finalising the research, an interactive round-table dialogue was organised, with about 40 regulators and agro-business people participating. The dialogue was used not only to validate key findings-related regulatory burdens (as provided mostly by the private sector) but also to enable the private sector and regulators to meet and discuss technical issues related to the existing regulations and some possible actions and plans of actions for regulatory reforms to ease doing business in Cambodia. The dialogue resulted in key policy recommendations and actions and way towards RURB in the context of regulatory reforms in Cambodia.

[4] Key Finding – Regulatory Issues

Section 2 discusses central issues in Cambodia's agro-business industry. This provides not only contextual background to the industry but also plays a role in shaping and influencing how regulatory frameworks are developed, enacted, practiced, and complied with by both regulators and agro-business people.

This section highlights key findings related to how context influences the way in which agro-industry people engage with regulators, and some initiatives by the Cambodian government in attempts to address issues related to RURB.

As pointed out in Section 2, Cambodia's agro-industry faces a wide range of constraints in operating its business. These include anti-competitive practice, corruption, access to finance, inadequate workforce, and high logistic and operation costs (electricity and transport). In this context, some agro-business research participants do not see paying informal fees to get their needed permits or licences as a critical issue. Attempts to address RURB need to be driven by the agro-industry itself. In the context of Cambodia, this demand-driven approach first requires awareness among agro-business people of the costs as a result of RURB.

4.1 | Business Start-up

Starting up agro-business in Cambodia is not much different from that of other types of businesses. Agro-business people are required to follow different procedures with relevant regulatory agencies/ministries. The detailed procedures with the relevant regulatory agencies/ministries will be discussed in detail below.

In general, the themes that emerged from the qualitative data collected from the agro-business participants point to their good perceptions of MoC in its introduction of an online business registration system. According to them, such a system has helped improved business registration in terms of time and costs.

While business registration at MoC has improved, other registration and certificate requirements (such as patent/value added tax registration) remain complex. Given the required processes in relevant registrations and complex bureaucracies within some regulatory agencies, many start-up businesses prefer

to hire brokers or agents to deal with the complexity on their behalf, creating additional costs for them.

4.1.1 Initial Check for Uniqueness of Company Name

Based on MoC's Prakas 299 of December 2015, this process is the responsibility of the ministry's Business Registration Department, which initially checks online the uniqueness of a company name. Yet, while regulations require three days maximum for the department to issue a decision, the interviewees for this study informed that, in practice, this process may take one to seven days or even a month because of the lengthy exchanges between the department and business applicants.

4.1.2 Initial Check for Uniqueness of Company Name

According to the Prakas 299, after securing a unique name, applicants are required to register their business online through MoC's automated business registration system. Required for this process are documents stating the applicant's address (i.e. electricity/water bills, lease agreements, and bank statements), company agreements, photos of applicant, identity cards or passports of company owners, and information about company shares. The introduction of online business registration has been applauded by many of the research participants as it has contributed in reducing time and costs for business registration. Overall, it takes three to seven days to complete business registration. However, delays may occur when applicants fail to, for example, submit all required documents.

The process is more complicated when it comes to changing business registers (e.g. change of shareholders; change of information related to capital, location, or business activities). While this process should legally take three to seven days, it may take longer in practice as the business registration department requires soft and hard copies of relevant documents. Such a requirement may be redundant given that certified legal documents have already been submitted.

The research participants provided different figures on how much they had spent in securing business registration with MoC. As reported, the amount may vary depending on the relationship/connection of the applicants with responsible

officers. But it usually costs around US\$700 for a well-connected company to be registered.

4.1.3. Patent Tax and Value Added Tax Registration

The patent/value added tax registration is handled by the General Department of Taxation of the Ministry of Economy and Finance. According to the ministry's Prakas 496 dated 06 April 2016, the documents required for registration include certificate of business registration (issued by MoC), company statute, lease agreement, ID/passport, residency letter (for foreigners), photos of applicant, photos of company and its location on map, and bank account registration. In addition, an applicant must also visit the tax office so his photo and fingerprints can be taken.

While Prakas 496 mentions that it takes 7–10 days to approve patent/value added tax registration, the General Department of Taxation procedure has been identified by key respondents as cumbersome compared to business registration with MoC. It has been reported that the department's officers are strict and lack flexibility in checking the required documents, particularly in paying attention to every little detail including minor typographical errors.

These strict requirements appear to create burdens for patent/value added tax applicants, particularly foreign business people, since many of them have yet to settle down in Cambodia.

Language is another barrier for foreigners in completing the forms and in communicating with relevant authorities. In particular, the required documents extend to information related to residency of applicants, which involves local commune authorities who are quite difficult to meet as they are not at their office full time. Also, some unofficial fees are collected if one wants to quickly (oftentimes, one week) obtain a certificate of residency. As reported by the research participants, getting a lease agreement certified by local authorities (commune councils) is complicated and unnecessary. For example, commune councils require that the applicant's landlord has to prove full payment of

property tax, and has hard-title registration of property.² Failure to meet this requirement can obstruct the patent/value added tax registration.

Upon completion of the patent/value added tax registration, a patent certificate is to be issued by a tax administration officer at the company site. The officer then verifies the location of the company against the declaration made. Here, unofficial fees are collected before the certificate is issued.

4.1.4. Registration with the Ministry of Labour and Vocational Training

Businesses wishing to operate in Cambodia are required to submit a written declaration to the Ministry of Labour and Vocational Training (MoLVT) prior to their operations. It has been reported that the processes with MoLVT are 'strict' in the sense that the processes of declaration need to begin even if a business has yet to be operational and staffed.

The processes are more complicated for an enterprise with at least eight employees. For this category, internal regulations need to be developed, containing general provisions of Cambodia's labour code such as those regarding working conditions, health and safety measures, salaries, and other employment benefits.

While some requirements by MoLVT are easy to address (i.e. identification cards/passports, visas, and a list of employees), the requirements for work identification cards and a labour book are burdensome. Before a work ID card is processed, there must first be an employment contract. To have a labour book, employees are required to have their physical examinations at the Labour Health Centre.

As reported by the research participants, the physical examination requirement appears to be unnecessary and burdensome as it has been used only to collect money from business people. For example, an employee's physical examination

² This is different from soft-title registration of property which is easier and can be made with a district authority. A hard-title property registration requires its application to be lodged with the Ministry of Land Management, Urban Planning and Construction.

costs US\$25. However, an employee need not show up for examination if he or she pays an unofficial fee of up to US\$50.

In its *Doing Business in Cambodia* 2018, the World Bank reports that the official fees for registration with MoLVT are as follows: registration for opening of enterprise, KHR30,000; registration of enterprise/establishment ledger, KHR40,000; registration of payroll, KHR60,000; certifying internal regulations, KHR70,000; and issuance of letter recognising the election of shop steward for enterprise/establishment, KHR80,000 (World Bank, 2018).

While these formal fees are recorded, it has been reported that unofficial fees made to MoLVT regarding labour registration are often in lump sum. The amount varies depending on the size of the enterprise being registered: for an enterprise with 8–10 employees, the cost is US\$350; for an enterprise with 100–450 employees, US\$700; for an enterprise with eight to 500 employees, US\$500; and for an enterprise with more than 500 employees, US\$700.

4.2 | Export Procedures

While exporters have generally reported a considerable improvement in export procedural requirements in recent years, they all agreed that these procedures remain quite bureaucratic, time-consuming, and costly given the high formal and informal costs. They also reported difficulty going to different departments to obtain certifications/permits. As identified by Cambodian agricultural and agro-processing exporters, below are the major regulatory requirements and their associated burdens, some of which may be unnecessary.

4.2.1. One-off Registration

A new agricultural exporter usually has to make a one-off registration at three different institutions: the General Department of Customs and Excise (GDCE) of the Ministry of Economy and Finance, the Department of Import-Export (DIE) of MoC, and the General Department of Agriculture (GDA) of the Ministry of Agriculture, Forestry and Fisheries (MAFF). At GDCE, a new exporter needs to register in a universally computerised system called Automated System for Customs Data (ASYCUDA), which is a one-time process, to obtain customs clearance at a later stage. The required documents for ASYCUDA registration

are proposal letter, company registration, company memorandum, certificate of corporation, value added tax, patent, and ID/passport.

For agricultural export to some countries such as China, MAFF/GDA requires exporters to register with GDA so that the department can make the list of authorised companies for export.³ Qualification and registration with GDA is a one-time process but may be subject for review every two to three years for a business to remain qualified (ESCAP, 2014). Failure to do so would render exporters ineligible to export. There are no official fees for registration. To register with GDA, exporters must submit biographical information of owner(s), company registration logged at MoC, and other relevant data, i.e. locations of office, silos, warehouses, factories, and/or geographical areas of the commodities. Once all required documents are received, GDA assigns an inspector or surveyor to conduct an on-site inspection of the exporter's premises. If no irregularities are found, GDA issues a certificate to the exporter.

General Department of Customs and Excise	Department of Import-Export	General Department of Agriculture
Proposal letter Company registration Company memorandum Certificate of corporation Value added tax Patent ID/passport	Proposal letter Company registration Company memorandum Certificate of corporation Value added tax Patent ID/passport	Owner's biographical data Company registration Location of firm, warehouse and/or commodities

Registration for Generalised System of Preferences (GSP) with DIE is mandatory to be eligible for GSP entitlement and clearance of certificate of origin (CO). Since 2015, the requirement for exporters to file a yearly application to use GSP has been eliminated and replaced with one-time registration (MoC, 2015). The required documents for GSP registration are similar to the ASYCUDA registration with GDCE.

The experiences of agro-processing exporters in dealing with export licencing and permits vary. In general, while registration at GDCE and GDA has reported no complaints, registration at DIE has been complained about because of its

³ In China, for instance, MAFF/GDA updates and sends the list to China Inspection Quarantine Services (CIQ) on annual basis.

complicated, time-consuming process, and considerably high cost. For instance, a research participant reported that it took him more than a month and cost him more than US\$500, including both formal and informal fees, to be registered. Such complex processes have discouraged him to process further exports. Nonetheless, he finally obtained registration permit from DIE, following multiple and close follow-up with DIE officials.

In response to these concerns during the national consultative dialogue, a senior MoC official opined that the GSP registration process may not be as difficult, untimely, and costly as reported by some research participants if they are registered companies and approach the institutions with authorised mandate to issue GSP registration.

4.2.2. Mandatory Certificates

Usually, exporters have to apply from different state institutions for two major certificates: sanitary and phytosanitary certificate (SPC), and CO.

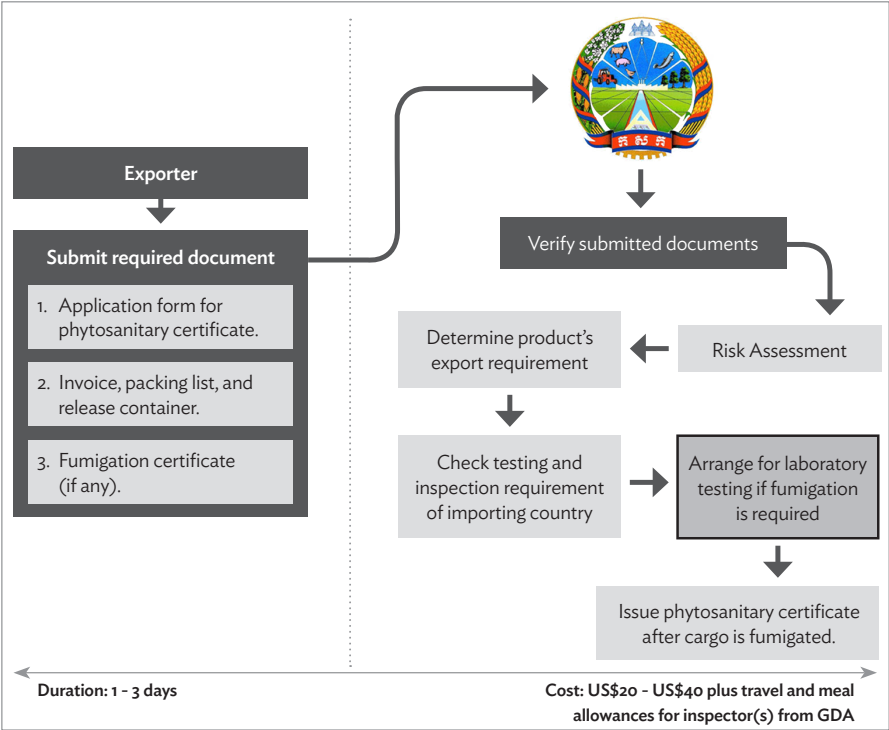
Sanitary and Phytosanitary certificate

The SPC is often required by countries importing and exporting agricultural commodities. This is to certify that commodities are free from dangerous pests and diseases that can damage crops. An exporter must submit to GDA a request letter for phytosanitary check, together with packing list, commercial invoice, patent licence, value added tax certificate, and commercial registration certificate at least 10 days prior to exporting goods, and must provide convenience for phytosanitary check in compliance with the International Plant Protection Convention (RGC, 2003).

GDA then makes risk assessment based on the risks for pests, source of origin, soil condition, and testing and inspection requirements of importing country. If risks are identified to be low and all conditions are met, GDA will issue SPS for inspected goods. This process takes one to two days. However, if risks are high, a fumigation certificate is required to ascertain that dangerous pests or diseases do not subsist. According to sources, fumigation done by a recognised private party costs, on average, US\$28 and takes about a day.

While rice exporters reportedly need to spend US\$30–US\$45 per TEU⁴ to get SPC done at the one-window service of the Council for the Development of Cambodia in Phnom Penh, other agricultural exporters have to spend as high as US\$100–US\$150 for SPCs issued by GDA. Besides, although inspection by GDA officials is free of charge, an exporter has to provide meal and travel allowances for inspectors, which range between US\$20 and US\$100 per inspection. Despite this, however, inspection time has reportedly been accelerated significantly from one week to only one to two days.

Figure 5: Application Process for Sanitary and Phytosanitary Certificate



Sources: RGC (2003) and key informant interviews.

In addition, filing SPC application at GDA/MAFF in Phnom Penh, as required, is difficult for exporters whose companies are located at the border. Thus,

⁴ Twenty-foot equivalent unit (TEU) which can be used to measure a ship's cargo-carrying capacity. The dimensions of one TEU are equal to that of a standard 20-foot shipping container

additional costs (i.e. accommodations, travel, and food) are incurred if exporters have to file the SPC application themselves. Such a centralised system has discouraged agro-processing exporters from applying for SPCs themselves and have instead depended on brokers to secure SPCs for them. While this may be costly for exporters, it is time-efficient and offers value for money.

In addition, filing SPC application at GDA/MAFF in Phnom Penh, as required, is difficult for exporters whose companies are located at the border. Thus, additional costs (i.e. accommodations, travel, and food) are incurred if exporters have to file the SPC application themselves. Such a centralised system has discouraged agro-processing exporters from applying for SPCs themselves and have instead depended on brokers to secure SPCs for them. While this may be costly for exporters, it is time-efficient and offers value for money.

Certificate of Origin

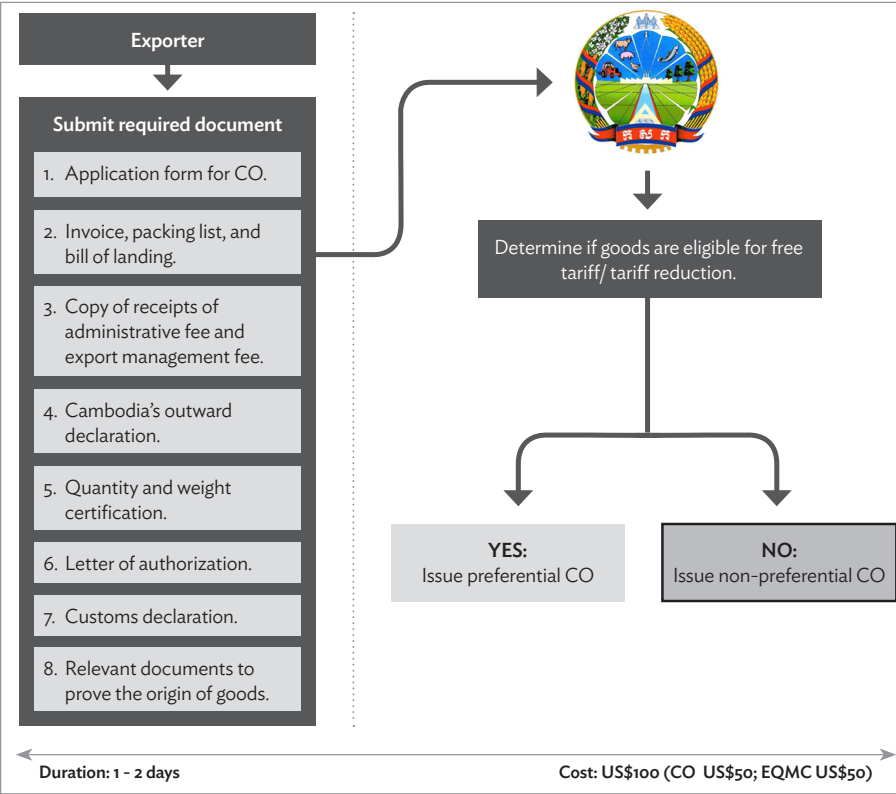
The certificate of origin is an important required document for exporters, especially for a developing economy like Cambodia, because it affects quotas and tariffs applied between countries for specific products (MoC, 2013). The eligibility for preferential treatment provided by importing countries under established trade agreements such as GSP, Most Favoured Nations, and Everything But Arms is assessed based mainly on CO which describes product classification, origin, and original status. In 2015, MoC eliminated the requirement for exporters to obtain a CO to countries that do not require them, which ultimately has saved exporters millions of dollars (MoC, 2015).

In applying for CO, an exporter needs to prepare and submit required export documents: application form for CO, a copy of payment receipt of administrative fee and export management fee, invoice, packing lists, bill of lading, Cambodia's outward declaration, quantity and weight certificate of export goods by Camcontrol, customs declaration by GDCE, relevant documents to prove the origin of the goods, and company's letter of authorisation to appropriate departments of MoC (RGC, 2013b).⁵ According to the MoC website, the

⁵ Bilateral Department for CO destined for the European Union and the Russian Federation; Multilateral Department for ASEAN, Australia, New Zealand, China, Japan, and South Korea; and GSP Department for the US, Canada, Mexico, and other countries.

application fee for CO is US\$50 for preferential countries and US\$30 for non-preferential countries. The process takes 1–2 business days and can be applied only after all other required documents are completed (MoC, 2018). However, according to our interviews, exporters need to spend around US\$100 per TEU (US\$50 for CO and US\$50 for export quality management cost).

Figure 6: Application Process for Certificate of Origin



CO = certificate of origin.
Sources: RGC (2013b) and key informant interviews.

4.2.3. Customs Declaration and Cargo Inspections by Camcontrol and Customs

Besides requirement for SPC and CO, exporters also need to declare their goods to be exported and have them inspected by the Department of Cambodia Import-Export Inspection and Fraud Repression (hereafter called Camcontrol)

and customs officials. To complete the customs declaration, an exporter or freight forwarder prepares and submits the letter for customs together with other required documents: commercial invoice, packing lists, value added tax, patent, exporter's ID card, and joint inspection report to customs headquarters for approval and inspection, and pays declaration charges of about US\$3.75 per TEU (MoC, 2007). The deputy customs chief then assigns an inspector to inspect the cargo at exporter's warehouse or dry port. The exporter may also use ASYCUDA, which is available at most checkpoints, for customs declaration and for more accurate and updated customs clearance process.

All exports and imports are required to be reported and inspected by officials at a customs office or other locations as determined by DGCE (RGC, 2006). Similarly, Camcontrol is authorised to conduct safety inspection of goods in international trade and domestic retail markets (RGC, 2000). In particular, Camcontrol is responsible for non-regulatory inspections for exporters especially on rice and other agricultural products. Customs and Camcontrol must examine all export products and check approved documents and export requirements, including export tax (if any). Since 2013, inspection fees have been waived.⁶ However, sources said they pay KHR62,500 (about US\$15.5) for inspection by customs, and usually pay informal fees to inspectors from customs and Camcontrol to facilitate and accelerate export.

Some interviewees complained that customs declarations and joint inspections by customs and Camcontrol officials are somewhat complicated and confusing while the information related to these processes is also limited. In addition, when approached for clarification, officials at customs and Camcontrol headquarters are sometimes not quite cooperative. As a result, some exporters have to use freight forwarder service⁷, which charges approximately US\$500 per transaction. This is costly relative to export values.

During the consultative workshop, an official from GDCE responded that exporters can find all required documents and processes such as the Customs Clearance Handbook and import-export tax book on the department's official

⁶ Prior to 2013, customs charges a fee of KR15,000 for each export declaration; Camcontrol fee was 0.1% of value of exports (ESCAP, 2014).

⁷ A freight forwarder is a private agency charging fees for assisting in export paper works.

website. Also, exporters can get these documents through annual workshops if they are members of Cambodia's Chamber of Commerce. He also opined that referrals to different institutions by customs and Camcontrol officials at their headquarters are justifiable as export procedures involve several state institutions and private entities. Thus, it appears that the problems lie in the fact that most agro-businesses are informal and lack awareness of the rules and regulations. Sensitising basic information with them regarding export procedures will reduce costs for both regulators and agro-business people.

4.2.4. Export Time and Cost Breakdown

While exporters face outstanding issues related to export procedural requirements, most interviewees agreed that compliance with export procedures is not the top constraint compared with issues such as their difficulty with access to finance and high transportation cost. Figure 3 shows that the formal cost of export procedural compliance accounts for about 26% of total export cost of US\$686 per TEU, excluding informal fees and freight forwarder service fees (if any). Inland transportation is as high at 44%. Consideration on cost reduction, therefore, should be given to the entire supply chain system.

Based on triangulation of interviews with key exporters, the entire process of export from signing the sale contract to customs clearance may take about 12 days. Of this, up to six days are allocated for compliance with a range of regulatory requirements: applications for SPC and CO, joint inspections, customs declarations, and customs clearance. Most interviewees said that while the duration has been remarkably improved compared with the past several years, they would appreciate it if key regulators could expedite the process further.

Table 1: Cost Breakdown of a Typical Agro-processing Export

I.	Ministries and Departments	Fees (US\$)	Applied to
Ministry of Commerce			
1.	Certificate of origin	50.00	Shipment
2.	EQMC	50.00	Shipment
Camcontrol			
3.	Quantity/Weight certificate	7.50	TEU
4.	Inspection	0.00	TEU
GDCE			
4.	Customs declaration	3.75	TEU
5.	Inspection	15.50	TEU
MAFF			
6.	Sanitary and phytosanitary certificate	45.00	TEU
7.	Inspection	0.00	TEU
	Sub-total	171.75	
II.	Autonomous Port		
Private Company			
8.	Container scanning	20.00	TEU
Autonomous Port			
9.	Lift-on Lift-off charge	26.00	TEU
10.	Terminal handling charges	120.00	TEU
	Sub-total	166.00	
III.	Private Sector		
11.	Fumigation certificate	28.00	TEU
12.	Container scanning	20.00	TEU
13.	Inland transport to Shihanouk Ville Autonomous Port (trucking fee)	300.00	TEU
	Sub-total	348.00	
	Total (without using freight forwarder service)	685.75	
Freight Forwarder Charges (Optional)			
14.	Bill of lading	20.00	TEU
15.	Forwarder handling service	55.00	TEU
	Sub-total	75.00	
	Total	760.75	

EQMC = export quality management cost; GDCE = General Department of Customs and Excise;

MAFF = Ministry of Agriculture, Forestry and Fisheries; TEU = twenty-foot equivalent unit.

Sources: Compilation from official sources and key interviewees.

Table 2: Time Breakdown of a Typical Agro-processing Export

No.	Key Stages of Export Procedure	Day(s)
1	Finalise sale contract	2
2	Arrange for inland transportation	1
3	Apply for sanitary and phytosanitary certificate	2
4	Arrange for inspection and fumigation	
5	Arrange for cargo inspection (Camcontrol and customs)	1
6	Customs declaration (ASYCUDA)	1
7	Load container and transport to port (SAP)	2
8	Apply for certificate of origin	1
9	Container handlings at the terminal and stow onto vessel	1
10	Customs clearance at port	1
Total		12 days

ASYCUDA = automated system for customs data, SAP = Sihanoukville Autonomous Port
Sources: Compilation from official sources and key interviewees.

[5] Options and Recommendations

Some of the recommendations below were made based from consultations with interviewed stakeholders from the private sector and government officials in Cambodia. Overall, policy recommendations were made in a practical manner, particularly in the light of Cambodia’s business and institutional context.

5.1 | Export Procedures

- One-off registration
 - a. In the medium term, one-off registration should be expedited especially with regard to GSP registration at DIE. Official time, costs, and procedures should be clearly specified in legal instruments such as sub-decrees or Prakas so as to avoid delays and unreasonably high unofficial fees. In this regard, once all required documents are submitted, the duration of the registration process should be clearly determined on receipt, and delays justified to applicants who should be notified as soon as possible.
 - b. In the medium term, documentary requirements for registration at GDCE and DIE should be streamlined and done jointly since they are generally identical. Integrating this process with the Cambodian national single-window online system can reduce costs, time, and resources for exporters.

- Mandatory export certificates
 - a. In the short term, the one-window service at CDC should also be accessible to other agricultural and agro-processing sectors in general in addition to rice exporters. This will increase convenience, predictability, timeliness, and cost efficiency for agro-industrial exporters who do not have to lodge CO and SPC applications at different institutions.
 - b. In the medium term, SPC application should be fully decentralised in a way similar to CO application at the Department of Agriculture in 24 provinces. However, although a decentralised system at provincial level may be a solution, the capacity of both provincial regulators and private sector needs to be enhanced to perform these functional transfers effectively and efficiently.
 - c. In the medium term, it is recommended that all compulsory export procedures be streamlined and automated in the framework of Cambodian national single-window system as this will drastically improve the country's trade performance by reducing cost of doing business.
 - d. In the medium term, wider dissemination and training of online export applications should be considered. It is important to note that while CO application has been available online and may soon be also applicable to SPC application through the automated Cambodian national single-window system, many exporters still lack knowledge on this integrated system. As a result, based on our interviews, many exporters still prefer the traditional way of submitting application. Relevant authorities should therefore circulate among exporters available and forthcoming online systems, and clearly demonstrate to them the process so they can do these activities without having to submit themselves physically or seek assistance from brokers.
- Customs declaration and joint inspection
 - a. In the medium term, GDCE and Camcontrol should publicise in print and online important procedures and the required documents to enable exporters to track, comply, and undertake regulatory requirements. While online guidelines on customs declaration and inspection procedures are available, some exporters are not aware of them or still find the process complicated. In addition, information on standards and requirements by importing countries should also be compiled, regularly updated, and made accessible online. Procedures and regulatory documents should be widely disseminated to key export stakeholders especially exporters through online portals, export exhibitions, conferences, and trainings.

b. In the medium term, it is recommended that the Cambodian government establish an export information centre to facilitate enquiries on export procedures. Capacity building and customer service skills should also be provided to officials in charge. Real-time demonstration of export procedures to enquiring exporters should be integral at the information centre.

- High unofficial fees

a. In the longer term, stricter integrity measures and publication of official fees should be clearly and widely circulated and made accessible to exporters. Real-time complaint and reporting mechanisms should also be introduced to eliminate any unreasonably high unofficial fees. As a legal requirement, exporters spend slightly less than US\$200 for official fees, making export total costs per TEU close to approximately US\$700 (See Table 1). In fact, however, they generally need to pay around US\$800–US\$1,100 per TEU as they have to spend a few hundred dollars more on unofficial fees to facilitate and fast-track export.

b. In the longer term, decent salaries of government officials (regulators) should be considered by formalising the informal fees/payments.⁸ During our national consultation workshop with key stakeholders, some officials admitted that the lack of political will and conflict of interest hinder the addressing of these issues. While reforms are likely welcomed by exporters, some government officials may feel uncomfortable with the degree of transparency and accountability as this might mean loss of control and unofficial revenue-generating stream. Therefore, a decent increase in their salaries is conducive to future reforms and reducing demand for unofficial fees.

[6] Conclusion

This study finds that the Cambodian government has, to a great extent, been working hard in recent years to reduce unnecessary regulatory burdens to attract more investment in agro-processing industry as well as to bolster this sector's export. Conducive reforms include, but are not limited to, automation of business registration and most export compliance procedures, and reduction

⁸ In Cambodia, the average salary of government officials is generally less than US\$300 a month.

of redundant and inefficient regulations. As a result, interviewed exporters and stakeholders generally agree that the agro-business atmosphere and export facility in Cambodia have been improved significantly in terms of cost, time, and predictability.

Despite these improvements, however, as identified by agricultural exporters, some issues persist and may need to be addressed to enhance ease of doing business in Cambodia. In business registration, the cost of registration and compliance is still relatively high, which in turn demotivates small enterprises from registering officially at MoC. In addition, duration of registration is generally longer than what is being specified by law while online business registration is not convenient for some people. With respect to export procedures, knowledge and awareness of automated system such as CO and ASYCUDA are still limited, with some procedures perceived by some exporters to be burdensome and complicated, and where informal fees are reportedly high. Addressing remaining issues require some degree of political buy-in and a genuine political commitment from cross-cutting state institutions to implement further necessary reforms.

Looking into the future, successful implementations of these reforms will make investment climate in agro-processing industry in Cambodia more favourable, and thus improve the country's ease of doing business on such global indices as the World Bank's annual Ease of Doing Business Report. This, in turn, will attract more investment into the agricultural sector, increase the sectoral export volumes, and consequently contribute to more employment and economic growth in Cambodia.

REFERENCES

- Camfeba (2016), Government-Private Sector Forum. <https://www.camfeba.com/representative.html> (accessed 01 June 2018).
- Chheang, V. and S. Hamanaka (2011), *Impediments to Growth of the Garment and Food Industries in Cambodia: Exploring Potential Benefits of the ASEAN-PRC FTA*. Asian Development Bank: Manila.

- Central Intelligence Agency (2018), *Cambodia – World Factbook*. <https://www.cia.gov/library/publications/the-world-factbook/geos/cb.html> (accessed 1 May 2018).
- Food and Agriculture Organisation (1997), *The State of Food and Agriculture*. Rome.
- General Department of Customs and Excise (2018), National Single Window. www.customs.gov.kh/trade-facilitation/national-single-window (accessed 30 May 2018).
- Malaysia Productivity Corporation (2016), Reducing Unnecessary Regulatory Burdens on Business (RURB): logistics sector, MPC. <http://www.mpc.gov.my/wp-content/uploads/2016/04/RURB-Logistics-Draft-Full-Report.pdf> (accessed 28 May 2018)
- Ministry of Commerce (2015), Message from Senior Minister H.E. Sun Chanthol to MoC Facebook Fans. <https://www.moc.gov.kh/en-us/press-center/details/content/211206> (accessed 30 May 2018).
- Ministry of Commerce (2018), Certificate of Origin. <https://www.moc.gov.kh/en-us/certificate-of-origin> (accessed 30 May 2018).
- Oum, S. and S. Thangavelu (2016), *Promoting Formal Exports of Pepper in Cambodia: Reducing Unnecessary Regulatory Burdens* (RURB). ERIA: Jakarta.
- Royal Government of Cambodia (2000), Law on the Management of Quality and Safety of Products and Services. Phnom Penh.
- Royal Government of Cambodia (2003), Sub-Decree No. 15 on Phytosanitary Inspection. Phnom Penh.
- Royal Government of Cambodia (2006), Sub-Decree No.131 on Forest and Non-Timber Forest Product. Phnom Penh.
- Royal Government of Cambodia (2007), Prakas No. 1447 Customs Declaration and Procedure. Phnom Penh.

- Royal Government of Cambodia (2013a), Rectangular Strategy Phase III. Phnom Penh.
- Royal Government of Cambodia (2013b), Prakas No. 112 MOC/SM 2013 on Revision of Certificate of Origin Issuance Procedures. Phnom Penh.
- Royal Government of Cambodia (2014), Cambodia Trade Integration Strategy 2014–2018. Phnom Penh.
- Royal Government of Cambodia (2016), Cambodia Industrial Development Policy 2015–2025. Phnom Penh.
- Transparency International Cambodia (2014), Cambodia's Integrity System Remains Weak and Requires Significant Improvement. https://www.transparency.org/news/pressrelease/cambodias_integrity_system_remains_weak_and_requires_significant_improvement (accessed 15 May 2018).
- United Nations Economic and Social Commission for Asia and the Pacific (2014), *Business Process Analysis: Export of Cassava and Maize in Cambodia*. SATNET Asia.
- World Bank (2015), *Cambodian Agriculture in Transition: Opportunities and Risks*. Economic and Sector Work, Report No. 96308-KH. World Bank: Washington D.C.
- World Bank (2016), *Cambodia – Enterprises Survey 2016*. World Bank: Washington D.C.
- World Bank (2018), *Doing Business 2018: Reforming to Create Jobs*. World Bank: Washington D.C.
- World Trade Organisation (2018), Cambodia Country Profile. <http://stat.wto.org/CountryProfile/WSDBCountryPFView.aspx?Language=S&Country=KH> (accessed 2 May 2018).

CHAPTER 6

A Case Study of the Automotive Industry in Indonesia

Haryo Aswicahyono

David Christian

Adinova Fauri

Centre for Strategic and International Studies, Jakarta

[1] Introduction and Country Context

This chapter is based on a series of activities conducted by the Centre for Strategic and International Studies as part of the study of the Economic Research Institute for ASEAN and East Asia on reducing unnecessary regulatory burdens (RURB) for business. The centre conducted a country study in Indonesia aimed at identifying and developing solutions to RURB in a specific sector. Discussion in this chapter is limited to the automotive sector, which is among the most important of the Association of Southeast Asian Nations (ASEAN) priority integration sectors for Indonesia.

The country study should be put into the context of regional (ASEAN) economic conditions in general and Indonesia's in particular. Recent indicators in the country have shown a consistent slowing down in the economy in the last six years. Indonesia's real economic growth in 2015 was 4.76%, the lowest in six years, before slightly improving to 5.02% in 2016.

Many external and internal factors contribute to this slowing growth. Evidence suggests that some key sources of economic growth (e.g. trade activities) have weakened in recent years. More importantly, however, numerous domestic issues have been hampering the entry of foreign investment into the country. One such issue relates to the current regulatory regime.

The regulations in Indonesia are seen as restrictive, excessive, and poorly designed or administered. The Organisation for Economic Co-operation and Development (2014) shows that the value of Indonesia's Services Trade Restrictiveness Index is higher than the world average in each of the 18 services subsectors observed, indicating how restrictive the regulatory climate in Indonesia is towards foreign investment.

Addressing the issue of excessive regulations, the president of Indonesia has recently trimmed down around 42,000 regulations that hinder investment. These are administered by a diverse set of public agencies from the presidential, ministerial, and central government levels down to the local government and district government levels. This speaks volumes of the excessive amount of regulations in Indonesia and, hence, the complications arising from it.

A National Development Planning Agency tool for regulatory review process (Bappenas, 2015) lists options or checklists such as 'Inconsistent', 'Duplication', 'Multi-interpretative', and 'Inoperative', suggesting that many regulations fall into one or more of those categories. The lack of good regulatory practices is also well-documented by the IMD Survey of Competitiveness 2015 (IMD, 2015).

To boost a weakening economy amid problematic domestic regulatory regime, the government has set up a massive deregulation initiative, embedded in several economic policy packages launched under President Jokowi's administration. The government has been trying to streamline the number and procedures of regulations to facilitate even more economic activities. It is in this context that the findings from this study will become useful.

[2] Context of Indonesia's Automotive Industry

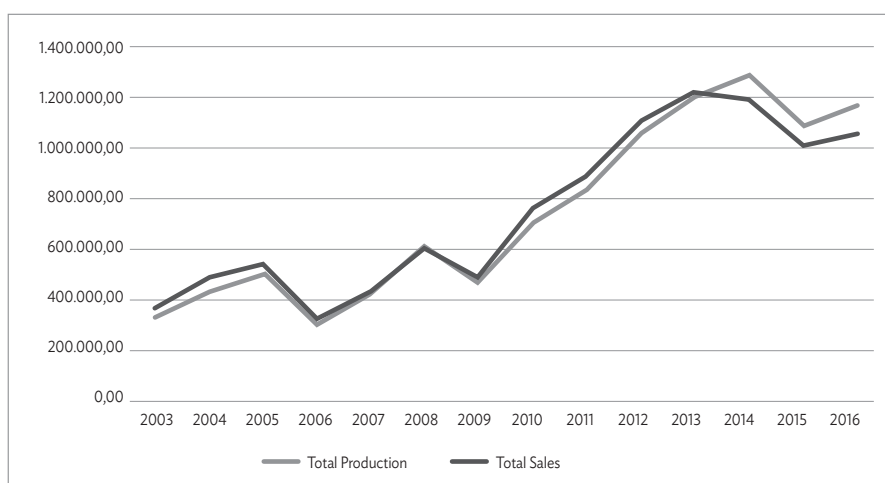
2.1 | An Important and Vibrant Economic Sector

As one of the 12 ASEAN priority integration sectors, the automotive sector of Indonesia is chosen for the case study. According to data from the Association of Indonesia Automotive Industries (GAIKINDO, 2016), the automotive industry is an important economic sector for Indonesia, contributing more than

US\$5 billion worth of exports in 2015. In 2016, Indonesia exported 194,397 completely built-up vehicles and 202,626 completely knocked-down units, alongside 6,233,114 components, in what has been an upward trend since 2012. Despite a slight drop in export performance in 2016, the automotive sector remains among the leading export sectors for Indonesia, its growth rate continuing a more positive trend compared to most other commodities, particularly in the weakening trade environment.

Figure 1 shows Indonesia's automotive industry's growth from 2003 to 2016. The average growth rate for total sales and total production was 12.2% and 14% per year, respectively.

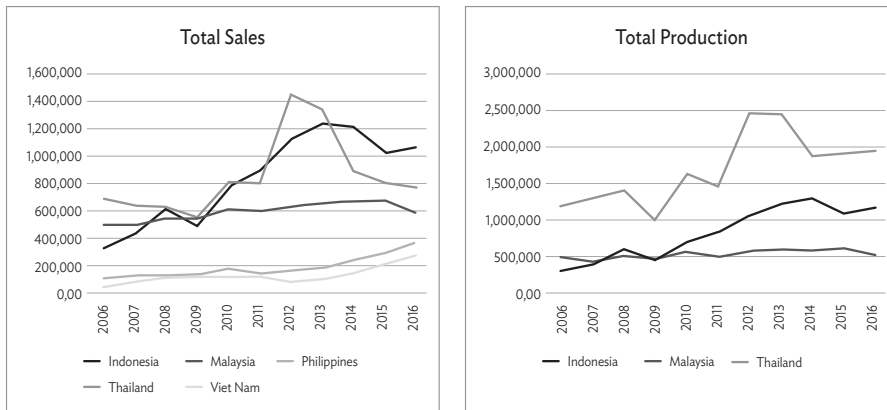
Figure 1: Total Sales and Production, Automotive Sector, 2003–2016 (in units)s



Source: Association of Indonesia Automotive Industry (GAIKINDO).

Indonesia is currently the biggest market for the automotive sector in ASEAN, surpassing Thailand in 2013–2014 (Figure 2). A relatively stable domestic political situation and the surge in the members of the population of productive age and the middle-class have been the major reasons behind this increase even if automotive sales slightly decreased in 2014–2015 due to the global economic slowdown, among other things.

Figure 2: ASEAN Automotive Market and Production by Country, 2007–2014 (in units)



Source: Association of Indonesia Automotive Industry (GAIKINDO).

However, despite being a huge market, Indonesia's automotive production capacity and capability remain below Thailand's (Figure 2). The Association of Indonesia Automotive Industry or GAIKINDO estimates that despite possessing an installed production capacity of almost 2 million vehicles per year, only about 62% are effectively utilised. Labour productivity level is lacking. Furthermore, Indonesia's production cost structure is not efficient as its relatively competitive automotive production at the factory level is cancelled out by external bottlenecks in logistics and regulatory problems.

Although capital intensive, the automotive industry still utilises a significant amount of labour. About 1.3 million people were employed within the entire value chain of the industry in 2015 (GAIKINDO, 2015). The industry is one of the primary absorbers of manufacturing jobs in Indonesia, alongside the electronics, garments, footwear, and textile industries. Among the automotive subsectors, the component industry has the highest number of employees.

2.2 | Global Value Chain Consideration

With a population of 250 million, Indonesia is a huge automotive market. Thus, many foreign investors are interested in setting up production bases in this country. The challenge for Indonesia's government is how to ensure that

unnecessary regulatory burdens are not becoming impediments for foreign investment. From Indonesia's perspective (especially for small- and medium-sized enterprises), producing automotive parts and components is one of the major ways by which Indonesia can join the global production network.

To cater for the Indonesian market, assembling vehicles domestically should entail less cost compared to importing completely built up cars. Local suppliers have considerably increased in the past 10 years, leading complete-unit manufacturers to enlarge their production. Partly, this is why some automakers have been heavily investing (or at least planning to invest) in Indonesia. Announcements of either expansion of existing activities of original equipment manufacturers or new strategic investment by them have been numerous in the last three years. Recent cases of political instability in Thailand may also have driven many automotive firms to consider Indonesia as an option to set up local production facilities. In other words, Indonesia has the potential to become a regional automotive production hub.

In summary, the importance, volume, scope, and diversity of this sector are the primary reasons for exploring unnecessary regulatory burdens (URBs) in greater depth.

[3] Current Regulations in the Automotive Industry

3.1 | Overall Regulatory Mapping

The automotive sector is highly regulated and the regulations are diverse in terms of both the authorities producing and administering them and the domains they cover. Regulatory bodies include technical and/or line ministries that may or may not be directly related to the automotive business process. To the first belong the Ministry of Industry, the Ministry of Transportation, the Ministry of Trade, and the Investment Coordinating Board while to the second belongs the Ministry of Environment. Many of these regulations are imposed universally across industries, particularly those related to permits and/or licences to start a business, various environmental licences, and fiscal incentives for the export-oriented manufacturing sector.

The Appendix lists regulations related to the business process of the automotive industry in Indonesia, which can be divided into five stages: (i) starting a business; (ii) expanding a business; (iii) sourcing raw materials and/or input; (iv) producing or assembling; and (v) distributing, selling, and financing. The list does not cover every piece of regulations and each regulation may not be universally applicable for all automotive firms, as they have different production, territory, and sales orientation (i.e. export vs domestic).

The list does not include the large number of highly specific (and thus, not easily traceable) local government regulations that hint at even the slightest intersection with business activities of automotive firms operating in regions. Unnecessary regulatory burdens potentially exist among these regulations, which rarely follow good regulatory practices. This study does not delve into all these regulations as such will require a more thorough research with more extensive resources.

The regulations included in the Appendix cover an extensive area of automotive business activities, from obtaining business permits, vehicle registration, import or export documents, national standards, labour safety, to environmental licensing. Most are compulsory while some are means to obtain incentives, e.g. duty drawbacks or government-borne duty, especially for export-oriented or strategic manufacturing industries, of which the automotive sector is considered as one. Most are at the level of law and ministerial regulations. Implementing regulations stipulating the administrative procedures that firms need to go through to comply are not listed in this chapter.

Using the method and theoretical framework developed by the Malaysia Productivity Corporation (2014), and based on our engagement with several automotive firms, this study identifies which regulations qualify as URBs. Given the limitation of resources and time, we only cover three URBs in this study, which are further elaborated in the next sections.

3.2 | Recent Regulatory Improvements in the Automotive Sector

Before exploring the URBs identified in this study, this section will highlight Indonesia's recent progress with respect to reducing regulatory burdens in the

automotive sector. Some of the successful minor regulatory reforms include initiatives in the Indonesian National Single Window, an online system for vehicle registration; priority lane customs; and technical consideration for the Indonesian National Standard (SNI), among others. Such reforms have, to some extent, facilitated business activities in the automotive sector.

3.2.1. RURB on Starting and Expanding a Business

The establishment of a National Single Window to licence starting and/or expanding businesses is a concrete measure to improve the business climate. Currently, every required document can be processed and obtained within the Indonesian Single Window platform under the Investment Coordinating Board, whereas they were previously regulated and administered separately by different ministries. Developing such an online platform has reduced firms' administrative and transportation costs. The Investment Coordinating Board now has a database of firms' information so that firms no longer need to repeatedly scan corporate data when applying for business expansion as application forms are now available online. The only data needed is the expansion plan. The time saved due to this reform is noticeable as the process only takes three to four hours, albeit only for large enterprises.

3.2.2 Incorporating a Business Licence – Company Registration

Based on MoT Regulation No. 36/2007, a business licence (SIUP) grants permission to firms to conduct trading. Meanwhile, the Certificate of Company Registration (TDP) based on Law No. 3/1982 on the mandatory list allows the government to collect official information on all registered firms. The SIUP also contains this information and can also be used to collect company information (previously through TDP). Therefore, merging SIUP and TDP into a single licence with two functions is necessary. Improvements to this regulation have been made by the Ministry of Trade (MoT) through MoT Regulation No. 77/2013 that facilitates applicants submitting both an SIUP and a TDP simultaneously. Such a reform can be a reference point towards simplification of procedures.

3.2.3 Priority Lanes in Customs Process

Priority lanes in customs process are important for the automotive industry, which is characterised by just-in-time production. Priority lanes assure easier

and quicker entry of imported parts and/or components. These lanes have been provided for reputable importers who have regularly complied with a specific set of customs requirements, including exemplary historical tax compliance, minimum capital limits, and recurrent and periodic import of goods, among others. Priority lanes have helped importers reduce dwelling time of imported goods in ports as they are, on average, twice faster than the ordinary red lines. Importers under this category also have their tax duties deferred and are not required to submit supporting documents to the Ministry of Industry, the Ministry of Trade, and the Customs for every import process.

3.2.4 Online System for Vehicle Registration

After the manufacturing and/or assembly process, vehicles must be registered with the police, with specifications of the cars provided during the process. Previously, the vehicle registration system was conducted manually, requiring businesses to submit many documents containing the specifications of each vehicle that would be input manually by police officers. Under this system, human error was high. However, since 2007, an online mechanism has been used for vehicle registration, minimising the number of documents required and, in the process, human error as well.

Before vehicles are registered, businesses must conduct numerous tests and obtain approvals from the Ministry of Industry (MoI) and the Ministry of Transportation. These tests and approvals include homologation, vehicle type registration for testing, vehicle physical testing, type testing certificate (SUT), and type testing registration certificate (SRUT). Previously, businesses would have to go to MoT to apply for a type registration for testing, an SUT, and an SRUT with all the required documents that would later be keyed in manually by the MoT staff. However, on 31 March 2016, the Ministry of Transportation launched a vehicle type approval online application system that allows businesses to apply for an SUT and an SRUT online and reduces to approximately seven working days the time for getting certificates. Prior to this implementation, it took more than one month to obtain an SUT and an SRUT.

[4] Issues Identified as Possible Unnecessary Regulatory Burdens

To identify issues that are considered burdens for business, we conducted interviews with several firms operating in the automotive industry, both from the original equipment manufacturers and component producers, as well as business associations. From these interviews, we classified three unnecessary regulatory burdens considered the most burdensome for business: (i) government-borne import duties (BMDTP), environmental licences, and (iii) SNI.

4.1 | Government-borne Import Duties

The BMDTP policy is a fiscal facility provided by the Ministry of Finance (MoF) and regulated under the State Budget Law (not under Customs Law).¹ The purpose of the policy is to increase consumer welfare by providing goods with higher quality or cheaper prices, to increase competitiveness of Indonesian firms, and to increase absorption of manpower. Through this facility, the government bears the import duties for certain products that should have been paid by the importing firms. The BMDTP facility is only for imported goods that are not produced locally, and for those good produced locally but do not meet yet the specifications required or industrial demand. It is also not available for zero-tariff goods, anti-dumping goods, imported goods with other fiscal incentives, or goods from countries with which Indonesia already has preferential trade agreements.

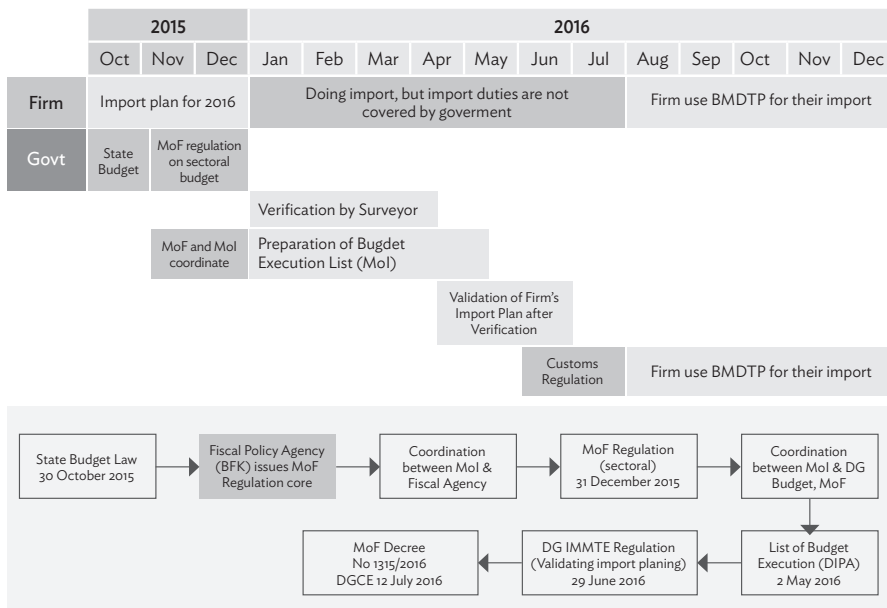
The BMDTP facility was formed after the new Customs Law was passed in 2006, which abolished MoF's power to reduce import duty as a fiscal incentive instrument for local firms. The utilisation of BMDTP depends on MoI, which is responsible for supervising industrial activities in Indonesia and has the right to choose which industries are eligible for the BMDTP facility in any given year. In the last five years, the automotive sector has been its biggest beneficiary, indicating the importance of this policy for automotive firms.

¹ Usually, various forms of fiscal incentive in Indonesia are regulated under the Customs Law such as duty drawbacks and tax allowances.

The BMDTP facility is delivered on an annual basis as it is regulated under the State Budget Law. Figure 3 depicts the process of preparing the regulatory requirements for the BMDTP facility in 2016 involving various government agencies. It started with the passing of the State Budget Law and concluded with a decree from MoF (specifically by the Directorate General of Customs and Excise).

After the State Budget Law was passed, the Fiscal Policy Agency (BKF) proceeded with the MoF regulation (core) to deliver the BMDTP facility. This was followed by coordination and discussion between BKF and MoI to determine the budget ceiling for each sub-industrial sector, which was further regulated by an MoF regulation (sectoral) by the end of 2015. This sectoral MoF regulation consisted of information on the BMDTP budget ceiling for MoI as an aggregate.

Figure 3: The Regulatory Process of Preparing BMDTP Facility, 2016



BMDTP = Government-borne import duties; DIPA = DG Directorate General; DGCE = Directorate General of Customs and Excise; IMMTE = Metal, Machinery, Transportation, and Electronics Industry; MoF = Ministry of Finance, MoI = Ministry of Industry.

Source: Ministry of Finance.

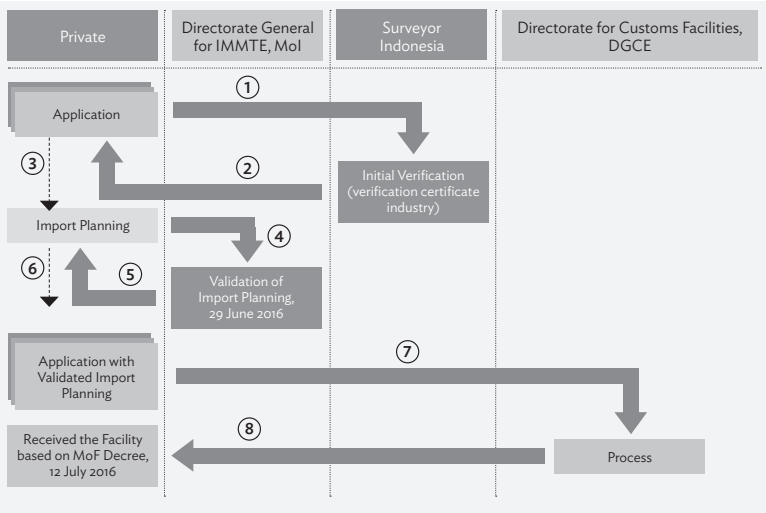
A firm can apply to MoI for this facility. Initially, an auditor from PT Surveyor Indonesia will check the firm's documents, industrial activities, and import plan to find out which products (by Harmonized System codes) are eligible for

BMDTP, and whether or not those products are in line with the firm’s actual industrial production and capabilities in factories. After the initial verification, PT Surveyor Indonesia issues a certificate of industrial verification (SKVI) informing the firm that it has passed the initial verification and is thus eligible for BMDTP by a certain amount for some products.

A firm then has to revise its import plans that should refer to the recently issued SKVI, and to be submitted later to Mol. It then waits to get its plans validated and legalised by the directorate general (DG).

At the same time, Mol coordinates with the DG of Budget in preparing the state budget execution list (DIPA)² to be able to withdraw funds that had been previously allocated for BMDTP in the state budget. For Mol to obtain its DIPA, it needs to submit to MoF validated documents related to the detailed budget plan. Without the DIPA, the fund for the BMDTP facility cannot be distributed to Mol and, hence, cannot be used yet by business even with the issuance of validated import plan documents by each DG.

Figure 4: Process of Applying for BMDTP



BMDTP = government-borne import duties; DG = Directorate General; DGCE = Directorate General of Customs and Excise; IMMTE = Metal, Machinery, Transportation, and Electronics Industry; Mol= Ministry of Finance
Source: Ministry of Finance.

² DIPA consists of details of the budget utilisation planning for each DG in each ministry and agency. The BMDTP for the automotive sector is under the DIPA document prepared by DG of metals, machinery, transportation, and electronics in the Mol.

Afterwards, the firm will have to file its application of BMDTP to DG of Customs and Excise with the validated import plan attached. The DG will finally issue an MoF decree stating that the particular company is entitled to the BMDTP facility for that year. Only after the issuance of the MoF decree can the firm take advantage of the BMDTP facility.

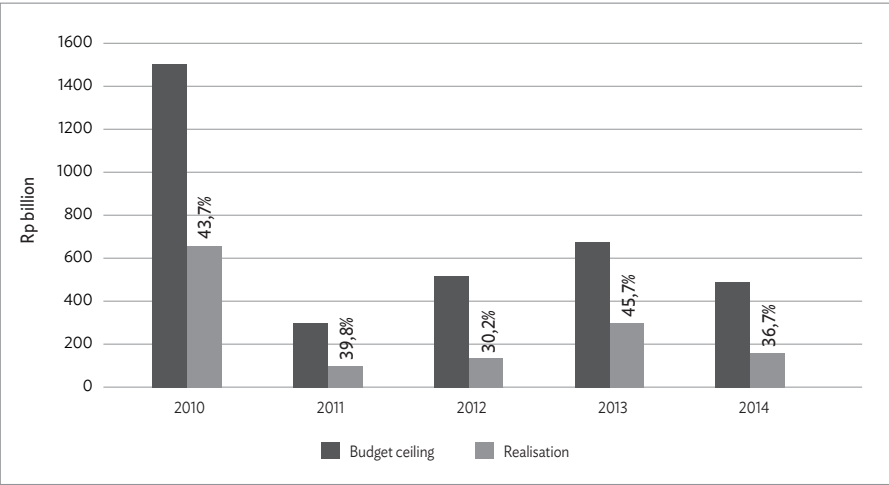
Indeed, there have been efforts to improve and speed up this process, i.e. by converting MoF Core Regulation No 248/2014's validity from one year to several years. This has cut one regulatory checkpoint, as BKF can now directly discuss with Mol the budget ceiling of BMDTP for every sector after the passing of the State Budget Law.

During our interviews with businesses, we found that their common concern with regard to BMDTP is the lengthy process of preparing BMDTP in various government ministries and/or agencies, which significantly reduces the time window for firms to actually use the facility. Moreover, the whole process has to be repeated each year as it is regulated under the State Budget Law, which comes annually.

The lengthy procedure has affected the use of this facility and caused the relatively low budget absorption of BMDTP. This is shown in Figure 5, where the budget realisation for the BMDTP facility has never reached 50% of the budget ceiling since 2010. As such, other government agencies and policymakers question the effectiveness of the BMDTP facility and call for a reduction of its allocation for the coming years (which is ultimately undesirable for business).

Based on our observations, at least three bottlenecks could have been addressed to speed up the whole process: (i) the time-consuming process to complete verification; (ii) the lengthy process to obtain the State Budget Execution List (DIPA) of Mol; and (iii) the lengthy process to obtain validated firms' import plans that are eligible for the BMDTP facility.

Figure 5: Comparison Between Budget Ceiling and Realisation of BMDTP



BMDTP = Government-borne import duties.

Source: Ministry of Finance.

4.1.1 Streamlining the Process and Advancing Timeline of Initial Verification

PT Surveyor Indonesia’s initial verification process was time consuming as it took 3.5 months from January to mid-April. Furthermore, the initial verification was conducted only after the issuance of MoF sectoral regulation on 31 December 2015, making the process even longer. To respond to such conditions, there are four policy options from which to choose.

OPTION 1: Maintain status quo

Maintaining the current conditions will prevent the early issuance of SKVI, which will delay the issuance of the validated import plans by DG, Mol.

OPTION 2: Start conducting early verification (before the beginning of the year)

The government could conduct initial verification before the issuance of MoF sectoral regulation so it could be completed sooner. This could be implemented, considering the fact that businesses that want to apply for the BMDTP facility have already sent their application documents to Mol earlier. These application documents are received and used by BKF to determine BMDTP’s budget ceiling for each sector.

OPTION 3: Create a 'track record-based' mechanism exempting trusted firms from initial verification

A 'track record-based' system is currently often used by DG Customs as a reward for trusted and reputable companies (passing through green lines) by exempting such firms from lengthy verification and, hence, speeding up their goods-clearance process in the ports. The government could alternatively implement such a system for initial verification of BMDTP. With such a system, PT Surveyor Indonesia does not have to conduct the initial verification (which tends to be repetitive each year, particularly on checking documents) of the companies that apply for BMDTP. This way, the verification could be finished earlier.

OPTION 4: Implementing two- or three-year business plan for importing materials

By this scheme, businesses have to submit their import plans for two or three years so they do not have to re-apply for BMDTP every year. The DG of Budget, MoF will only need to adjust the percentage or ratio that firms can get with the 'up and down' BMDTP allocation budget from the national budget. This mechanism can work well if given the assumption that firms, or at least sectors, are the same for the next two or three years. The Mol could also prioritise which sector should get this facility for those years referred to in the national industrial planning.

RECOMMENDATION: Options 2 and 3

Initial verification by the time the State Budget Law has been enacted and exempting trusted companies based on their track records can speed up BMDTP's timeline (despite impediments in other stages). At the very least, results of the initial verification can be issued by the end of January.

4.1.2 Lengthy Internal Process in Mol to produce State Budget Execution List Document (DIPA)

Another obstacle for businesses in getting a BMDTP is the lengthy process in issuing DIPA for Mol due to the latter's inefficiency in internal budgeting. Aside from the content of DIPA itself and audits by the inspector general, Mol is seen as a source of this long internal process. Currently, DIPA for Mol is one of the last to be issued. Three policy options emerge from this study.

OPTION 1: Leave as it is

Maintaining the current conditions will rule out any possibility for earlier utilisation of the BMDTP facility despite progress and/or acceleration in other earlier stages (such as the initial verification process).

OPTION 2: Increase the effectiveness of internal information system of Mol

The long time it takes to issue a DIPA is due to the inefficiency in Mol's internal process. This is evident by comparing its DIPA from those of other ministries/agencies. Using information systems such as the National Industrial Information System can tackle or accelerate the coordination problem at Mol's level, particularly in preparing DIPA. With this option, other subjects within Mol (aside from BMDTP) can also benefit from more efficient coordination and quicker issuance of DIPA.

OPTION 3: Use the Vooruitslag system for BMDTP

Vooruitslag is a customs facility under Customs Law that can be used by businesses whose application for fiscal facility is awaiting approval or while the facility is still being prepared. Such facility for BMDTP enables businesses to clear their imported BMDTP-eligible goods from customs by paying a guarantee using a reference or note that contains information of the business. Once the business gets confirmation to receive BMDTP (which may come much later), it will get reimbursed.

RECOMMENDATION: Options 2 and 3

Vooruitslag can be an alternative to enable applicants to benefit from this facility for a full fiscal year, although it might need further refinement to be technically workable, especially for Option 3, as it could require different accounting treatments.

4.1.3 Lengthy Process for Mol to Produce a Validated Import Plan Eligible for BMDTP

For the 2016 fiscal year, the DG of the Metal, Machinery, Transportation, and Electronics Industry of Mol legalised and validated the revised import plans only in late June despite the fact that PT Surveyor Indonesia had finished verification

by mid-April. To validate the revised import plan, Mol should check first whether the import plans match with the SKVI from PT Surveyor Indonesia.

The tight schedules of DGs, who regularly travel overseas, have often delayed this process which, unfortunately, cannot be done by or delegated to other government officials. Also, there might be some problems aligning the revised import plan with SKVI as this is done manually (meaning, more mistakes) and no integrated information system among firms, Mol, and PT Surveyor Indonesia currently exists. To this situation, our study offers two policy options.

OPTION 1: No change to the situation

The lengthy process to get validation from DG will remain and will cancel out any benefit that may come from the initial verification and/or earlier DIPA issuance.

OPTION 2: Use online information system to speed up the validation process

Developed in mid-2016, a current industrial information system integrates all information related to industrial policy and stakeholders and connects to other ministries and/or agencies. This system might benefit from adding the BMDTP feature to create a single-window portal for the application and/or processing of BMDTP documents involving firms, auditors, and Mol. This system will support Mol to check more efficiently the revised import plans with SKVI and will make it easier for firms to revise their import plans after initial verification while committing fewer mistakes. This system also enables DGs to legalise the import plan online without having to be physically present in the office.

RECOMMENDATION: Option 2

Option 2 can deliver a more effective and efficient online system to validate a firm's import plans. Better coordination within the system will result in the early issuance of a validated plan.

4.2 | Environmental Licences and Inspections

The Environmental Impact Assessment (AMDAL) is a requirement for businesses with significant impact to the environment while the Environmental Management and Monitoring Efforts (UKL-UPL) is for businesses with less significant impact to the environment. Once operational, companies have

to provide reports outlining how they monitor and manage the waste and hazardous materials they produce.

Still, some points are still considered burdensome and need to be addressed, such as: (i) frequency of environmental self-assessments and inspections that is higher than necessary; (ii) lack of synergy of environmental reporting and inspection between central and local government administrations; and (iii) conflicting regulations regarding environmental licensing and inspection in an industrial zone (IZ).

4.2.1 Frequency of Environmental Self-assessment and Inspection is Higher than Necessary

Regarding efforts to control and manage the environment, a business has to conduct self-assessment and report to the environmental commission every six months. The report is followed with an inspection from the commission. Although the purpose of the report is to keep monitoring the business to preserve the environment, the details and calculations needed for the report and the frequency of reporting (i.e. twice a year) make this burdensome for business. Moreover, no valid, explicit argument is offered by MoE to justify the reporting frequency. For environmentally complying firms, twice a year is considered too often.

OPTION 1: Maintain as is

Firms have to produce highly detailed reports every six months, which will impose a regulatory burden on them.

OPTION 2: Reduce frequency of self-assessment to once a year

The Mol suggests that one reason for the required periodic self-assessment and reporting is to get time series data of companies' efforts to manage the environment. Therefore, an annual self-assessment and reporting will not harm the essence of the regulation, particularly as there is no explicit justification for the current frequency.

The regulators' concern that reducing the frequency of self-reporting and/or inspection might lead to a greater possibility for firms to commit environmental violations can be addressed by conducting time-random inspection. Also, a

more effective mechanism for public complaints will enable regulators to more swiftly act on any environmental violations by firms.

OPTION 3: Implement risk-based assessment for surveillance

This would oblige MoE to classify firms based on their risk level to the environment. With this system, MoE could inspect high-risk firms every six months but only once a year for low-risk firms.

OPTION 4: Use technology for surveillance and early detection of environmental hazards

Technology is an important tool for regulators to detect possible environmental violations.

RECOMMENDATION: Options 2 and 4

Options 2 and 4 are recommended. Besides reducing the frequency of reporting, technology for early detection can more effectively and efficiently monitor and control business activities in terms of environmental preservation.

4.2.2 Lack of Synergy between Central Government and Local Governments on Environmental Reporting and Inspection

As no clear coordination mechanism exists between the central government environmental commission and the local environmental commission, their overlapping authority sometimes causes double inspections. As shown in Table 1, firms could face six possible combinations of inspections with regard to the administration of environmental licence, and protection and management of the environment.

Numbers 2–5 (Table 1) involve two different inspectors from two different government levels. This could happen if, for example, a company located in one district should be inspected by the local environmental commission. However, if this firm's waste flows into a river passing several other districts, the province's environmental commission will also conduct an environmental inspection on this firm. Numbers 1 and 6 are the optimum condition, where reporting and inspection are conducted only under one authority. Some potential challenges, however, prevent this from happening:

- Concerns from local government.
- Difference of knowledge and expertise of local environmental review commissions across regions.
- Ensuring the drafting document process, especially by the local government, is consistent with and follows the norms/standard procedures and criteria of AMDAL.

Table 1: Current Condition of Overlapping Central and Local Government Inspection

No.	Environmental Licence (IZ in Lingkungan)	Protection and Management of Environment Licence (IZ in PPLH)
1	Central	Central
2	Central	Central and Local
3	Central	Local
4	Local	Central and Local
5	Local	Central
6	Local	Local

IZ = industrial zone; PPLH = Development Supervision and Environment
Source: Ministry of Environment.

OPTION 1: Maintaining status quo

Not changing the current situation means that double environmental inspections in firms could still happen.

OPTION 2: Shift the responsibility of inspection to one government agency for each firm

This delegates the authority of inspection to only one agency for each firm, either at central or local level. This might involve giving authority of full inspection to the one responsible for the environmental licence, as stipulated by MoE Regulation No 8/2013. However, systematic capacity building is required to improve the capabilities of local reviewer commissions so that any environmental inspection follows standards across regions.

OPTION 3: Develop an integrated environmental information system to improve coordination

An integrated information system containing the data of licencing and inspection results and accessible to both central and local governments would be useful to improve the exchange of information and coordination regarding the results of

environmental inspections. The system would also enable governments at both levels to analyse inspection results and devise a more informed and efficient strategy of inspection to avoid over-inspecting environmentally complying firms.

OPTION 4: Joint inspection of central and local government

Joint inspection by central and local governments could tackle the central government's concern regarding the lack of quality in local governments. This option, however, does not solve the problem because central and local governments have to find a suitable schedule for conducting a joint inspection.

RECOMMENDATION: Options 2 and 3

A combination of Options 2 and 3 is recommended. Shifting inspection responsibility is necessary to eliminate overlapping inspections. An integrated information system will better inform central and local governments if inspections have been done.

4.2.3 Conflicting Regulations regarding Environmental Licence in Industrial Zones

Currently, businesses located within an IZ still need to prepare a UKL-UPL even if that IZ already has a regional AMDAL. Table 2 shows the historical timeline of these conflicting regulations for environmental licencing in industrial zones.

OPTION 1: Maintain as is

Maintaining such conditions will not solve the confusion of businesses operating in IZs (both tenants and developers). It could also be a disincentive for firms and industries to operate in industrial zones (despite the mandatory requirement to do so in the latest regulations).

OPTION 2: Revise, with caveat, the regulation to its pre-2000 state

Government Regulation No. 142/2015 will need to be revised to exempt tenants in IZs from having to prepare a UKL-UPL. The IZ tenants should not need to obtain a full environmental licence as this is part of the incentive to attract companies into an IZ (especially for the designated special economic zones). In this case, firms only need to report their environmental management and monitoring to the IZ developer.

Table 2: Timeline of Conflicting Environmental Regulations Within Industrial Zones

No.	Regulation	Remarks
1	Government Regulation No. 27/1999	<ul style="list-style-type: none"> Tenants with AMDAL in IZs do not have to conduct their own AMDAL. However, tenants' monitoring and control of the environment should correspond to the Environmental Management and Monitoring Plan of IZs.
2	Government Regulation No. 24/2009 about industrial zones	<ul style="list-style-type: none"> Tenants in IZs must conduct UKL-UPL. This is inconsistent with Government Regulation R27/1999, which only requires firms in IZs to have detailed RKL-RPL. Ultimately, this regulation also demands firms in IZs to obtain environmental licence (just as Law No. 32/2009 stipulates that every activity that requires AMDAL/UKL-UPL should be subject to environmental licence).
3	Government Regulation No. 27/2012 about environmental licences	<ul style="list-style-type: none"> After several discussions between MoE and Mol, it was agreed that UKL-UPL and environmental licences are compulsory for firms operating in IZs.
4	Government Regulation No 142/2015 about industrial zones	<ul style="list-style-type: none"> A revision of Government Regulation No 24/2009. Firms in IZs are required to have UKL-UPL, but are now exempted from environmental licence. This regulation on IZs have several conflicting points with other regulations: Inconsistent with Law 32/2009, which clearly suggests firms required to have UKL-UPL are also required to have environmental licence. If what is meant by this government regulation is only 'detailed RKL-RPL', then this regulation is in conflict with Government Regulation 27/2012, which requires each firm in IZs to have UKL-UPL.

AMDAL = referring to the Environmental Impact Assessment; IZ = Industrial zone; MoE = Ministry of Energy; Mol = Ministry of Industry; UKL-UPL = referring to the Environmental and Monitoring Efforts.

Source: Ministry of Environment.

However, to address the concern that some tenants might take advantage of this regulation and damage the environment (at the developer's cost and responsibility), some technological innovation might be necessary to enable IZ developers to systematically and more efficiently monitor their tenants' activities in preserving the environment in the IZs. This option might also require a special legal mechanism between IZ developers and their tenants where the latter would be held accountable if proven to have deliberately committed environmental violations. Without such mechanism, IZ developers would likely reject this proposed regulation for fear of being held responsible for their tenants' environmental violations.

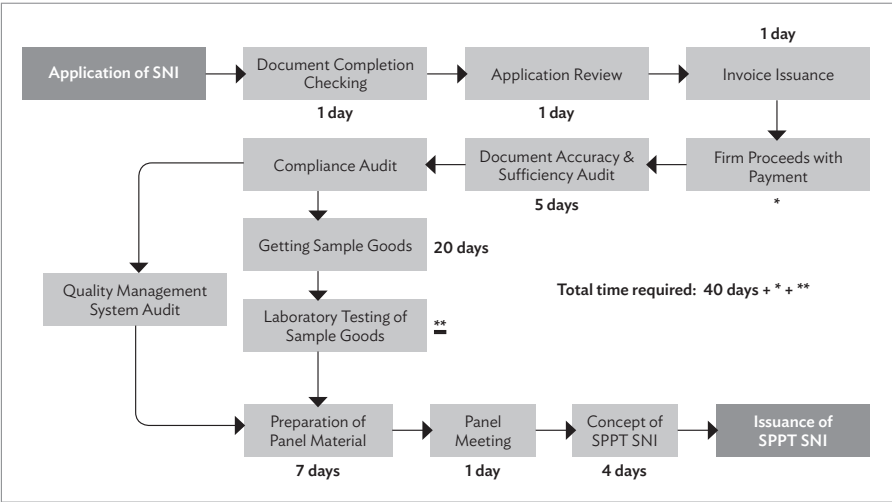
RECOMMENDATION: Option 2

Option 2 is to create more incentives for business by providing greater simplicity while also addressing the concern of IZ developers and regulators. Option 2 might ultimately be beneficial to keep attracting investment into IZs.

4.3 | Lengthy Process and High Cost in Obtaining National Standards

The government’s stance on SNI is to impose it voluntarily except for certain types of goods directly related to safety, health, or environmental preservation, for which it is mandatory. In the automotive sector, mandatory SNIs are imposed for tyres, alloy wheels, and safety glass.

Figure 6: Process of Indonesian National Standards Certification



SNI = Indonesian National Standard; SPPT SNI = Certificate of Product Use Mark for SNI.

Notes: * = Required total time depends on how long firms will settle the payment; ** = Required total time depends on the availability of equipment in laboratory testing.

Source: Industrial Research and Development Agency, Ministry of Industry.

Some businesses have voiced complaints on the lengthy process and the high cost needed to obtain SNI certification for their products. Figure 6 shows the full process of obtaining an SNI certification, which takes at least 41 days, plus an uncertain testing period. Two possible bottleneck points could be addressed:

- The lack of qualified testing laboratories for SNI.
- Unnecessary quality management system (QMS) audit even with the existence of mutually recognised agreements (MRAs).

4.3.1 Lack of Qualified Testing Laboratories for SNI

Currently, the only available laboratory qualified to test all the parameters required by SNI is the Balai Besar dan Bahan Teknik (B4T Lab) in Bandung. This has created long queues for testing sample goods, increasing the time needed for the whole certification process.

Some private laboratories (such as Enkei) can technically run the testing, although the cost is usually higher and most still cannot handle all the parameters required by SNI.

OPTION 1: Continue as is

Although investing in new public laboratories would incur cost to the government during this fiscally tight period, not doing so will keep the waiting times long for testing the sample goods.

OPTION 2: Build new public laboratories and revitalise available ones

The government could either build new public laboratories or revitalise some of the currently available ones so they can test all SNI parameters, like the B4T laboratory in Bandung. This option will require substantial investment from the government.

OPTION 3: Outsource some tests to private laboratories

Alternatively, the government could designate private laboratories to conduct testing. To reduce costs, the government might need to provide subsidies and increase the technological capabilities of private laboratories to handle all SNI parameters.

RECOMMENDATION: Option 3

Option 3 is recommended. It is the best solution to time uncertainty and lengthy waiting time. With this option, the government does not need to use much of its budget.

4.3.2 Unnecessary Quality Management System Audit even with the Existence of Mutually Recognised Agreements

One of the main complaints from businesses (especially small- and medium-sized enterprises) is that SNI certification process is costly, with one of the biggest costs coming from the compliance audit or, more specifically, the QMS audit. A QMS audit might involve expensive auditors from abroad auditing Indonesia's factories. Although costs are borne by the exporter, they will be added to the price of the imported goods. A QMS audit is still required despite the MRAs between QMS certification agencies in Indonesia and some other countries.

In many cases, however, MRAs are recognised without being accepted, particularly in dealing with more developed countries (the EU, the United States, etc.). For instance, the EU only recognises the audit results of Indonesia's QMS certification agency but will not accept Indonesia's products unless EU auditors do the auditing and ensure that Indonesian firms' QMS are according to European standards. Thus, the effectiveness of MRAs is government-to-government in nature.

OPTION 1: Maintain status quo

Maintaining the present conditions will mean that the current cross-country QMS audit still needs to be done (in export/import cases).

OPTION 2: Promoting government-to-government on MRA effectiveness that is backed up by increasing the quality of QMS certification agency to improve international reputation

One of the possible causes of recognition without acceptance is the limited capability of Indonesia's QMS certification agency compared to that in more developed countries. Therefore, government-to-government negotiations to improve the effectiveness of MRAs should be coupled with continual improvement of the agency's quality and capability to enhance its reputation internationally.

RECOMMENDATION: Option 2

A QMS audit is not necessary for imported goods because audits must have already been done by QMS certified auditor in a particular country, and in part also due to the MRAs between Indonesia and that country.

[5] Focus Group Discussions

Focus group discussions were conducted as part of the study to facilitate a dialogue between regulators and business stakeholders. These discussions were expected to clarify the primary data collected from previous interviews with stakeholders. They were also an attempt to add information in the formulation of recommendations and alternative solutions from specific findings from interviews, particularly with regard to the three specific obstacles described above. Some alternative solutions discussed are the outcome of focus group discussions based on stakeholders' advice and recommendations.

In the case of environmental licence, the Ministry of Environment believed that shifting inspection to local governments would not work due to some of the latter interpreting regulations, norms, standards, and procedures in a manner different from that of the central government. This is partly due to rotations of officials in local governments that cause a change in issuance of environmental permits.

Regarding BMDTP, the Ministry of Industry officials stated that they are currently developing the National Industrial Information System, an online system platform that can be used to accelerate the authorisation of plans to import goods and issuance of DIPA to address coordination and communication problems.

Relating to SNI, the National Standardization Agency officials repeatedly mentioned that every MRA signed in regional or international level (e.g. with the Asia Pacific Laboratory Accreditation Cooperation and the International Laboratory Accreditation Cooperation) only acknowledges recognition of standards. Such arrangement does not ensure acceptance of products using that particular set of standards. The MRA, therefore, is primarily only about recognition rather than acceptance of standards. The Industrial Standardization

Center explained that they have an MRA with the EU and that the union has given training and other technical assistance to Indonesian laboratories and assessment centres. A conflicting problem here, however, is the EU's directive that all imported goods be assessed in an assessment centre in Europe.

It is worth noting, however, that the focus group discussions in this project have not resulted in any consensus on what the government would specifically do to improve the delivery or process of obtaining environmental licences, BMDTP, and SNI. However, with regard to environmental licences in IZs, the MoI officials stated that the regulation was currently being reviewed by the Coordinator Ministry for Economy as the current administration aims at deregulation and improving efficiency. Therefore, it might be possible that tenants in IZs do not need to apply for environmental permits as long as the IZs have applied for them.

[6] Summary

Various possible URBs are within the whole value chain of the automotive industry in Indonesia. However, given our limited resources, we could not tackle all the problems and, therefore, opted for depth rather than breadth of issues. Many possible issues could not be addressed in this study, e.g. customs procedures, labour regulations, and investment licensing and/or permits.

We have selected the problems related to the lengthy or complicated processes for a business to meet regulatory demands. Some notable complaints raised by businesses include issues in environmental licensing and inspection, the utilisation of BMDTP, and SNI.

Mostly, the source of the problems is found in the internal administration and coordination processes in the government. Most government ministries and agencies can benefit from better coordination, simplification of processes, and use of technology and/or integrated information systems to reduce inefficiency, redundancy, and processing time.

The regulators' stance on RURB matters varies across ministries. Some are open for possible change and/or innovation to reduce inefficiency in their regulations, while most others resist change, dismissing any possibility of change and insisting that the current regulations are good enough (even by international standards).

Our proposed solutions are not necessarily the best ones. Despite having conducted informed regulatory conversations through focus group discussions, we can still refine the solutions. Any solution that entails new regulatory products to replace existing ones might possibly conflict with several other existing regulations (such is the complexity of Indonesia's regulatory environment). Further regulatory analyses and checking are needed to devise workable alternative solutions for the problems.

In a nutshell, there is still room for improvement in Indonesia's industrial policy, especially in the automotive industry. The industry is one of the key sectors in Indonesia, and it is important to design and construct good industrial policy that should be as simple as possible so that firms can get the full benefit of this policy. The government needs to review its industrial policy, and it could start by reviewing BMDTP, especially if Indonesia wants to compete with Thailand as the largest automotive producer in Southeast Asia.

REFERENCES

- BAPPENAS (2015), *Strategi Nasional Reformasi Regulasi: Mewujudkan Regulasi yang Sederhana dan Tertib*. Jakarta: Kementerian PPN/Bappenas.
- GAIKINDO (2015), *There Are 1.3 Million People Currently Working in the Automotive Industry*. www.gaikindo.or.id/ada-13-juta-orang-saat-ini-bekerja-di-industri-otomotif/ (accessed May 2016).
- GAIKINDO (2016), *Indonesian Automobile Industry Data*. www.gaikindo.or.id/indonesian-automobile-industry-data/ (accessed May 2016).
- IMD (2015), *IMD World Competitiveness Yearbook 2015*. Laussane, Switzerland: IMD.
- Malaysia Productivity Corporation (2014), *A Guide to Reducing Unnecessary Regulatory Burdens: Core Concepts*. 1st. Petaling Jaya: Malaysia Productivity Corporation.
- Organisation for Economic Co-operation Development (2014), *Services Trade Restrictiveness Index*. Paris: OECD.

Appendix: List of Some Regulations Related to Automotive Industry

A. Starting a Business

#	Regulation Instruments	Acts and Regulations	Regulator	Objectives
A	Building Permit (IMB)	Government Regulation No. 36/2005 Minister of Public Works Regulation No. 24/2007 Minister of Home Affairs Regulation No. 32/2010	Ministry of Public Works Ministry of Home Affairs	Regulate construction building, from the layout, standards, and technical planning
B	Certificate of Company Domicile (SKDP)	DKI Jakarta Governor Provision No. 505/1989	Provincial Government District administered	Statement or introduction of district administered on address or domicile of company
C	Business Licence and Certificate of Company Registration (SIUP and TDP)	Minister of Trade Regulation No. 77/2013 Head of Investment Coordinating Board Regulation No. 15/2015	Ministry of Trade Investment Coordinating Board	Set the legality of trading permit and source of information on listed companies
D	Industrial Licence	Minister of Industry Regulation No. 81/2014 Government Regulation No. 107/2015 Head of Investment Coordinating Board Regulation No. 15/2015	Ministry of Industry Investment Coordinating Board	Set legality of permit to conduct industrial business activity
E	Tax Identification Number for Company (NPWP)	Directorate General of Taxation Regulation No. 20/2013	Directorate General of Taxation, Ministry of Finance	As an identity number for company in DGT, make a payment for corporate tax
F	Principle Permit for New Investment (IP)	Head of Investment Coordinating Board Regulation No. 14/2015	Investment Coordinating Board	Regulate business licensing for new investment, both foreign and domestic
G	Environmental Impact Assessment (AMDAL)	Government Regulation No. 27/2012 Minister of Environment Regulation No 16/2012	Ministry of Environment Provincial Government	Measure an important environmental impact on business, and further managing and monitoring
H	Hinder Permit	Law No. 450/1940 Minister of Home Affairs Regulation No. 27/2009	Provincial Government	For environmental control, crowds, and disturbance
I	SME Licence	Presidential Regulation No. 98/2014	Ministry of Cooperation and SME	Set the legality of permits to conduct small and medium industry (only for SME context on components industry)

B. Business Expansion

#	Regulation Instruments	Acts and Regulations	Regulator	Objectives
A	Principle Permit for Expansion	Head of Investment Coordinating Board Regulation No. 14/2015	Investment Coordinating Board	Regulate the business expansion when the production has been increased by 30%
B	Changes in Environmental Impact Assessment	Minister of Environment Regulation No. 16/2012	Ministry of Environment	Adjust the changes on environmental impact of production increase
C	Business Licence for Merger	Head of Investment Coordinating Board Regulation No. 15/2015	Investment Coordinating Board	Regulate mergers activity for one and other company
D	Licence Form Requesting to change in the investment	Head of Investment Coordinating Board Regulation No. 15/2015	Investment Coordinating Board	Regulate or adjust type of investment changing for company
E	Licence Form Requesting to change in the company	Head of Investment Coordinating Board Regulation No. 15/2015	Investment Coordinating Board	Regulate or adjust data company changing
F	Income Tax Facility for New Investment	Government Regulation No. 18/ 2015	Investment Coordinating Board, Directorate General of Taxation	Regulate exemption of tax income in new investment if company can absorb much labour/ employment

C. Sourcing Input

#	Regulation Instruments	Acts and Regulations	Regulator	Objectives
A	Importer ID – Producer	Minister of Trade Regulation No. 70/2015	Ministry of Trade	Function as a legal/sign an importer (producer importer) and to control number of importer
B	Government-borne Duty Facility (BMDTP)	Head of Policy Assessment and Industrial Quality Regulation, MoI, No. 117/2011 Directorate Customs and Excise Regulation No. 19/2014	Ministry of Industry Customs Ministry of Finance Surveyor Indonesia	Improve national industry competitiveness with exemption of import duty for some sectors, such as steel
C	Duty Drawbacks Facility	Directorate General Customs and Excise Regulation No. 17/2006 Minister of Finance Regulation No. 177/2013	Ministry of Industry Customs Ministry of Finance	Improve national export-oriented industry and boost Indonesian export
D	Exemption of Import Duty for goods (machine) before production	Directorate General Customs and Excise Regulation No. 17/2006 Minister of Finance Regulation No. 176/2013	Customs Ministry of Finance	Stimulate production for re-export
E	Licence to Import Temporarily - for Returnable Package	Directorate General Customs and Excise Regulation No. 17/2006, Minister of Finance Regulation No. 142/2013	Customs Ministry of Finance	Reduce burden or cost to businesses on returnable package (rack)
F	Licence to Import Temporarily - for Testing Machine or Vehicle	Directorate General Customs and Excise Regulation No. 17/2006 Minister of Finance Regulation No. 142/2013	Customs Ministry of Finance	Reduce burden or cost from duty to import machine or vehicle for testing only
G	Recommendation Letter for complete knock down (CKD) or incomplete knock down (IKD) imports	Ministry of Industry Regulation No. 34/2015	Ministry of Industry	Aid development and deepening of Indonesia's automotive sector, and enhance domestic automotive industry's autonomy and competitiveness

D. Production and Assembly Process

#	Regulation Instruments	Acts and Regulations	Regulator	Objectives
A	Licence and Permits to Employ Foreign Employee (IMTA, Visa for Foreign Employee RPTKA)	Ministry of Manpower Regulation No. 12/2013	Ministry of Manpower	Describe procedure, administration, and requirement to employ foreign employee within Indonesia.
B	Verification of Indonesia's National Standard (SNI)	Government Regulation No. 102/2000 on National Standardization	National Standardization Agency of Indonesia (BSN)	Improve competitiveness, quality of goods and services, and ensure consumer's safety
C	Mandatory Requirement of SNI for Some Automotive Products	Numerous Ministry of Industry Regulations from 2007	National Standardization Agency of Indonesia (BSN), Ministry of Industry	Obligate producers of several type of goods (such as glass, tyres, alloy wheels) to comply with SNI, as the goods are directly related to the consumer's safety
D	Licence to Operate Warehouses (TDG)	Ministry of Trade Regulation No. 90/2014	Minister of Trade	Manage the administration and development of warehouses to improve distribution of goods, both for domestic trade and export
E	Fiscal Facilities to Produce Low Cost Green Cars (LCGCs) and Verification	<ul style="list-style-type: none"> Ministry of Industry Regulation No. 33/2013 Ministry of Industry Regulation No. 35/2013 	Ministry of Industry	Provide incentives for domestic automakers to produce LCGCs as part of government's industrial policy, and explain the requirements needed to gain approval to the incentives. Verification is required to ensure the produced cars fall within government's criteria of LCGCs
F	Obligation to Put Label in Bahasa Indonesia on Imported Goods	Ministry of Trade Regulation No. 67/2013	Ministry of Trade Directorate of Customs and Excise	Protect consumer's rights for clear and accurate information on goods consumed
G	Technical Requirement for Ensuring Worker's Safety	Working Safety Act: No. 1/1970 Law No. 13/2003	Ministry of Manpower	Protect worker's rights for safety and welfare in workplaces
H	Waste Management Permit	<ul style="list-style-type: none"> Law No. 32/2009 Government Regulation No. 18/1999 Ministry of Environment Regulation No. 18/2009 	Ministry of Environment	Preserve environmental sustainability
I	Licence and Permits to Employ Foreign Employee (IMTA, Visa for Foreign Employee, RPTKA)	Ministry of Manpower Regulation No. 12/2013	Ministry of Manpower	Describe procedure, administration, and requirement to employ foreign employees in Indonesia

E. Sales, Distribution, Financing

#	Regulation Instruments	Acts and Regulations	Regulator	Objectives
A	Vehicle Type Testing	Ministry of Transportation Regulation No. 9/2004 PM 144/2015 (online)	Ministry of Transportation Independent Surveyor	Test physical and design aspect of vehicles, along with periodic test after the vehicles have been used on the road
B	Vehicle Registration Number (STNK)	<ul style="list-style-type: none"> Transportation Act No. 22/2009 Presidential Regulation No. 5/2015 	National Police (SAMSAT)	Facilitate registration and identification of vehicles, so that the police will have records and legitimate evidence on all the vehicles operated in Indonesia
C	Homologation (Type Registration Certificate/TPT)	<ul style="list-style-type: none"> Ministry of Industry and Trade Regulation No. 275/MPP/Kep/6/1999 Directorate General of ILMEA Regulation No. 015/SK/DJILMEA/X/2001 	Ministry of Industry	Ensure all types of automobiles are registered with the Ministry of Industry
D	Roadworthy Testing (including SUT and SRUT)	<ul style="list-style-type: none"> Transportation Act No. 22/2009 Government Regulation No. 55/2012 Circular Letter of Minister of Transportation No. 17/2015 	Ministry of Transportation	Ensure safety aspects of vehicles which will be operated on the road
E	Various regulations with regard to financing activities of automotive products	<ul style="list-style-type: none"> Financial Services Authority Regulation No. 28, 29, 30/2014 Ministry of Finance Regulation No. 130/2012 on Fiduciary Registration Government Regulation No. 9/2009 	Financial Services Authority Ministry of Finance	Oversee the operations of financing institutions, issue operation permits (including permits for establishing new branches), explain regular reporting mechanism, and better administer fiduciary registration to protect consumer's right
F	Issuance of Certificate of Origin (COO) for Exports from Indonesia	<ul style="list-style-type: none"> Ministry of Trade Regulation No. 24/2010 Ministry of Trade Regulation No. 22/2015 	Ministry of Trade Directorate General of Customs and Excise	Describe the procedures and institution specifically assigned to issue and distribute COO for exports from Indonesia
G	Business Permit for Motor Vehicles Repair Shop	<ul style="list-style-type: none"> Ministry of Industry and Trade Regulation No. 551/1999 Different regulations at different province or district. 	Ministry of Industry Local Government	Ensure that repair shops are up to adequate standards for operating and distributing spare parts
H	Mandatory Export after 3 years of CKD Import Permit	Ministry of Industry Regulation No. 34/2015	Ministry of Industry	Ensure that companies which are given import facilities for CKD or IKD do export cars at most after 3 years of getting the incentives
I	Exporter Identity Number (APE)	<ul style="list-style-type: none"> Ministry of Industry and Trade Regulation No. 558/1998 Ministry of Trade Regulation No. 13/2012 	Ministry of Trade Directorate General of Customs and Excise	Gain information on the identity of exporters

Source: Author's Compilation.

CHAPTER 7

Warehousing Services in Malaysia

Mohd Yazid Abdul Majid

Goh Swee Seang

Lok Lee Lee

Malaysia Productivity Corporation (MPC)

[1] Introduction

Regulatory burdens arise from costs imposed on businesses by regulations and enforcement. While some burdens are necessary to help businesses achieve their objectives, others are created by poorly designed, implemented, or administered regulations, and by unnecessary regulatory duplication and inconsistency.

Priority areas where regulations need to be improved, consolidated, or removed must be systematically reviewed and identified. Reducing unnecessary regulatory burdens is part of the reforms to improve Malaysia's productivity and competitiveness. The Malaysia Productivity Corporation (MPC) is leading a comprehensive review of regulations to remove unnecessary rules and compliance costs, starting with regulations that impact the national key economic areas.

The Tenth Malaysia Plan, 2011–2015 mandated MPC to carry out regulatory reviews to ease doing business in Malaysia (EPU, 2010). These reviews drew on the expertise and perspectives of representative stakeholders from the public and private sectors. The MPC undertook several initiatives under the Modernising Business Licensing programme to simplify procedures and build a business-friendly regulatory environment in support of the nation's overall development goals. These initiatives culminated in the introduction of the National Policy on the Development and Implementation of Regulations, aimed at implementing good regulatory practice across all federal ministries and agencies.

The Eleventh Malaysia Plan, 2016–2020 reiterates the government’s commitment to make public services more efficient and productive (EPU, 2015b) by eliminating unnecessary bureaucratic processes, including those that slow down approval of licences and permits as well as those rules and regulations that are not in line with current needs.

The Services Sector Blueprint (2015–2020) (EPU, 2015a) mandates MPC to reform sectoral governance and remove structural barriers and outdated regulations by accelerating and increasing the efficiency of sectoral governance reform, and ensuring that the best regulatory development practices expand and accelerate the adoption of the National Policy on the Development and Implementation of Regulations.

Amongst the five strategic thrusts of the Malaysia Productivity Blueprint, launched on 8 May 2017 is ‘Forging a Robust Ecosystem’, which aims to address regulatory constraints and develop a robust accountability system to ensure that regulatory reviews are effective. The blueprint recommends expanding the globally used guillotine approach to rapidly streamline regulations: each ministry must list business regulations within their purview and highlight those no longer relevant or justified. All cross-agency and cross-ministerial regulations must also be reviewed.

[2] Background of the Priority Sector

Logistics, trade facilitation, and competitiveness are at the forefront of policy discussions in Malaysia. According to the World Bank’s *Malaysia Economic Monitor* (2016), about 40% of jobs are linked with export activities and the ratio of trade to gross domestic product of 148% (2010–2014). Trade has been the engine of Malaysia’s growth in the last 40 years. Indeed, efficient and high-performing logistics and trade facilitation are important determinants of a country’s competitiveness as well as an important source of employment.

Amongst the focus areas under the Eleventh Malaysia Plan is ‘unleashing growth of logistics and enhancing trade facilitation’, where the country aspires to become the preferred logistics gateway to Asia, and improve its ranking in

the World Bank's Logistics Performance Index (2016) from being amongst the top 25 in 2014 to amongst the top 10 by 2020. The Logistics and Trade Facilitation Master Plan (2015–2020) provides the strategic framework to resolve bottlenecks in the logistics sector and elevate Malaysia to become a regional player in the medium term. As the backbone of the global supply chain, the logistics industry is vital to competitiveness and connectivity as it stimulates trade, encourages efficiency, and enhances growth.

Warehousing is part of logistics and supply-chain management. Logistics covers a wide range of areas, including storage, warehousing, trucking services, and equipment maintenance, with transportation as its core component. Institutional and regulatory framework issues are related to lack of coordination, inefficient and insufficient regulations, as well as lack of data management. The coordination issues in logistics are attributed to the overlapping functions of agencies and to institutional gaps. Off-dock depots and ordinary warehouses are inefficient and poorly regulated. The database for land freight is fragmented and thus impedes effective planning and development.

Warehousing is, therefore, viewed as a significant cross-cutting component for regulatory review. Regulations that stifle the competitiveness of warehousing will diminish that of logistics and other related industries.

[3] Overview of Warehousing Economic Performance

The Malaysia Standard Industrial Classification 2008 classifies all economic activities in Malaysia that adopt the International Standard Industrial Classification Revision. Warehousing business activities are based on Division 52 (Warehousing and Support Activities for Transportation) under Section H (Transportation and storage) of the Malaysia Standard Industrial Classification 2008 (Table 1).

Table 1: Industries Included in the Review

Class	Item	Description
Division 52: Warehousing and Support Activities for Transportation		
Group 521: Warehousing and storage		
5210		Warehousing and storage Include (a) operation of storage and warehouse facilities for all kinds 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 Exclude (a) parking facilities for motor vehicles (see 52213); (b) operation of self-storage facilities (see 68102); (c) rental of vacant space (see 6810)
	52100	Warehousing and storage services
Group 522: Support activities for transportation		
5224 ⁽¹⁾		Cargo handling
	52249	Other cargo handling activities n.e.c. 63019 (1) Include loading and unloading of goods or passengers' luggage irrespective of the mode used for transportation and stevedoring services Exclude operation of terminal facilities (see 5221, 5222, and 5223)
5229 ⁽²⁾		Other transportation support activities (2) Include pickup and delivery of goods and grouping of consignments-integrated system Exclude (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)
	52291	Forwarding of freight ⁽³⁾ Includes (a) arranging or organising of transport operations by rail, road, sea, or air; (b) organising 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

n.e.c. = not elsewhere classified.

Source: Malaysia Standard Industrial Classification, 2008.

Key information such as number of warehouses and their location, types, capacity, ownership, and utilisation rate is not readily available. In setting the context for the development of the Logistics and Trade Facilitation Masterplan, a profiling study of the freight logistics industry, 'Developing an Empirical and Diagnostic Base to Support Strategic Planning for the Freight Logistics Industry', was conducted in 2013 by Frost & Sullivan for the Economic Planning Unit of the Prime Minister's Office. The study found that only 14.9% of freight logistics operators in Malaysia have distribution centres. Of the operators with distribution centres, 86.7% are in Peninsular Malaysia, 3.3% in Sabah, and 10% in Sarawak. Across Malaysia, the average utilisation rate of the distribution centres is high: around 89% in Peninsular Malaysia, 90% in Sabah, and 95% in Sarawak. Of all freight operators, 67% own their warehouses while 33% prefer to lease them. About 29% of freight operators have 250 sq. m and below of warehouse built-up areas, while another 21% have more than 5,000 sq. m warehouse built-up areas. Most warehouses in Sabah have 1,000– 3,000 sq. m built-up areas.

A total of 31% of end users in Malaysia engage international freight logistics providers and 21% local ones. International providers – usually third and fourth parties – are favoured because of their global recognition, better network coverage, service credibility, and, most important, ability to provide integrated supply-chain services to end users. Companies are significantly cutting costs and outsourcing warehousing and distribution. With international trade and globalisation, the importance of moving goods at competitive prices has led to the development of third-party logistics providers, which act as intermediaries offering virtually all functions of the supply chain. Fourth-party logistics providers serve as supply-chain integrators that assemble and manage the resources, capabilities, and technology of their own organisations with those of complementary service providers to deliver a comprehensive supply chain solution. Fifth-party logistics providers focus more on technology and information.

The study's findings further indicated that the warehouse industry in Malaysia is dominated by small and medium-sized enterprises. Given high investment costs, most warehouses do not have specialised services such as cold storage facilities, pick-and-pack facilities, or pre-retail services. Companies that offer these value-added services are usually large conglomerates or multinational corporations. Because of limited competition in specialised service areas, the warehouse industry is less inclined to innovate and make improvements to increase efficiency and productivity.

In regional performance, Malaysia ranked 37th out of 136 in the Global Enabling Trade Report 2016 (38th out of 134 in 2014). In quality of transport infrastructure, Malaysia ranked 17th in 2016 (19th in 2014), while in quality of transport services, it ranked 29th in 2016 (26th in 2014).

In the Logistics Performance Index (LPI), Malaysia declined to 32nd out of 160 countries from 25th in 2014 because of the drop in six components of LPI. High logistics costs and unreliable supply chains reduce a country's competitiveness. Supply chains are complex and their performance depends on hard and soft infrastructure, institutions, and conducive ecosystems such as regulations, customs clearance, and import and export procedures (World Bank, 2016a). Therefore, the implementation of the master plan is timely to transform the

logistics and trade facilitation sectors and bring Malaysia's LPI ranking to the top 20 by 2020 and beyond.

In the World Bank's *Doing Business 2017*, the Trading Across Borders index records the time and cost (excluding tariffs) associated with the logistics process for documentary compliance, border compliance, and domestic transport within the process of exporting or importing a shipment of goods. Malaysia was ranked 60th in 2017 (World Bank, 2017) and 58th in 2016 (World Bank, 2016).

[4] Warehousing and Distribution Services

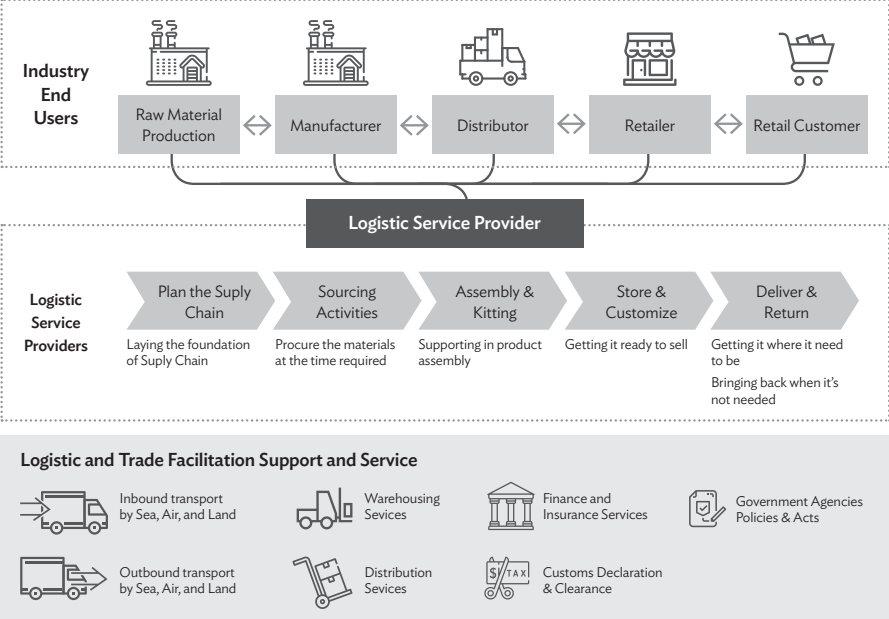
In a supply chain, warehousing is a node in linking the material flows between the supplier and the customer. Warehouses have been facing challenges as supply chains are becoming more integrated and shorter operations are becoming global, customers are more demanding, and technology is changing rapidly. The demand for specialised warehouse services will increase in the foreseeable future as manufacturers intensify their focus on core competencies. Figure 1 presents the logistics and value-added services along the supply chain as indicated in the Logistics and Trade Facilitation Masterplan (2015–2020).

Figure 2 presents a typical warehouse supply chain. To a large extent, warehouses are becoming flow-through facilities that perform certain value-added functions or customer-specific activities before products continue their movement through the supply chain. Due to increased competitiveness and challenges in reverse logistics, environmental sustainability, greener operations, information technology, and overall supply chain integration, the strategies, roles, and responsibilities for warehouses are further evolving.

In general, the warehousing service business cycle consists of three main activities: acquisition of premises, operations, and closing and/or cessation of a business.

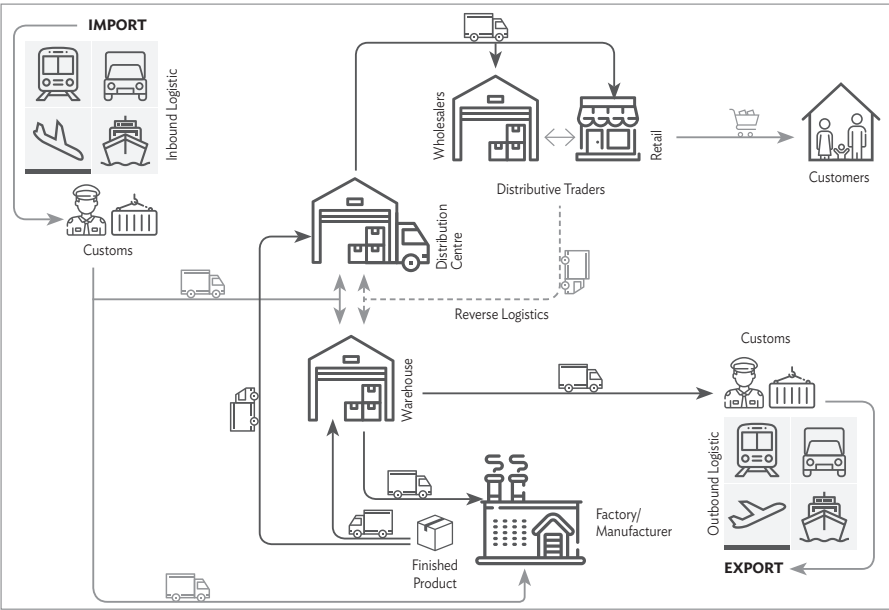
The focus of this study is on the warehouse business start-up and operations.

Figure 1: Logistics and Value-Added Services Along Supply Chain



Source: The Logistics and Trade Facilitation Masterplan, 2015.

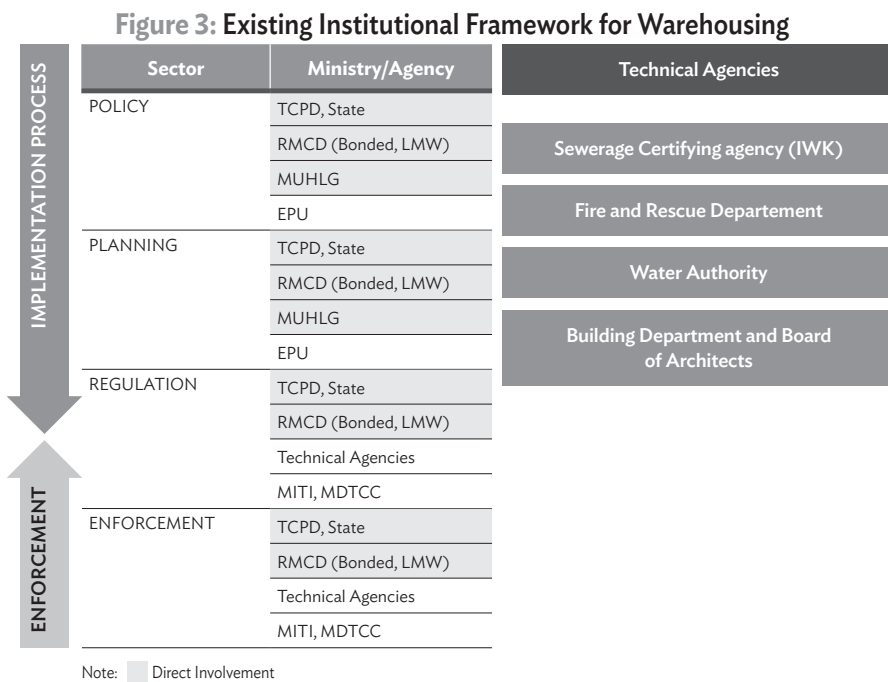
Figure 2: Warehouse Supply Chain



Source: Malaysia Productivity Corporation, 2016.

[5] Warehousing Regulations

Figure 3 shows the current institutional framework of the warehouse industry in Malaysia across policy, planning, regulation, and enforcement, with their ministries and agencies. It provides an overview of the regulatory framework, existing legislative and institutional arrangements, mapping of the value chain to regulations, and stakeholders.



EPU = Economic Planning Unit; IWK = Indah Water Consortium; LMW = Licence Manufacturing Warehouse; MDTCC = Ministry of Domestic Trade, Co-operatives and Consumerism; MITI = Ministry of International Trade and Industry; MUHLG = Ministry of Urban Wellbeing, Housing and Local Government; RMC = Royal Malaysia Customs Department; TCPD = PlanMalaysia.

Source: EPU Logistics Trade Facilitation Masterplan, 2014.

5.1 | Warehouse Business Start-up

The warehousing services value chain starts with regulatory compliance, goes onto warehouse acquisition and starting the business, then to operation of the warehouse, and to closing of the warehouse if the business needs to relocate or exit. An operator must first apply to construct a warehouse and obtain development approval from local authorities. Once construction is complete, technical agencies must inspect the building. Upon confirmation that the warehouse is fit for occupancy and complies with regulations, the operator will receive a Certificate of Completion and Compliance (CCC) from a principal submitting person, who is defined in the Street, Drainage and Building Act 1974 as an architect, an engineer, or a building draughtsman registered under the Board of Architects Malaysia. The warehouse operator can then apply for any of the three types of warehouse licences from the local authority or from the Customs Department. The choice of licence depends on how he intends to use the warehouse, which can be an ordinary warehouse, a public bonded warehouse, or a private bonded warehouse.

[6] Value Chain and Regulatory Mapping

The value-chain analysis reviews the regulatory framework and identifies aspects that have contributed to or stifled the efficiency and growth of the warehousing industry. This section will focus on regulatory mapping in the first phase of the business cycle (starting a business). It will provide a detailed analysis of the general regulatory requirements of setting up the physical premises. As warehousing is complicated by the types of goods handled and stored, however, regulations on selected types of goods handled are highlighted (Table 2) – albeit with no detailed analysis – as they are subject to different types of regulations (e.g. pharmaceuticals, dangerous and hazardous goods, scheduled chemicals, cold-chain facilities, and disposal of scrap and/or waste).

The details of the acts, regulations, and policies related to each step of the value chain are in Table 2.

Table 2: Acts, Regulations, and Policies by Approval of Agency or Ministry for Warehousing Activities

Value Chain	Primary Activity or Process	Acts, Regulations, Policies	Approval Agency or Ministry
Acquisition of premise and start-up	Submit application for development approval (Warehouse operators can submit applications for warehouse construction and operation permits to OSC 1 Submission, but obtaining development approval takes 130 days due to the need to satisfy the multiple requirements of different internal and external agencies.)	<ul style="list-style-type: none"> Street, Drainage and Building Act 1974 Companies Act 1955 	<ul style="list-style-type: none"> Local authority Companies Commission of Malaysia (SSM)
	Request utility inspection	<ul style="list-style-type: none"> Street, Drainage and Building Act 1974 	<ul style="list-style-type: none"> Local authority
	Request road and drainage inspection	<ul style="list-style-type: none"> Street, Drainage and Building Act 1974 	<ul style="list-style-type: none"> Sewerage Certifying Agency (IWK)
	Obtain approval for fire safety (Premise is equipped with an adequate number of fire extinguishers as well as fire and safety alarm systems.)	<ul style="list-style-type: none"> Fire Services Act 1988 	<ul style="list-style-type: none"> Fire and Rescue Department (BOMBA)
	Obtain a water clearance letter	<ul style="list-style-type: none"> Water Services Industry Act 2006 	<ul style="list-style-type: none"> Water Authority (SYABAS)
	Apply for a Certificate of Completion and Compliance (CCC) (Potential operators of ordinary warehouses must obtain approval from the Department of the Environment if they want to store hazardous goods, and approval from BOMBA and other technical agencies along with a CCC from the local authority to acknowledge that the building is safe for occupation.)	<ul style="list-style-type: none"> Street, Drainage and Building Act 1974 	<ul style="list-style-type: none"> Building Department and Board of Architects via the local authority
Application for warehouse licence (ordinary, public bonded, bonded, Licensed Manufacturing Warehouse [LMW])	Apply for an ordinary warehouse licence	<ul style="list-style-type: none"> Companies Act 1965 Local Government Act 1976 Street, Drainage and Building Act 1974 Fire Services Act 1988 Water Services Industry Act 2006 	<ul style="list-style-type: none"> SSM Local Authority IWK BOMBA SYABAS Building Department and Board of Architects
	Apply for a public bonded warehouse licence for a warehouse that intends to provide 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. This type of warehouse caters to the public.	<ul style="list-style-type: none"> Customs Act 1967 Companies Act 1965 Street, Drainage and Building Act 1974 Fire Services Act 1988 Water Services Industry Act 2006 	<ul style="list-style-type: none"> Royal Malaysian Customs Department (RMCD) SSM Local Authority IWK BOMBA SYABAS Building Department and Board of Architects
	Apply for a private bonded warehouse licence for a warehouse that intends to provide central storage and distribution for bonded goods (i.e. goods on which customs duties and taxes have not been paid) for the company and its related companies.	<ul style="list-style-type: none"> Customs Act 1967 Companies Act 1965 Street, Drainage and Building Act 1974 Fire Services Act 1988 Water Services Industry Act 2006 	<ul style="list-style-type: none"> JKDM SSM Local Authority IWK BOMBA SYABAS Building Department and Board of Architects

Value Chain	Primary Activity or Process	Acts, Regulations, Policies	Approval Agency or Ministry
	Operate LMW (bonded warehouse where manufacturing is undertaken to produce finished goods for export, subject to minimal customs procedures)	<ul style="list-style-type: none"> • Customs Act 1967 	<ul style="list-style-type: none"> • JKDM
Operation of warehouse (selected types of goods handled)	Handle and transport hazardous goods and manage toxic, hazardous chemicals, radioactive materials, and hazardous waste (a facility that generates, stores, transports, treats, or disposes scheduled waste, subject to the stipulated environmental regulations)	<ul style="list-style-type: none"> • Guidelines on Storage of Hazardous Chemicals: A Guide for Safe Warehousing of Packaged Hazardous Chemicals • Environmental Quality (Scheduled Wastes) Regulations 2005 • Environmental Quality (Prescribed Conveyance) (Scheduled Waste) Order 2005 • Environmental Quality (Prescribed Premises) (Scheduled Waste Treatment and Disposal Facilities) Order 1989 • Environmental Quality (Prescribed Premises) (Scheduled Waste Treatment and Disposal Facilities) Regulations 1989 • Customs (Prohibition of Export/Import) Order (Amendment) (No.2) 1993, • Radioactive Substances Act Explosive Act & Regulations 1957 • Atomic Energy Licensing Act & Regulations 1984 	<ul style="list-style-type: none"> • Department of Occupational Safety and Health (DOSH) • Ministry of Human Resources (MOHR) • Ministry of Natural Resources and Environment (NRE) • JKDM • Atomic Energy Licensing Board (AELB) • Ministry of Science, Technology and Innovation (MOSTI) • Department of Environment (DOE)
	Store, handle, distribute, label and package, trace, recall pharmaceuticals and drugs. Ensure proper storage conditions for hazardous, sensitive, and dangerous materials and/or products and/or cosmetics such as combustible liquids and solids, pressurised gases, highly toxic substances, and radioactive materials/products	<ul style="list-style-type: none"> • Good Manufacturing Practices and Guidelines on Good Distribution Practice (GDP) 2013, under the Dangerous Drugs Act 1952 (revised 1980) • Poison Act 1952 (revised 1989), Poisons (Psychotropic Substances) Regulations 1989 • Control of Drugs and Cosmetics Regulations 1984 (revised 2009) 	<ul style="list-style-type: none"> • National Pharmaceutical Control Bureau, Ministry of Health Malaysia (MOH)

Value Chain	Primary Activity or Process	Acts, Regulations, Policies	Approval Agency or Ministry
Operation of warehouse (occupational health and safety, machinery operations, inventory management, specialised storage, scheduled waste management)	Occupational health and safety Legislative framework to promote, stimulate, and encourage high standards of safety and health at work, reduced risks to health from the use, storage, or transportation of substances. To meet these aims, all practicable precautions must be taken in the proper use and handling of any substance likely to cause a risk to health.	• Occupational Safety and Health Act (OSHA) 1994 supported by regulations, codes of practice, and guidelines	• DOSH • MOHR
	Machinery operations Provides for the control of factories with respect to matters relating to the safety, health, and welfare of person therein, the registration and inspection of machinery and for matters connected therewith. DOSH carries out inspection, certification, and registration of all machinery prior to their installation.	• Factories and Machinery Act 1967	• DOSH • MOHR
	Inventory management Provides for inspection and certification of factory machinery.	• Factories and Machinery (Notification, Certificate of Fitness, and Inspection) Regulations, 1970	• DOSH • MOHR
	Specialised storage Protection of persons and property from fire risks and for purposes connected therewith. A legal framework to control exposure of chemical hazardous to health at workplace.	• Fire Services Act 1988 • Occupational Safety and Health (Use and Standards of Exposure of Chemicals Hazardous to Health (USECHH) Regulation 2000	• BOMBA • DOSH • MOHR
	Scheduled waste management Ensure that scheduled waste generated is properly stored, treated on-site, recovered on-site for material or product from such scheduled waste, or delivered to and received at prescribed premises for treatment, disposal, or recovery of material or product from scheduled waste. Areas for storage of containers shall be designed, constructed, and maintained adequately to prevent spillage or leakage of scheduled waste into the environment.	• Environment Quality Act 1974 • Environment Quality (Scheduled Waste regulations) 2005	• DOE • NRE

Value Chain	Primary Activity or Process	Acts, Regulations, Policies	Approval Agency or Ministry
Employment requirements	Specific immigration procedure The company must apply for approval to employ expatriates from the Expatriate Committee of the Immigration Department. On approval of the expatriate posts, companies should forward applications for employment passes to the Immigration Department for endorsement. The spouse and children of the expatriate worker can apply for dependent passes once the expatriate has been issued with the employment pass. The dependent pass may be applied for together with the application for the employment pass or after the employment pass is approved. The spouse and children of the expatriate worker who enter the country on a visit (temporary employment or professional) will be issued a visit (social) pass.	<ul style="list-style-type: none"> • Employment Act 2011 • Industrial Relation Act 1967 • Minimum Wages Order 2012 • Minimum Retirement Age Bill 2012 • Employees Provident Fund Act 1991 • Income Tax Act 1967 • Employees' Social Security Act 1969 • Pembangunan Sumber Manusia Berhad Act 2001 • Occupational Safety and Health Act 1994 • Immigration Act 1959/63 	<ul style="list-style-type: none"> • Registration of workforce (MOHR) • Registration of unions (Industrial Relations Department – MOHR) • Registration of employees with SOCSO • Registration of employees with PSMB • Registration of employees with LHDN • Work permits (Immigration)
Closing of Warehouse	Closing/winding down of business, sales or ownership transfer, or bankruptcy.	<ul style="list-style-type: none"> • Insolvency Law Act 360 • Bankruptcy 1967 	• Malaysia Department of Insolvency

JKDM = Royal Malaysian Customs Department; LHDN = Inland Revenue Board of Malaysia; PSMB = Human Resource Development, SOCSO = Social Security Organisation.

Note : The list of acts, regulations, and policies is not exhaustive.

Source : (1) Adapted from EPU Logistics Trade Facilitation Masterplan, 2014; Analysis Malaysia Productivity Corporation.

(2) e-Federal Gazette.

[7] Regulatory Issues from Warehousing Service Providers

The regulatory issues and areas of concern here were raised during a series of engagements by MPC, the Ministry of Transport, and the Selangor Freight Forwarders and Logistics Association with warehousing service providers. The list of issues, however, is not exhaustive due to the period and scope of this study and because there is no business directory for warehouses (business players, warehouse space), there is no warehouse business association, or warehouses are excluded from local plans. Only a few warehouse service providers were interviewed. The companies involved are members of various trade associations (mainly of the Federation of Malaysia Freight Forwarders). Meetings with logistics service providers were held in the southern, central, eastern, and northern regions as well as in Sabah and Sarawak.

The following are the issues collected from meetings with the logistics service providers (November 2015–May 2016). Under each of the issues are possible options and/or alternative recommended regulatory and non-regulatory solutions. Good regulatory practice requires the consideration of different options to achieve the desired objectives. They include taking no action and/or continuing / remaining as is, self-regulation, quasi-regulation, co-regulation, and explicit government regulation. The issues are structured along the value chain: acquisition of premises and starting up warehouse business. Most issues raised are related to the submission of an application for development approval, utility inspection, fire safety requirements, and application for a CCC; for example, confirmation of electrical supply by the Tenaga Nasional Berhad (TNB) and clearances for active fire-fighting systems by the Fire and Rescue Department of Malaysia (BOMBA).

7.1 | Issues Raised at Business Start-up and Acquisition of Premises

Most issues raised are related to the submission of an application for development approval and utility inspection, particularly fire safety and application for a CCC. Under the CCC system, each construction process needs to be verified by professionals and contractors and requires certification forms that need to be endorsed, and clearance and/or confirmation of supply and/or connection obtained from essential technical agencies.

ISSUE 1: Information Transparency to Establish and Operate Warehouse

Investors and businesses face difficulties in business planning and decision-making because of insufficient or inaccessible information on warehouses, including information on location, type, space and size, utilisation rate, and operators. Data on warehouses are scattered across different ministries and agencies (e.g. Customs Department, Companies Commission of Malaysia [SSM], SME Corp.) and 149 local authorities. This creates a challenge for foreign investors locating suitable warehouses.

OPTION 1: No change to current 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 a community profile and national warehouse inventory by engaging with local authorities, SSM, professional bodies (engineers and architects), and logistics associations to obtain company names, addresses, contact details, and categories of business activities (by warehouse specialisation and goods storage and handling).

OPTION 3: Set-up warehouse association

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

RECOMMENDATION: Options 2 and 3

The comprehensive profiling of warehouse services providers in Malaysia is important for systematic planning and development and in promoting orderly growth of warehousing. The development of a dynamic online portal and a website specifically for warehouses will also support quick and easy searches of warehouse space by potential customers. Reference could be made to the Malaysia Logistics Directory (msialogistics.com).

With the establishment of a warehouse association, the warehousing industry could have a voice on issues, including identifying improved regulations affecting the industry and providing industry views and input for policymakers' consideration.

ISSUE 2: Different practices and lack of clarity by local authorities on how to operate a warehouse**OPTION 1: Retain current practice**

Starting and operating a warehouse business without clear policies and guidance from local authorities will affect compliance by both the authority and businesses and increase the cost of doing business.

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

Provide holistic guidelines covering end-to-end cycle of the business process, i.e. from start-up, operation, up to cessation. Guidelines will help streamline work processes, eliminate non-productive ones, and integrate similar work processes. They will also help increase transparency and make available the required information and checklists. The publication of guidelines, rules, specifications, performance criteria, and procedures pertaining to construction, development, administration, operation, and maintenance is meant to establish authority and assure businesses of good regulatory practices and best practices.

RECOMMENDATION: Option 2

To ensure that all requirements are followed, warehouse building guidelines must provide clear technical and architectural conditions and specifications and security requirements for design, construction, and delivery. This will increase the ease of doing business and raise the overall standards of the warehouse industry.

Reference could be made to countries with storage and warehouse building checklists such as Singapore (Occupational Safety and Health Guidelines for the Logistics Industry), India (Logistics & Warehousing Report, 2014, Knight Frank Research), Saudi Arabia (Saudi Industrial Property Authority), and the United States (City of Henderson, Nevada; Department of Consumer Affairs, New York City). For example, a warehousing document of standards by the United Kingdom Warehousing Association provides guidance in conjunction with inspection. Likewise, the City of Henderson's storage and warehouse building submission checklist, which focuses on complete and accurate plan submissions to speed up the plan review process, leads to fewer delays and requests for revisions.

ISSUE 3: Time spent to obtain construction permits

A fundamental hindrance to business is the excessive delay in acquiring planning and development approval from authorities. Other issues include the high cost of complying with TNB substation installation, lack of risk assessment in installing fire-fighting systems, under-utilisation of warehouse space due to parking space regulations, and burdensome compliance requirements for CCC issuance.

Applicants also face difficult and complex processes to get construction permits for new warehouses and extension of existing warehouses. It takes six months to more than a year to obtain a permit to build a warehouse due to the many government agencies monitoring and inspecting building approvals. It takes three to six months to get approval from the local authority to extend bonded warehouses. Delays lead to lost opportunities. While most local governments have modified their one-stop-centre (OSC) 3.0 model, they have yet to develop fast delivery.

OPTION 1: Retain current practice

Not all local authorities use OSC 3.0, with some still requiring hardcopy submissions. The OSC 1 submission, introduced in 2012 by the Kuala Lumpur City Hall for small-scale non-residential development, needs to be improved as complaints persist that the initiative is not felt on the ground.

OPTION 2: Strengthen the approval and/or implementation processes

Adopt a special lane (OSC 1 submission) to cater to low-risk development, e.g. warehouse OSC approval process.

The OSC 1 submission gateway for the construction of small-scale and non-residential projects in Kuala Lumpur has succeeded in approving within 27 days new development proposals and applications. The local governments that have adopted OSC 3.0 should replicate and expand the risk-based system now being used in Kuala Lumpur. Concurrent joint final inspections for utility providers and fire safety at the final inspection stage would shorten time needed to get development approval.

OPTION 3: Develop checklists and/or user manuals for warehouse construction or extension

Develop user manuals and specific construction requirements categorised by classification of warehouses as done by the Saudi Industrial Property Authority. Introduce two sets of checklists or manuals for building warehouses in designated zones (such as free trade zones) and those earmarked for future industrial cities and technology zones.

RECOMMENDATION: Options 2 and 3

The publication of user manuals, guidelines, and specific checklists for warehouse construction or extension, complemented by the expanded adoption of OSC in all other states, would lead to fast approval of applications. Making headway with OSC 3.0 is a significant step towards driving an effective, efficient, and transparent building regulatory system as all parties involved could reap the benefits of simpler and speedier approval.

ISSUE 4: Burden in getting power supply

One of the concerns is the delay in getting power supply, sometimes taking up to one year before an electricity connection is made. A business needs to pay about RM5,000 to TNB for a connection. A warehouse is also required to install a substation before a CCC from the local authority can be obtained, which is burdensome since the approval process is long and expensive (more than RM300,000).

OPTION 1: Retain current practice

Total compliance can cost more than RM300,000 even though warehouses have low energy consumption (around RM2,000– RM3,000 per month for 100,000 square feet). High connection costs hinder business activity.

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

Tenaga Nasional Berhad is streamlining and amalgamating procedures that cover application submissions, site visits, cost estimates, payment of connection charges and security deposits, external connection, and power metre installation. These will significantly help shorten the time spent in getting electricity and bring down its cost.

RECOMMENDATION: Options 2

The Focus Group on Getting Electricity under the Special Task Force to Facilitate Business (PEMUDAH) is continuously deliberating on ways to ease doing business and reduce compliance costs. Amongst the improvements to be implemented by TNB are speedy, hassle-free electricity connections and reliable power supply.

ISSUE 5: Fire safety for different warehouse risk groups and activities

Imposing the same fire safety requirements for both dangerous and non-dangerous goods raises compliance costs for non-dangerous warehouse services, which have no need for costly water sprinkler systems, fire hoses with alarms, and high-horsepower water tanks.

Water sprinkler systems should only be installed for big warehouses ($\geq 70,000$ sq ft). (Similar sprinkler systems are required for manufacturing plants and regularly inspected every 2 years). Regulatory requirements should not be ‘one-size-fits-all’ but based on activities, facilities, and products.

OPTION 1: Retain current practice

The Uniform Building By-Laws 1984 (UBBL) under the Street, Drainage and Building Act 1974 governs fire safety in buildings, the guidelines of which are in TNB’s Electricity Supply Application Handbook (TNB, 2007). The various fire incidents cited are categorised under 15 building types or occupancies, including category ‘O’ for warehouses (large-scale storage).

The active fire protection system under the warehouse category is inadequate because goods stored in warehouses vary drastically, from high-combustibles and high-rack storage to low-combustibles and low-rack storage. Generally, approval plans for warehouses are submitted based on low-combustible storage to obviate the need for active systems, notably automatic wet sprinklers.

The other categories of buildings, on the other hand, have more fire-fighting appliances installed in compliance with UBBL 1984. These include portable fire extinguishers, hose-reel systems, dry or wet riser systems, sprinkler systems, and external hydrants that can easily be controlled manually or automatically.

OPTION 2: Create a standard BOMBA checklist for safety requirements and inspection of warehouses

Propose checklists and standards for passive and active fire safety requirements for various categories of warehouses. Create warehouse-type-specific standards on safety requirements and inspection, maintenance, and durability of installations such as those cited in Singapore’s Fire Safety Requirements for General Warehouses. Fire safety requirements should cover general warehouses, including single-storey single-user warehouses, single-storey multi-user

warehouses, underground warehouses, multi-storey warehouses with or without basements, and warehouses within other non-industrial buildings.

RECOMMENDATION: Option 2

A standard checklist will provide useful guidance on the required firefighting systems for different warehouse risk groups and activities as well as goods stored.

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

Some local authorities restrict submissions of building plans to certain professionals (architects, planners, engineers, surveyors) and only as far as regulations of the bodies they belong to allow them. Some local authorities also ask for more information than necessary before an application is approved. Most rules and regulations covering professionals delivering these services are supervised by the professional boards (Board of Architects Malaysia, Board of Engineers Malaysia). These professionals are required to abide by the regulations and by-laws related to permit applications for land development, planning, and construction.

OPTION 1: Retain current practice

Unnecessary burdens are faced by warehouse operators when different local authorities require different types of information and submissions.

OPTION 2: Review and update General Circular No 4/1989

This will ensure that both professional boards, all principal submitting persons, and local governments understand and interpret the circular correctly and that requirements do not impose greater burdens than necessary.

OPTION 3: Repeal General Circular No 4/1989

Repeal the circular to avoid conflicts of interest and overcome unnecessary delays by various authorities in deciding on applications. Allow project owners to decide which professional should design the plan. To reduce the cost of doing business, the project owner can agree on the appointed professional and grant him full power to design the plan while retaining the option of appointing a second professional.

OPTION 4: Enhance the collaboration between the Board of Architects Malaysia and the Board of Engineers Malaysia to handle complaints through a joint committee.

The joint committee should be able to handle complaints and disputes between submitting persons and local authorities and issue quick decisions.

RECOMMENDATION: Options 2 and 4.

Businesses need to know what are required of them and to understand their obligations to comply with regulations. Engage architects and engineers who design warehouses, and warehouse operators to identify issues and develop cost-effective, simpler, and more efficient ways in the building-approval process.

ISSUE 7: Inappropriate parking and building space requirements issued by local authority

Concerns have been raised regarding burdensome and inappropriate parking requirements. For example, under the Town and Country Planning Act 1976, one (car and motorcycle) parking slot is required per 2,000 sq ft. Thus, for an area of 100,000 sq ft, 50 parking slots should be provided.

Each local authority, however, has its own parking requirements even within the same state (Table 3). This inconsistency in enforcing parking restrictions by local authorities creates uncertainty for businesses and customers and reduces the capacity for planning.

OPTION 1: Retain current practice

The 2012 revision of UBBL has not been gazetted in many states, thus some are still using UBBL 1984 (however, Selangor and Terengganu are already using the revised version). Inconsistency in parking requirements further aggravates uncertainty for businesses and customers and reduces development capacity. As the main reference in standardising the building codes, UBBL should be accepted at the national level and be gazetted in every state.

Table 3: Local Authority Parking Requirements by State

	Kuala Lumpur	Selangor	Terengganu	Seberang Perai	Melaka
Cars and motorcycles	1 parking space/2,000 ft ²	1 car parking space/1,000 ft ² 1 motorcycle parking space/2,000 ft ² @ 1 motorcycle space/1 worker	1 parking space/ 2,500 ft ²	1 car parking space/2,500 ft ² 1 motorcycle parking space/1,000 ft ² 10% of parking spaces must be allocated for the disabled	<i>i. Godown</i> (warehouse and storage area in the building is used for a particular purpose) <ul style="list-style-type: none"> - For 100 m² to provide 1 parking lot for lorries and 1 for cars - Additional provision of 20% of total space for motorcycle parking Note: For each 600 m ² area of the site or part thereof, to provide one loading and unloading goods space measuring 2.33 m x 1.77 m within the compound of the building <i>ii. Godown</i> storage areas and warehouses (used for other purposes) <ul style="list-style-type: none"> - 1 car for every 200 m² compartment floor area or part thereof
Lorries	-	1 parking space/5 factory units	1 parking space/ 2,500 ft ² (maximum 5 lots)	1 lorry parking space/5000 ft ² (1 trailer = 14 ft x 60 ft) (1 small lorry = 10 ft x 20 ft)	1 lorry parking space/5000 ft ² (1 trailer = 14 ft x 60 ft) (1 small lorry = 10 ft x 20 ft)

m² = square metres, ft² = square feet.

Source: Malaysia Productivity Corporation analysis.

OPTION 2: Amend the parking space requirements

A warehouse can have a big gross floor area but it may not need more parking lots. Any legislation on this has to consider some exemptions instead of applying one formula for all buildings as it is usual for a warehouse operator to maximise space. Exemptions are necessary to overcome the overly prescriptive parking requirements.

RECOMMENDATION: Option 2

With some exemptions to the Planning Guidelines and Standards Parking, waste of space could be avoided. Plot ratio development could be increased to maximise use of storage space, which is critical for warehouses. To a warehouse operator, indoor space is income. Parking requirements for warehouses should be flexible, such that lots are allocated for more lorries and trucks instead of cars due to the nature of the warehouse business.

ISSUE 8: Non-standardised assessment rate for warehouse

Under UBBL 1984 and the Street Drainage and Building Act, 1974, warehouse operators face difficulty in applying for extension permits on their premises as local authorities are too strict and 14–16 technical agencies are involved in development approval. Although a trading licence can be applied for to operate a warehouse, local authorities have no guidelines covering types of warehouses but instead treat everything as a warehouse. Charges are based on size of land and building. Since assessment rates currently cut across all value chains, a tendency for double assessment charges is inevitable.

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.

Table 4 shows the assessment tax rates imposed by the various local authorities.

Table 4: Assessment Tax Rates of Local Authorities (%)

Local Authority	Assessment Tax Rate (%)
Kuala Lumpur City Hall	10.0
Kuala Terengganu City Council	15.0
Kuala Selangor District Council *	8.0
Kuala Langat District Council *	11.0
Sabak Bernam District Council *	12.0
Hulu Selangor District Council *	11.0
Sepang Municipal Council*	8.4
Ampang Jaya Municipal Council*	6.6
Kajang Municipal Council*	8.8
Selayang Municipal Council*	10.8
Klang Municipal Council*	7.5
Subang Jaya Municipal Council*	8.0
Petaling Jaya City Council*	8.8
Shah Alam City Council*	7.0
Pulau Pinang City Council	14.7

* As of 2013 (<https://selangkini.my/2013/12/kadar-cukai-pintu-selangor-kekal-sejak-20-tahun/>).

Source: The rates are the result of MPC's analysis of the assessment rates obtained from local authorities' website logins.

OPTION 1: Retain current practice

Without specific guidelines from local authorities, warehouse assessment rates are not clear and can be inconsistent.

OPTION 2: Impose standard charge based on zoning (development area)

Impose one standard charge on all warehouses (manufacturing and storage companies). Assessment rates should be considered according to industry classification and/or activity.

RECOMMENDATION: Option 2

This is recommended for a more justifiable assessment rate for warehouses. Equal taxation of warehouse services and manufacturing companies will adversely affect cost efficiency and productivity and increase compliance costs for warehouse services. Unified information on assessment rates should be published on government websites (e.g., Ministry of Urban Wellbeing, Housing and Local Government, Malaysian Investment Development Authority—Invest in Malaysia) to improve clarity.

7.2 | Issues Raised at Operations Stage

7.2.1 Oil and Gas Services

ISSUE 9: Timeliness to obtain multiple export/import permit approval

Businesses must apply for multiple permits and use different systems for various permits approval (Table 5). The same information must be resubmitted either manually or using the existing system.

OPTION 1: Retain current practice

The existing framework of permit application and issuance is a sequential process. The chain of government formalities relating to export and import permits includes more than 30 government agencies, requiring transaction costs that raise the cost structure of businesses, which ultimately increases the price of goods and services and adversely affects domestic competitiveness.

Table 5: Multiple Export and Import Permit Approval

Item Type	Permit Required	Application Time	Agency
EXPLOSIVE	Movement Permit	2 weeks (valid for 1 month)	PDRM
	DCA Permit (Air Only)	3 working days (valid per shipment)	DCA
RADIOACTIVE	Import/Export Permit	2 weeks (valid for 1 year)	AELB
	DCA Permit (Air Only)	3 working days (valid per shipment)	DCA
CHEMICAL, MINERAL, SOIL	Import Permit	3–5 working days (valid per shipment)	DOA
	Export Permit	7 working days (valid per shipment)	NRE
DUAL USE	STA Permit (Export only)	3–5 working days	AELB

AELB = Atomic Energy Licensing Board; DCA = Department of Civil Aviation; DOA = Department of Agriculture; NRE = Ministry of Natural Resources and Environment; PDRM = Royal Malaysia Police; STA = Strategic Trade Act (2010).

Source: Ministry of Finance, 2012; MPC Analysis.

OPTION 2: Develop a single-entry system and simultaneous processing of permits application

The government should streamline export and import permit procedures to reduce unnecessary regulatory burdens on businesses. The single-entry system and the simultaneous processing of permit applications benefit all trade operators (importers, exporters, and customs agents). Online processing cuts costs in terms of time consumed and personnel assigned to tasks, as well as the resources spent on office supplies and other implements necessary for physical processing of documents.

RECOMMENDATION: Option 2

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

7.2.2 Licensed Manufacturing Warehouse (LMW)

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

One issue at the operations stage raised by an Licensed Manufacturing Warehouse (LMW) operator involves the disposal of waste and/or scrap. The 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 controlled by the Royal Malaysian Customs and subject to all customs laws and regulations.

Approval for application to dispose scrap by an LMW takes about two months to complete. This will affect business productivity as well as the image of Malaysia as a business hub for investors.

OPTION 1: Retain current practice

Delays in approval for scrap disposal will continue to be encountered by LMWs.

OPTION 2: Consider blanket approval for scrap disposal and/or sale permit

Written consent could be issued to LMWs both for scrap disposal and sale of scrap without requiring additional approval. However, while blanket approval will save time and benefit the LMW applicant, there should be proper guidelines and checklists to ensure it is not being misused.

OPTION 3: Review scrap disposal procedures

Customs needs to revisit and consider the procedures involved in scrap disposal in terms of volume and complexity and aim to expedite the approval process. A time-motion study from start (registration) to stop (release from customs) of scrap disposal could be conducted on a sample of LMWs comprising authorised economic operators as well as compliant and non-compliant LMWs.

RECOMMENDATION: Option 3

Customs can implement an efficient process of application approval for scrap disposal by considering risk-based categorisation of scrap to reduce idle time and waiting time, i.e. every transaction be merit-based.

7.2.3. Freight Forwarding Services

ISSUE 11: Lengthy cargo clearance procedures at border checkpoints

Lack of transparency on rules and regulations, redundant and lengthy clearance processes, and multiple document requirements in different formats and with different data elements increase the cost and time of doing trade. As an example, Table 6 shows the cargo clearance procedures at the Johor border checkpoint.

Table 6: Cargo Clearance Procedures at Border Checkpoint (Johor)

No.	Activity
1.	Truck heading towards Tanjung Kupang checkpoint goes to the designated lorry lane and proceeds to respective lane for K2 (general trucks), K8 (bonded sealed trucks), or empty trucks.
2.	Driver swipes customs gate pass card to pass barrier that leads to the customs import station assessment area.
3.	After parking truck, driver hands over gate pass and freight documents to agent brokerage team.
4.	Agent brokerage team takes queue number for registration.
5.	Agent brokerage team performs customs registration when queue number is called. Next, customs receives Form K2, invoice, and export permit (if applicable) for customs clearance.
6.	Agent brokerage team takes queue number again for officer's assessment.
7.	Senior customs officer assesses goods; this includes the following: <ul style="list-style-type: none"> a. Verification of particulars declared against supporting documents. b. Instruction for physical inspection, if necessary. c. Classification and/or valuation.
8 a.	For K2 – Physical inspection, if necessary, is carried out on the truck by customs officer and in the presence of forwarding agent.
b.	For K8 – Physical inspection is carried out on the truck by customs officer and in the presence of forwarding agent.
c.	The relevant government agency (not 24 hours) carries out cargo inspection or endorsement of the import permit, if required.
9 a.	Senior customs officer grants approval and/or release to the export K2 in Customs Information System and a hardcopy.
b.	Agent broker team hands over vehicle gate pass card to driver.
10 a.	Driver proceeds to levy counter to pay.
b.	Officer collects payment, issues receipt, and grants approval to vehicle gate pass card in system to release truck.
11.	Driver collects truck and swipes vehicle gate pass card in exiting the customs import station.
12.	Truck passes through immigration checkpoint.
13.	Truck passes through Road Transport Authority checkpoint. Subject to inspection as and when required.
14.	Driver and truck proceed to Malaysia highway delivery.

Source: MPC analysis.

OPTION 1: Retain current practice

Customs clearance will continue to be delayed, especially during peak periods. Service providers will continue to bear higher costs while providing lower service quality, leading to lost business opportunities in road freight business and opportunities to expand operations.

OPTION 2: Conduct time-release study to spearhead the cargo clearance process

A time-release study would be useful to measure the time and the relevant aspects of the effectiveness of operational procedures and to assess the effectiveness of border clearance processes carried out by customs and other regulatory actors in the standard processing of imports, exports, and in-transit movements.

OPTION 3: Fully implement trade facilitation reform measures

This can be done by simplifying and harmonising formalities, procedures, and related exchange of information and documents amongst various partners and between customs and other authorities to make trading across borders (imports and exports) faster, cheaper, and more predictable while ensuring its safety and security.

RECOMMENDATION: Option 3

With trade facilitation reforms in place and fully implemented, movement, release, and clearance of goods and cargo can be expedited. Trade facilitation offers great potential gains for the government and the business community. A more efficient and transparent delivery will allow 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 in global markets.

7.2.4. Courier Services**ISSUE 12: Disproportionate and overly prescriptive information requirements for exportation of express consignments**

The requirements include submission of 55 data elements for customs declarations for exportation of express consignments, on which no duties and taxes are collected.

- Estimated data sets collected yearly (55 data elements* 7.6 million K2 Customs forms) are 418 million data sets.
- Estimated compliance costs amounting to RM 2.09 billion per year (418 million data sets x RM5.00 charge per form).

Many economies (e.g. Viet Nam, Thailand, Singapore, Australia, and Germany) no longer require full element declaration.

OPTION 1: Retain current practice

If the current practices are continued – where the value of goods and their respective duties and taxes are lower than the cost of administering a shipment (small consignments) – the government could spend more money on this administrative process than what it collects in duties and taxes.

OPTION 2: Introduce simplified export declaration form for express air cargo shipments

Amend Customs Regulations 1977 [P.U.(A) 162/1977]

The Customs Department should improve the export process of express consignment for low-value and non-dutiable goods by incorporating the monetary threshold on express consignment into Customs Regulations 1977 [P.U.(A) 162/1977]:

- Cluster I (simplified forms): Nine information elements required for non-dutiable and parcel value below RM5,000
- Cluster II (existing K2): 20 information elements required for dutiable parcel and/or value above RM5,000

RECOMMENDATION: Option 2

The Ministry of Finance and the Customs Department should conduct a detailed study on the impact analysis of the potential revenue and losses to the government. This will enable customs authorities to devote the newly freed-up resources (where the value of goods and their respective duties and taxes are lower than the cost of administering those small consignments) to other high-priority tasks. Benefits accrued include hassle-free processing for low-value shipments, less management of documents, more focus on high-value shipment control, and reduced administrative costs.

7.3 | Way Forward

Pilot studies and initiatives have been undertaken to implement the recommended options. Delays in acquiring development approval is a common issue and the Focus Group on Dealing with Construction Permits of PEMUDAH is constantly considering all related issues and deliberating on continuous improvements to provide, where appropriate, options and recommendations to alleviate regulatory burdens. Certain improvements such as online submission and approval have helped leapfrog Malaysia's ranking in the World Bank Dealing with Construction Permits indicator from 113th position five years ago to 13th in 2017. The OSC 1 Submission gateway for the construction of small-scale and non-residential projects in Kuala Lumpur has succeeded in approving new development proposals and/or applications within 27 days.

The element of risk-based management, which has been incorporated in the updated version of OSC 3.0, is proposed to be replicated in all states. Currently, the '1 State 1 DCP [Dealing with Construction Permit] Champion' programme championing the transformation in each locality, targeting before, during, and after construction, has been initiated to emulate and expand good practices in Kuala Lumpur to other localities in other states. Early in 2017, Ipoh and Kota Kinabalu, two state capital cities, embarked on the programme and are to be followed by four more cities. The programme's implementation includes awareness and capacity building on concepts, tools, and techniques to review process improvements. For more effective and wider outreach and transparency, DCP procedures and performance will be made available to the public.

The concurrent joint final inspections for utility providers and fire safety at the final inspection stage are expected to shorten processing time for obtaining development approval. Discussions are also underway to incorporate all inputs from every professional to ensure well-designed and clear guidelines will help overcome the inconsistency amongst states and local authorities about the eligibility of professionals applying for planning permission.

Already mooted is the commitment in the Construction Industry Transformation Programme (2016–2020) to various major public and private stakeholders to support transformational initiatives. The MPC's top management and senior officers in the top and critical working groups or committees should navigate the roadblocks of programme implementation.

A Tribunal for Construction Permit Dispute Resolution is being considered as a recourse for regulatory appeals or disputes as there may occur, such as overlap in terms and scope of services, ambiguities in rules and regulations, and subjective definitions of terms and by-laws that need to be adjudicated.

As proposed, the warehousing guidelines should include infrastructure planning, layout planning and operations efficiency, warehouse equipment, special storage requirements, inventory management, security and safety, human resources, and additional tools for warehouse managers.

To enhance the efficiency of scrap disposal procedures, the next plan of action is to introduce risk-based management by developing scrap disposal risk-based profiling for LMWs in Customs Kuala Lumpur territory. In the case of low-value parcel cargo clearance for imports, being considered is an increase of the existing import value *de minimis* from RM500 to RM5,000 and the introduction of a simplified export declaration form for express air cargo shipments. Reduced documentation and declarations for selected consignments and setting appropriate threshold exemptions will help reduce compliance cost and delays. A time-release study on export is being proposed to reduce complexity, bureaucracy, and the time it takes for import and export cargo clearance at the Johor border checkpoint. Other initiatives will include study missions to learn and benchmark pre-arrival processing systems, and facilitation measures such as expedited shipment and border agency cooperation, as well as a best-practices study on the ecosystem of DCP.

[8] Concluding Remarks

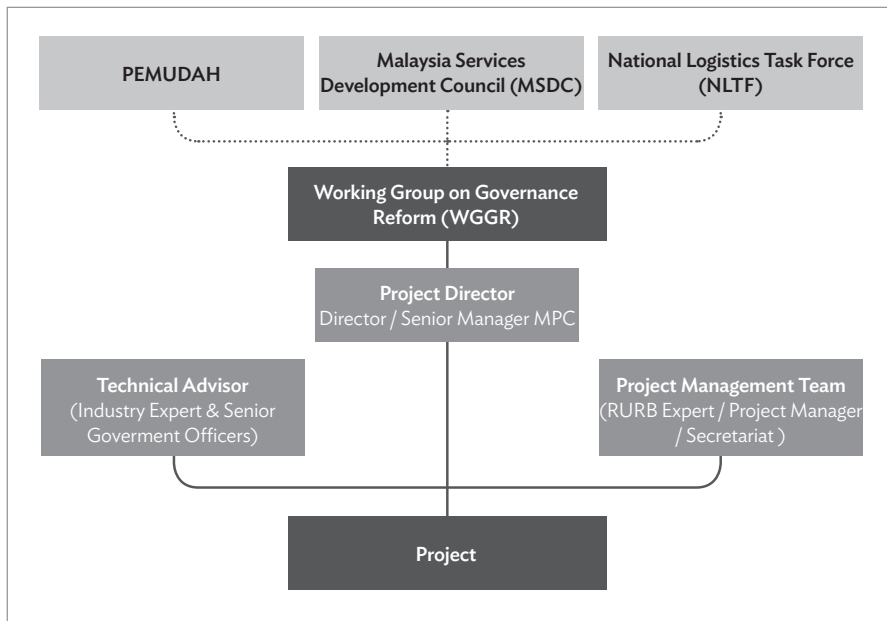
Most of the issues of concern have led to more in-depth studies by agencies to solve problems, while some are taken up as projects to reduce unnecessary regulatory burdens in construction; warehousing services; courier services; maintenance, repair, and overhaul of the oil and gas industry; regulatory innovation of customs standard operating procedures on LMW scrap disposal; and accelerating sectoral regulatory reform for distributive trade. These reports are available on the MPC website (www.mpc.gov.my).

Likewise, the Malaysian Quarantine and Inspection Services requirement to issue export and import permits was met to address conflicting practices, e.g. Malaysian Quarantine and Inspection Services Act 2011 vs Food Act 1983, and sharing of the Harmonized System (HS) code for bentonite (oil and gas and cosmetics industry) and overlapping jurisdictions amongst agencies. The contradictory information requirement of customs (Prohibition of Import and Export Order 2012) and the online HS code database were reviewed and harmonised, which resulted in more than 70% of HS code categories being exempted from import and export permits.

These issues and projects are endorsed, monitored, and evaluated by the Working Group on Governance Reforms. These initiatives include all affected parties such as businesses, regulators, and interested parties who will be directly or indirectly impacted by government interventions. The project governance is illustrated in Figure 4.

Ultimately, regulatory impact assessments with adequate cost–benefit analysis and continuous engagement will be conducted from time to time through public consultations with business associations, stakeholders, and regulators to ensure the effectiveness of the recommendations and implementation.

Figure 4: Project Governance



MPC = Malaysia Productivity Corporation; PEMUDAH = The Special Task Force to Facilitate Business; RURB = reducing unnecessary regulatory burdens.

Source: Malaysia Productivity Corporation, 2016.

REFERENCES

- Attorney-General's Chambers (2017), e-Federal Gazette. http://www.federalgazette.agc.gov.my/eng_main/main_akta.php?jenis_akta=Baru (accessed 1 August 2018).
- Department of Statistics Malaysia (2009), Malaysia Standard Industrial Classification (2008). https://www.dosm.gov.my/v1/uploads/files/4_Portal%20Content/3_Methods%20%26%20Classifications/2_List%20of%20References/MSIC_2008.pdf (accessed 1 August 2018).
- Economic Planning Unit (2010), Tenth Malaysia Plan. <http://epu.gov.my/en/rmk/tenth-malaysia-plan-10th-mp> (accessed 1 August 2018).
- Economic Planning Unit, Prime Minister's Department (2014), 'Developing an Empirical and Diagnostic Base to Support Strategic Planning for the Freight Logistics Industry'. Unpublished manuscript.
- Economic Planning Unit (2015a), Eleventh Malaysia Plan. <http://epu.gov.my/sites/default/files/Strategy%20Paper%2018.pdf> (accessed 1 August 2018).
- Economic Planning Unit (2015b), Services Sector Blueprint. Malaysia.
- Economic Planning Unit (2017), Malaysia Productivity Blueprint. <http://epu.gov.my/en/content/malaysia-productivity-blueprint> (accessed 1 August 2018).
- Economic Planning Unit, Prime Minister's Department (2017), Malaysia Productivity Blueprint. <http://epu.gov.my/en/content/malaysia-productivity-blueprint> (accessed 1 August 2018).
- Federal Department of Town and Country Planning Peninsular Malaysia (2011), Universal Design Planning Guidelines - Parking Guidelines and Parking Standards. <http://www.townplan.gov.my/download/GPTLK.pdf> (accessed 1 August 2018).
- Knight Frank Research (2014), India Logistics & Warehousing Report 2014.
- Malaysian Investment Development Authority (2015), Investment in The Services Sector - Policies, Incentives and Facilities. http://www.mida.gov.my/home/administrator/system_files/modules/photo/uploads/20150702020443_BOOKLET%201%20-%20GENERAL%20POLICIES,%20FACILITIES%20AND%20GUIDELINES.pdf (accessed 1 August 2018).
- Ministry of Finance (2012), Malaysia National Single Window. <http://www.mytradelink.gov.my/permit-issuing-agency> (accessed 1 August 2018).

- Ministry of Transport Malaysia (2015), The Logistics and Trade Facilitation Masterplan. <http://www.mot.gov.my/en/Penerbitan%20Rasmi/Executive%20Summary%20Logistics%20and%20Trade%20Facilitation%20Masterplan.pdf> (accessed 1 August 2018).
- Performance Management & Delivery Unit (2010), The Economic Transformation Programme. <http://etp.pemandu.gov.my/> (accessed 1 August 2018).
- Royal Malaysian Customs Department (2016), Goods & Services Tax: Guide on Free Industrial Zone & Licensed Manufacturing Warehouse.
- Tenaga Nasional Berhad (2007), *TNB's Electricity Supply Application Handbook*. <https://www.tnb.com.my/assets/files/ESAHv3.pdf> (accessed 1 August 2018).
- World Bank (2016a), Logistics Performance Index. <https://lpi.worldbank.org/report> (accessed 1 August 2018).
- World Bank (2016b), *Doing Business 2017*. <http://www.doingbusiness.org/reports/global-reports/doing-business-2017> (accessed 1 August 2018)
- World Economic Forum and Global Alliance for Trade Facilitation (2016), *The Global Enabling Trade Report 2016*. <http://wef.ch/getr16> (accessed 1 August 2018).
- World Bank (2016c), Malaysia Economic Monitor : Leveraging Trade Agreements (English). Malaysia economic monitor. <http://documents.worldbank.org/curated/en/897661467211093280/Malaysia-economic-monitor-leveraging-trade-agreements> (accessed 1 August 2018).
- World Economic Forum and Global Alliance for Trade Facilitation (2016), *The Global Enabling Trade Report 2016*. <http://wef.ch/getr16>. (Accessed 1 August 2018).

CHAPTER 8

The Philippines' Tuna Industry

Gilberto M. Llanto

Maria Kristina P. Ortiz

Cherry Ann D. Madriaga

Philippine Institute for Development Studies

[1] Introduction

The Philippines is an archipelago of more than 7,100 islands with approximately 226,000 square kilometres of coastal waters and 1.93 million square kilometres of oceanic waters (World Bank, 2005). It is a fast-growing economy in the Association of Southeast Asian Nations (ASEAN) region, driven by services and a resurgent manufacturing sector. Table 1 shows comparative regional gross domestic product (GDP) growth rates in 2006–2015.

Fishing is a major industry in the Philippines, contributing 17.8% of the total gross value added of the agriculture, fishery, and forestry sector. It directly employs about 1.4 million workers of the country's 39.8 million employed workers,¹ and indirectly provides employment to around 30,000 individuals engaged in processing, preservation, and canning of fish, crustaceans, and molluscs.² As seventh amongst the top fish-producing countries in the world in 2013, the Philippines has vast marine resources that can significantly contribute to more inclusive growth if properly managed.

This chapter focuses on the tuna industry, a major component of the fishing industry in terms of output and employment. Reducing unnecessary regulatory burdens will boost its growth and productivity.

¹ October 2015 Labor Force Survey.

² 2012 Census of Philippine Business and Industry. This is 2.3% of total employment of all manufacturing establishments in the formal sector.

After this brief introduction, Section 2 provides an overview of the tuna fishing industry and a regulatory mapping. Section 3 discusses burdensome regulations and corrective measures to address them that were identified through informed regulatory conversations amongst stakeholders. The final section provides conclusions.

[2] Overview of the Tuna Fishing Industry

The Philippines is a top global producer of tuna. Of the 21 species of tuna in Philippine waters, six are caught in commercial quantity: yellowfin, skipjack, eastern little, frigate, big eye, and bullet. Tuna are caught in domestic and international fishing grounds through ring nets, purse seines, hand lines, and long lines by commercial fishing vessels categorised as:

- a. small scale, or fishing using passive³ or active⁴ gears and fishing vessels of 3.1 gross tonnes (GT) up to 20 GT in weight;
- b. medium scale, or fishing using active gears and vessels of 20.1 GT up to 150 GT in weight; and
- c. large scale, or fishing using active gears and vessels of more than 150 GT in weight.

Commercial fishing vessels cannot legally fish within 15 kilometres from the shoreline because this area is reserved for municipal fishing (Republic Act 8550 and the Local Government Code of 1991). Municipal fishing refers to fishing within municipal waters using fishing vessels of 3 GT or less.

Fish caught are stored, traded, and graded in landing centres. There are 456 commercial fish landing centres across the country. About 42% of the total commercial fish catch is landed in eight centres managed by the Philippine Fisheries Development Authority, a government agency. The major tuna landing centre is the General Santos Fish Port Complex in Mindanao, an internationally

³ Hook and line, trap, and gill net set across the path of the fish, characterised by the absence of gear movements or pursuit of target species (Bureau of Fisheries and Aquatic Resources [BFAR] definition).

⁴ Trawl, purse seine, Danish seine, bag net, drift gill net, tuna long line, and devices characterised by gear movements or the pursuit of target species, towing, lifting and pushing the gears, dredging, pumping, and scaring the target species to impoundments (BFAR definition).

recognised and accredited port by the European Union (EU), Japan, and the United States (US). In 2015, 34% of the tuna catch was unloaded in this complex. Six tuna canneries operate in General Santos City while one cannery is in Zamboanga, both in Mindanao.

**Table 1: Comparative GDP Growth Rates,
East and Southeast Asia (2006–2015)**

	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
East Asia										
China	12.7	14.2	9.6	9.2	10.6	9.5	7.8	7.7	7.3	6.9
Japan	1.7	2.2	-1	-5.5	4.7	-0.5	1.7	1.4	0	0.5
Mongolia	8.6	10.2	8.9	-1.3	6.4	17.3	12.3	11.6	7.9	2.3
Korea, Rep. of	5.2	5.5	2.8	0.7	6.5	3.7	2.3	2.9	3.3	2.6
Southeast Asia										
Brunei Darussalam	4.4	0.2	-1.9	-1.8	2.6	3.4	0.9	-1.8	-2.3	-0.5
Cambodia	10.8	10.2	6.7	0.1	6	7.1	7.3	7.5	7.1	7
Indonesia	5.5	6.3	6	4.6	6.2	6.2	6	5.6	5	4.8
Lao PDR	8.6	7.6	7.8	7.5	8.5	8	8	8.5	7.5	7
Malaysia	5.6	6.3	4.8	-1.5	7.4	5.3	5.5	4.7	6	5
Myanmar	13.1	12	10.3	10.6	9.6	5.6	7.3	8.4	8	7.3
Philippines	5.2	6.6	4.2	1.1	7.6	3.7	6.7	7.1	6.1	5.8
Singapore	8.9	9.1	1.8	-0.6	15.2	6.2	3.7	4.7	3.3	2
Thailand	5	5.4	1.7	-0.7	7.5	0.8	7.2	2.7	0.8	2.8
Viet Nam	7	7.1	5.7	5.4	6.4	6.2	5.2	5.4	6	6.7

GDP = gross domestic product; Lao PDR = Lao People's Democratic Republic.

Source: World Bank.

2.1 | Tuna Supply⁵

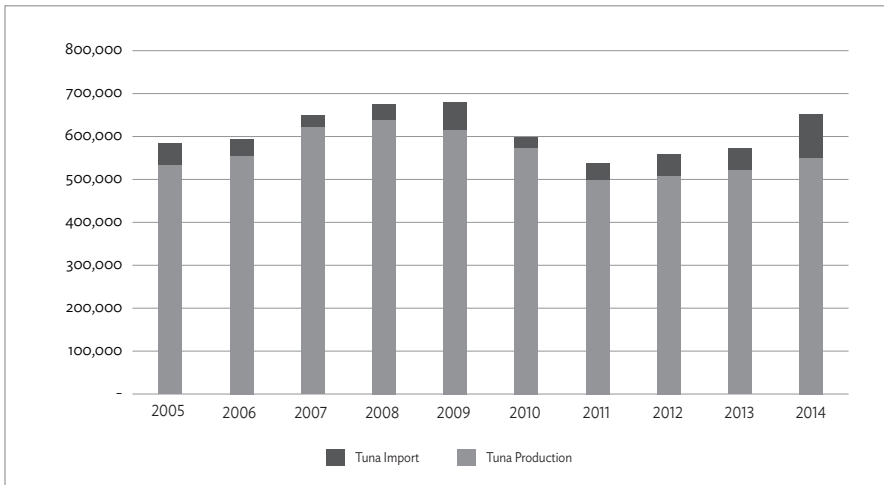
Figure 1 shows the supply of tuna from 2005 to 2014, mostly from local tuna production. Tuna imports were important contributors to total supply in 2009, 2013, and 2014. Local tuna production declined around 2011–2012 due to the limited ban (2 or 3 months) imposed by the Western and Central Pacific Fisheries Commission on tuna fishing that used fish-aggregating devices. Since 2000, the commission has seen an alarming depletion of tuna stocks due to overfishing, use of fish-aggregating devices,⁶ and possible impacts of climate

⁵ Tuna supply is composed of tuna caught by Philippine commercial and municipal fishing vessels and tuna imports.

⁶ Fish-aggregating devices, locally called *payaw*, are man-made structures (bamboo or steel pontoons) using bright lights to attract or lure pelagic fish species, notably tuna and round scad. They can harm the fish population because they also catch juvenile fish. To address this problem, BFAR issued FAO No. 244, series of 2012 (National Tuna Fish Aggregating Device Management Policy).

change. The limited ban on the use of such devices was later extended to a year-round ban. Purse seine fishing operations were also banned in two areas of the high seas in the Western and Central Pacific Ocean.

Figure 1: Supply of Tuna, 2005–2014



Source: Philippine Statistics Authority (2015).

Protectionist measures, particularly by Indonesia, in the tuna-rich Western and Central Pacific Ocean, also contributed to the decline in local tuna production. As conditions to access its fishing grounds, Indonesia requires Philippine fishing operators investing in processing and manufacturing to build their plants in Indonesia and to hire Indonesian crew to staff Philippine fishing vessels. In 2006, Indonesia terminated the bilateral fishing agreement signed with the Philippines in 2002, thus prompting Philippine fishing operators to look for other fishing grounds. Affected were 75 catcher vessels, 150 fish carriers, 20 long liners, 300 light boats, and 10 single purse seiners (Espejo, 2015). Regulation No. 56, released by the Indonesian Maritime Affairs and Fisheries Ministry in November 2014, imposed a moratorium on issuance of fishing licences from 3 November 2014 to 30 April 2015 to eliminate illegal, unreported, and unregulated fishing in Indonesian waters. The moratorium was extended to 31 October 2015 (MindaNews, 2015).

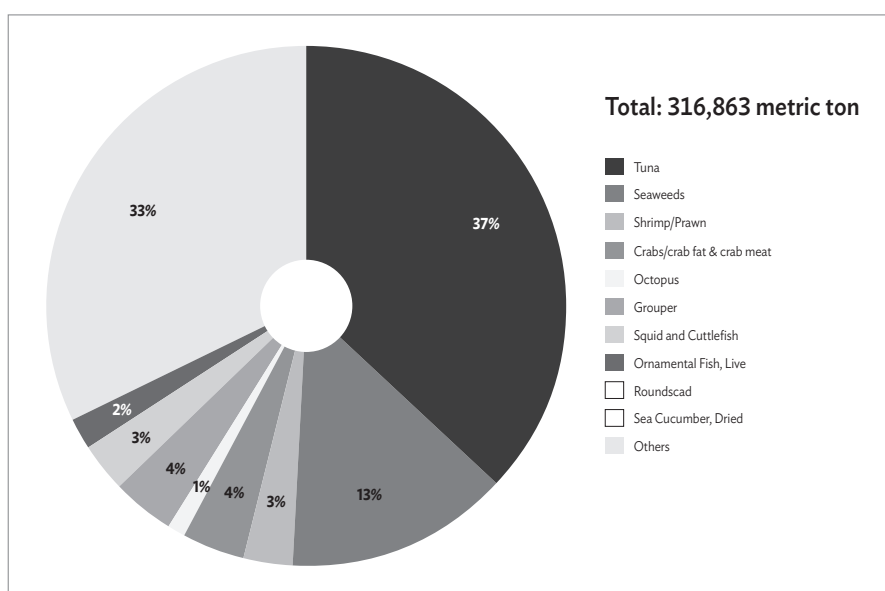
Skipjack tuna accounts for the largest portion (40%) of the country's tuna catch, followed by yellowfin tuna. These are mainly caught by commercial fishing vessels. Imported tuna accounts for about 7%–14% of the country's total tuna supply. In 2012, the Philippines imported 56,478 metric tonnes of

chilled or frozen tuna from Papua New Guinea (39% of the total tuna imports), Taiwan (28%), China (12%), Japan (9%), the Republic of Korea (8%), and other countries.

2.2 | Demand for Tuna

In 2014, tuna was the Philippines' top fishery export in terms of volume (117,909 metric tonnes) and value (free on board value of US\$443 million). Tuna accounts for 37% of the total fishery exports of the country, followed by seaweed, shrimp and prawn, crab and crab meat, octopus, and others (Figure 2). The major export destinations of fresh, chilled, and frozen tuna are the United States; Japan; Indonesia; and members of the EU, including France, Germany, and the United Kingdom. For prepared and/or processed tuna, the major export markets are the United States, Germany, the United Kingdom, Japan, and The Netherlands.

Figure 2: Major Fishery Export Products, 2014



Sources: Philippine Statistics Authority; Bureau of Fisheries and Aquatic Resources, n.d.

At 4.35 kilogrammes of consumption per capita per year in 2014, tuna ranked the highest amongst fish products consumed locally (Table 2). It is an important source of protein for many households.

Table 2: Per Capita Fish Consumption, 2014

Fish Product	Consumption per Capita (kilogramme/year)
Tuna	4.35
Tilapia	3.06
Milkfish	2.62
Round scad	1.71
Shrimp and prawn	0.53
Crab	0.36
Oyster	0.23
Mussel	0.19

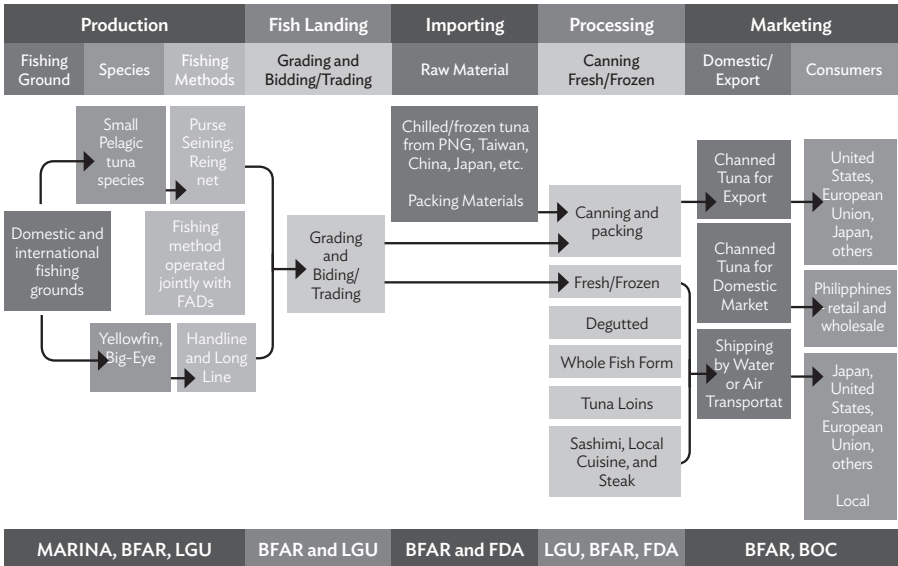
Source: Philippine Statistics Authority (2015)..

2.3 | Regulatory Mapping

Figure 3 shows the tuna value chain and regulatory agencies.

Regulations cover local issuances and international certifications and standards imposed by regional agreements to ensure the sustainable use and management of marine resources from Philippine and international waters (BFAR, 2012). They ensure the use of legal and non-destructive fishing methods and the high quality of tuna for human consumption. The certifications include the Certificate of Hazard Analysis of Critical Control Points and the Certification of Good Manufacturing Practices and Sanitation Standard Operating Procedures. The Philippines follows the World Trade Organization rules on tariff and non-tariff barriers, fisheries subsidies, anti-dumping, sanitary and phytosanitary measures (SPS), and the catch and trade documentation system and policies of the EU and the United States (BFAR, 2012).

Figure 3: Tuna Value Chain and Regulatory Agencies



BFAR = Bureau of Fisheries and Aquatic Resources; BOC = Bureau of Customs; FAD = fish aggregating device; FDA = Food and Drug Administration; LGU = local government unit; MARINA = Maritime Industry Authority; PNG = Papua New Guinea.

Source: From Yamashita (2008) as revised by the authors and verified by BFAR, the Department of Trade and Industry-Export Marketing Bureau, and the Tuna Canning Association of the Philippines.

The Philippines abides by the Food and Agriculture Organization’s Code of Conduct for Responsible Fisheries and the International Plan of Action to Prevent, Deter, and Eliminate Illegal, Unreported, and Unregulated Fishing (BFAR, 2012). The Philippines is a member of the Indian Ocean Tuna Commission, the International Commission for the Conservation of Atlantic Tunas, and the Western and Central Pacific Fisheries Commission, and is a cooperating non-member of the Commission for the Conservation of Southern Bluefin Tuna. Membership directs compliance with the conventions and conservation and management measures of these organisations.

2.3.1 Business Registration and Permit Requirements

The tuna industry follows the same business registration and permit requirements required by local governments of other industries. The difference may lie in the number of procedures and days needed to register the business and obtain a mayor's permit to operate. This depends on the quality of local governance. The process can be done more efficiently in municipalities or cities that have established 'one-stop shops' for the registration and permitting units or agencies of government.

The tuna industry also must register with national government agencies such as the Social Security System, the Philippine Health Insurance Corporation, the Bureau of Internal Revenue, and others. The quality of service delivery depends on the quality of their governance. These agencies are not uniformly efficient.

2.3.2 Production

Table 3 summarises regulations under the Fisheries Code, the Local Government Code, the Food Safety Act, and the Maritime Industry Authority (MARINA) on maritime vessels.⁷

2.3.3 Registration and Licencing of Commercial Vessels

Commercial fishing vessels, freezer and/or carrier vessels, and fishing boats must obtain a Certificate of Philippine Registry (CPR) and a Certificate of Ownership from MARINA before getting a licence from the Bureau of Fisheries and Aquatic Resources (BFAR). Commercial fishing vessels obtain their fishing vessel licences and fishing gear registrations and licences from BFAR (Fisheries Administrative Order No. 198 series of 2000).

⁷ Details are available from the authors upon request. For economy of space, the details of those regulations are not reported in this chapter

Table 3: Regulations and Regulatory Instruments

	Regulatory Instrument	Regulation	Description	Regulator
Fishing vessels, freezer and carrier vessels, fishing boats				
1.	Certificate of Philippine Registry (CPR) and Certificate of Ownership (CO)	MC No. 2013-02	Rules that govern the registration and documentation of ships entitled to fly the Philippine flag	MARINA
2.	Commercial Fishing Vessel/Gear Licence	FAO No. 198 s. 2000	Licence that allows a vessel to conduct fishing operations in Philippine waters	BFAR
3.	Fishing Gear Registration	FAO No. 198 s. 2000	Fishing gear allowed in fishing operations in Philippine waters	BFAR
4.	International Fishing Permit	FAO No. 198 s. 2000	International fishing permit and certificate of clearance that the fish caught by such registered vessels shall be considered as caught in Philippine waters and, therefore, not subject to all import duties and taxes, and only when the same are landed in duly designated fish landings and fish ports in the Philippines	BFAR
5.	Fish Worker's Licence	FAO No. 198 s. 2000	Permit for fish worker or pearl diver	BFAR
6.	Certificate of Eligibility	FAO No. 198 s. 2000	Certificate issued to a qualified commercial fishing vessel operator for tax and duty-exempt importation of fishing equipment and paraphernalia	BFAR
7.	Clearance to Import Fishing Vessels	FAO No. 198 s. 2000	Approval needed prior to the importation of fishing vessels and the construction of new fishing vessels	BFAR
8.	Certificate of Hazard Analysis of Critical Control Points (HACCP) Recognition/Accreditation	FAO No. 212 s. 2001	Guidelines on the implementation of the HACCP system	BFAR
9.	Certificate of HACCP Approval, Certificate of Recognition for HACCP Implementation and Certificate of Inspection	FAO No. 212 s. 2001	Guidelines on the implementation of the HACCP system	BFAR
Buying stations and/or auction markets, ice plants, cold storage				
1.	Certificate of HACCP Recognition/Accreditation	FAO No. 212 s. 2001	Guidelines on the implementation of the HACCP system	BFAR
2.	Certificate of HACCP Approval, Certificate of Recognition for HACCP Implementation and Certificate of Inspection	FAO No. 212 s. 2001	Guidelines on the implementation of the HACCP system	BFAR
3.	Cold Storage Warehouse Accreditation	AO No. 21 s. 2011 and AO No. 23 s. 2013	Mandatory Accreditation of Cold Storage Warehouse for Agricultural and Fisheries Products	DA
Fish processing plants and importers of fresh/chilled fishery products				
1.	Licence to Operate	AO 2014-0029	To ensure food safety through the imposition of food quality standards aligned with the mandated issuances of regulatory agencies	FDA
2.	Certificate of Product Registration (Medium- and High-Risk Food)	AO 2014-0029	To ensure food safety through the imposition of food quality standards aligned with the mandated issuances of regulatory agencies	FDA
3.	Certificate of HACCP Recognition/Accreditation	FAO No. 212 s. 2001	Guidelines on the implementation of the HACCP system	BFAR

	Regulatory Instrument	Regulation	Description	Regulator
4.	Certificate of HACCP Approval, Certificate of Recognition for HACCP Implementation and Certificate of Inspection	FAO No. 212 s. 2001	Guidelines on the implementation of the HACCP system	BFAR
5.	Sanitary and Phytosanitary (SPS) Clearance to Import Fresh/Frozen/Chilled Fishery Products (Old Clients)	FAO no. 195 s. 1999 and 195-1 s. 2003	Rules and regulations governing the importation of fresh, chilled, and/or frozen fish and fishery and/or aquatic products to ensure food safety on imported fish and fishery and/or aquatic products	BFAR
6.	SPS Clearance to Import Fresh/Frozen/Chilled Fishery Products (New Applicants)	FAO no. 195 s. 1999 and 195-1 s. 2003	Rules and regulations governing the importation of fresh, chilled, and/or frozen fish and fishery and/or aquatic products to ensure food safety on imported fish and fishery and/or aquatic products	BFAR
7.	Inspection and Clearance of Imported/Incoming Fish and Fishery Products	FAO no. 195 s. 1999 and 195-1 s. 2003	Rules and regulations governing the importation of fresh, chilled, and/or frozen fish and fishery and/or aquatic products to ensure food safety on imported fish and fishery and/or aquatic products	BFAR
8.	Chemical and Microbiological Testing	FAO no. 213 s. 2001	Establishment and maintenance of BFAR's quality control laboratories and collection of fees and charges for examination services	BFAR
Exporters of fish and fishery products				
1.	SPS/HACCP for Accredited Exporters to International Markets	FAO no. 228 s. 2008	Rules and regulations governing the organisation and implementation of official controls on fishery and aquatic products intended for export to the EU market for human consumption	BFAR
2.	Export Permit for Fresh/Frozen/Chilled Fishery Products (New Applicants)	FAO no. 210 s. 2001	Rules and regulations on the exportation of fresh, chilled, and/or frozen fish and fishery and/or aquatic products	BFAR
3.	Export Permit for Fresh/Frozen/Chilled Fishery Products (Old Clients)	FAO no. 210 s. 2001	Rules and regulations on the exportation of fresh, chilled, and/or frozen fish and fishery and/or aquatic products	BFAR
4.	Export Commodity Clearance	FAO no. 210 s. 2001	Rules and regulation on the exportation of fresh, chilled, and/or frozen fish and fishery and/or aquatic products	BFAR
5.	Clearance for Outgoing Fish and Fishery Products	FAO no. 210 s. 2001	Rules and regulation on the exportation of fresh, chilled, and/or frozen fish and fishery and/or aquatic products	BFAR

AO = Administrative Order; BFAR = Bureau of Fisheries and Aquatic Resources; EU = European Union; FAD = fish aggregating device; FDA = Food and Drug Administration; FAO = Fisheries Administrative Order; HACCP = Hazard Analysis of Critical Control Points; MARINA = Maritime Industry Authority; SPS = sanitary and phytosanitary.

Source: Bureau of Fisheries and Aquatic Resources, 2016; Maritime Industry Authority; Food and Drug Administration, 2015.

MARINA Circular No. 2013-02 provides the revised rules for registration and documentation of ships operating in Philippine waters. MARINA regularly updates the Philippine registry and delists ships under the following circumstances:

- a. exportation of ship due to sale to foreign entity;
- b. expiration of CPR of bareboat chartered ship;

- c. ship breaking, scrapping, and decommissioning;
- d. total loss as stipulated in a marine protest and/or report;
- e. non-operation for gibr years for submarines, amphibians, and similar type of ships under the class of miscellaneous ships;
- f. revocation by MARINA of the ship's charter or lease contract for cause and after due process; and
- g. MARINA'S order, after due process, to delete from the Philippine Registry the registration of any ship found to have violated the government's rules and regulations.

MARINA and BFAR fishing vessels' use of environmentally safe fishing gear and apparatus. All information is updated regularly and submitted to the regional fisheries management organisations.

Commercial fishing vessels must secure from MARINA and BFAR the Fish Worker's Licence, Certificate of Eligibility, and Clearance to Import Fishing Vessels. They must obtain an international fishing permit, which allows the Philippines to monitor the compliance of domestic vessels fishing in other countries' waters to regulations imposed in those countries. Under the international fishing permit, fish caught by Philippine-flagged vessels in international waters are considered caught in Philippine waters.

2.3.4 Registration and Licencing of Municipal Vessels

The Local Government Code of 1991 and Executive Order No. 305 series of 2004 empower local governments to licence municipal fishing vessels and maintain a database on municipal fishing activities. The registration of small (municipal) fishing vessels is devolved to local governments. MARINA and BFAR maintain a database of all registered and licensed commercial and municipal fishing vessels.

In 2015, BFAR and the Fisheries Information Management Center established centralised web-based database management systems known as (i) BoatR or the Municipal Fishing Vessel and Gear Registration System, and (ii) FishR or the National Program for Municipal Fisherfolk Registry. BoatR assists local governments in database maintenance and monitoring the number of registered fishing boats and gear. FishR helps the municipal fishers to register in their

municipalities. According to BFAR, as of February 2016, 1.65 million fishers have registered in FishR.

2.3.5 Certificate of Hazard Analysis of Critical Control Points (HACCP) Recognition and/or Accreditation

The BFAR issues a certificate of HACCP recognition and/or accreditation to freezer and/or carrier vessels and tuna-processing plants. A primary requirement for registration and HACCP recognition is the licence to operate, which is issued by FDA.

The next step is pre-assessment on-site inspection by BFAR head office and regional office inspectors (joint inspection team) in the presence of the applicant owner(s) of the vessels and/or tuna facilities. The BFAR head office in Manila sends the results of the evaluation to the applicant who has to submit to the BFAR regional office a corrective action plan for any deficiency found. Another on-site visit checks on the corrective action plan and asks applicants to explain their food safety programmes. These are assessed in light of the rules on good manufacturing practices, sanitation standard operating procedures, and HACCP. A final assessment report is later sent to the applicant. A positive report leads to registration.

An important issue concerns the time spent in securing registration and HACCP accreditation. According to BFAR's Citizen's Charter, processing takes approximately 20 working days, four hours, and 45 minutes. The reality could be different. The use of joint inspection teams and the availability of team members have implications for the efficiency of registration and accreditation.

After registration, a system audit of the fish-processing plant or vessel follows. This is the third on-site visit by the joint inspection team. A tuna-processing plant or vessel found to be compliant after the audit will be listed in the roster of HACCP-approved fish-processing plants or vessels. Otherwise, re-inspections will be done until the requirements are complied with.

Other BFAR regulations concern compliance with international agreements. Fisheries Administrative Order (FAO) No. 245-3 states the regulations and implementing guidelines on group tuna purse seine operations in High Seas

Pocket Number 1 as a special management area. This complies with the conservation and management measures of the Western and Central Pacific Fisheries Commission to maintain maximum sustainable yield of big eye, yellowfin, and skipjack tuna.

2.3.6 Tuna Landing and Storage

Tuna landing sites, buying stations, auction markets, and ice plants and cold storage warehouses (CSW) require the HACCP recognition and/or accreditation certificate. Two basic requirements are the sanitary permit and the good manufacturing practices and sanitation standard operating procedures plan. The BFAR issues the certification of CSWs as a component of the HACCP system. However, in 2013, Department of Agriculture Administrative Order No. 23 created the Committee on CSW Accreditation composed of inspectors from the National Meat Inspection Services, the Bureau of Animal Industry, the Bureau of Plant Industry, and BFAR, collectively known as agriculture compliance officers, to audit and assess CSWs, so that BFAR no longer has to handle inspection by itself. The committee forwards its findings to the Department of Agriculture–Competent Authority–Cold Storage Warehouse Team for accreditation.

2.3.7 Tuna Processing

Tuna-processing plants must secure a licence from FDA to operate, and a BFAR certification covering good manufacturing practices, sanitation standard operating procedures plan, and the HACCP plan.

All fresh, chilled, fresh-frozen, and processed tuna must comply with the standards specified in Philippine National Standards–Bureau of Agriculture and Fisheries Standards covering (i) the cooling and/or chilling temperature throughout the handling process; (ii) essential composition and quality factors; (iii) standards for food additives and contaminants; (iv) proper hygiene and handling; (v) proper packaging and labelling; (vi) methods of sampling, examination, and analysis of products; (vii) definition of defective products; and (viii) the requirements for lot acceptance.

2.3.8 Distribution and Export

The final stage is marketing and distribution to local and international markets. The BFAR issues the clearance and permit to export fresh and canned tuna (FAO No. 210, series of 2001) processed in fish-processing establishments that are certified to be compliant with the sanitation standard operating procedures and HACCP system. Laboratory tests are mandated at any BFAR or BFAR-accredited laboratory for the issuance of SPS and/or health certificates. The permits, SPS, and/or health certificates are filed on a per-shipment basis at least one week before the date of exportation, which should include an export declaration and packing list.

[3] Regulatory Issues, Key Agreements, and Recommendations

This section reports the regulatory issues identified through interviews and informed regulatory conversations amongst the industry stakeholders, key agreements, and recommendations to reduce regulatory burdens on the industry.

3.1 | Business Registration and Permit

Securing a business registration and a mayor's permit is the critical first step for businesses. The main issue is the number of days and signatures required for the registration and permit, which differs across municipalities and cities. The average for a sample of cities is 18 steps in 33 days. Based on the *Doing Business in Philippines 2011 Report* by the World Bank and the International Finance Corporation (2010), General Santos City ranks first in number of steps, time, and cost of registration (Table 4).

Further streamlining of the registration process is possible. In 2015, Quezon City reduced the number of steps from 16 to six, and the days for registration from 34 to eight. It established a one-stop shop to house its business and permits licencing office and related national government agencies.

Table 4: Starting a Business, Ranking of Selected Philippine Cities

Rank	City	Steps (number)	Time (days)	Cost (% of income per capita)
1	General Santos	17	22	15.3
2	Davao	17	27	17
3	Taguig	16	28	23.2
4	Valenzuela	16	32	20.4
5	Lapu-Lapu	17	31	20
6	Zamboanga	20	28	16.9
7	Cebu	15	31	24.7
8	Marikina	16	29	24.3
9	Mandaluyong	19	28	21.7
10	Pasay	17	32	22.2
11	Caloocan	16	28	33.3
12	Quezon	16	36	21.4
13	Mandaue	18	35	19.9
14	Cagayan de Oro	17	32	27.8
15	Navotas	21	34	21
16	Malabon	20	32	26.7
17	Manila	15	38	30.3
18	Batangas	19	34	26.7
19	Parañaque	20	35	26
20	Makati	19	33	36
21	Iloilo	20	56	22.3
22	Muntinlupa	20	36	26.9
23	Pasig	22	36	26.1
24	Las Piñas	21	35	34.7
25	San Juan	21	39	26.3
	Average	18	33	24.4

Note: The rankings for ease of starting a business are the average of the city rankings for procedures, time, cost, and paid-in minimum capital for starting a business.

Source: World Bank and International Finance Corporation, 2011..

In August 2016, the Department of the Interior and Local Government (DILG), the Department of Trade and Industry, and the Department of Information and Communication Technology issued Joint Memorandum Circular (JMC) No. 1, series of 2016, mandating uniformity of registration procedures, the use of one application form in print and electronic form, a maximum of three steps and two signatures (those of the mayor and treasurer or the business permit and licensing officer or their designated alternatives), and automated and online systems to expedite the process. The circular recommends the establishment of a business

one-stop shop. The Fire and Safety Inspection Certificate for low-risk businesses could be renewed every three years instead of annually.⁸

The fees and charges imposed at the lower level of government could be re-examined. A barangay⁹ clearance, a prerequisite for getting the mayor's permit, costs around ₱500 or about US\$10.53.¹⁰ The cost is not the issue but the transaction cost of going after the barangay captain's signature. The DILG has admitted that making it a requirement for the mayor's permit complicates local processes. The JMC No. 1, series of 2016, encourages the removal of barangay clearance as a prior requirement for the mayor's permit.

The General Santos City government has taken steps to streamline the registration and permit process. It has a dedicated staff in the business permit and licencing division and has also formed a team to visit sites to check on fire safety, health, and other issues. This has reduced the transaction costs of applicant firms.

The requirement to secure clearances from concerned national government agencies (e.g. FDA) before the processing of local business registration and permits is a challenge for firms. It is a question of the accessibility and efficiency of those national government agencies. Delays in securing national government clearances lead to high transaction costs of applicant firms. Key informants pointed to the problem of accessing FDA, particularly the Philippine Shippers' Bureau.

Local governments must professionalise their business permit and licensing division staff and provide them with security of tenure. Understaffing is a serious issue. In the General Santos City government, some members of the business permit and licencing division staff are contractual or hired through job orders, and could be replaced by an incoming new administration after local elections.

⁸ http://www.dilg.gov.ph/PDF_File/issuances/joint_circulars/dilg-joincircular-2016815_81d0d76d7e.pdf

⁹ The smallest political unit. Cities and municipalities are composed of barangays.

¹⁰ Exchange rate at ₱47.49 = US\$1.

Table 5: MARINA and BFAR Regional Offices

Region	MARINA	BFAR
National Capital Region	Manila	Quezon City
Cordillera Administrative Region	-	Baguio City
Ilocos (Region I)	San Fernando City, La Union	San Fernando City, La Union
Cagayan Valley (Region II)	San Fernando City, La Union	Tuguegarao City, Cagayan
Central Luzon (Region III)	-	San Fernando City, Pampanga
CALABARZON (Region IV-A)	Batangas City, Batangas	Quezon City
MIMAROPA (Region IV-B)	Batangas City, Batangas	Calapan City, Oriental Mindoro
Bicol Region (Region V)	Legazpi City, Albay	Bula, Camarines Sur
Western Visayas (Region VI)	Iloilo City, Iloilo	Iloilo City, Iloilo
Central Visayas (Region VII)	Cebu City, Cebu	Cebu City, Cebu
Eastern Visayas (Region VIII)	Tacloban City, Leyte	Tacloban City, Leyte
Zamboanga Peninsula (Region IX)	Zamboanga City	Zamboanga City
Northern Mindanao (Region X)	Cagayan de Oro	Cagayan de Oro City
Davao Region (Region XI)	Davao City	Davao City
Soccsksargen (Region XII)	General Santos City	Koronadal City
Caraga (Region XIII)	Surigao City	Surigao City
Autonomous Region in Muslim Mindanao (ARMM)	-	Cotabato City

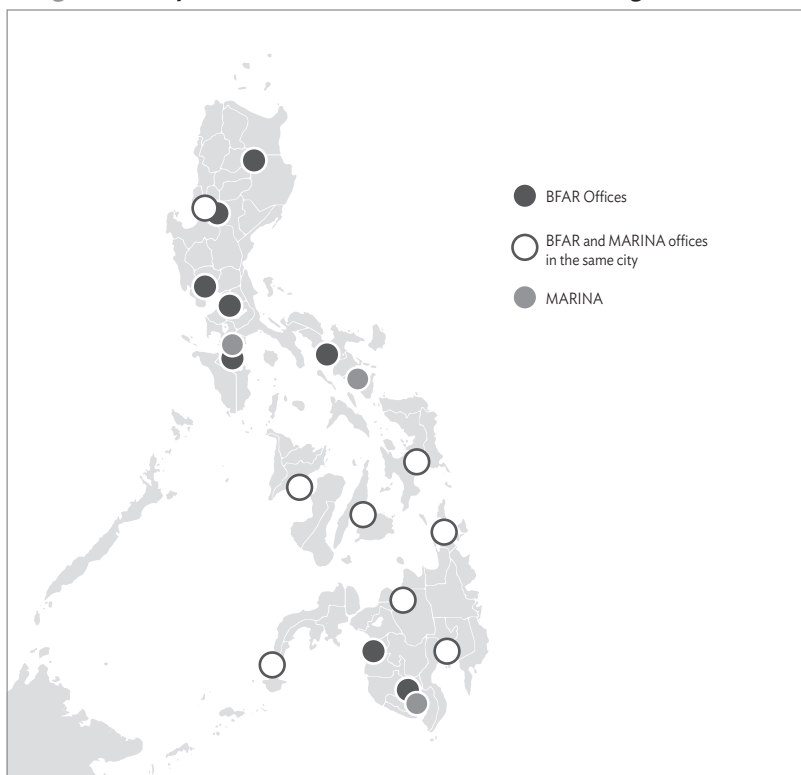
BFAR = Bureau of Fisheries and Aquatic Resources, MARINA = Maritime Industry Authority.

Sources: Bureau of Fisheries and Aquatic Resources Regional Offices, Maritime Industry Authority.

The key agreements and recommendations agreed on during the informed regulatory conversations are the following:

- for local governments to provide clear guidelines on the procedure and schedule of fees for registration and permits, including barangay and *purok*¹¹ clearances and fees;
- for local governments to use automated processes, and information and communications technology to expedite the registration and permit process, and to monitor and update local databases of establishment;
- for local governments to implement JMC No. 1 requiring the release of business permits and licences within two days, the use of a simplified application form, and other measures to streamline the registration and permit process;
- for national and local governments to review barangay clearances as a requirement for acquiring business permits, and to clarify the role and extent of supervision of DILG over local governments; and

¹¹ Unit or area of a barangay

Figure 4: Map of BFAR and MARINA Central and Regional Offices

BFAR = Bureau of Fisheries and Aquatic Resources, MARINA = Maritime Industry Authority.

Sources: Raw data from the Bureau of Fisheries and Aquatic Resources and the Maritime Industry Authority websites..

Regional Location of Office	BFAR	MARINA	BFAR and MARINA located in the same city
Philippines	16	11	8
NCR	2/F ICC Bldg., NIA Complex, Edsa, Diliman Quezon City		
CAR	BPI Complex Guisad, Baguio City		
I-Ilocos Region	Union Galva Steel Compound, Poro, San Fernando City, La Union	3/F Tan Bldg., Quezon Avenue, Sevilla Center, San Fernando City, La Union	√
II - Cagayan Valley	Carig, Tuguegarao, Cagayan		
III - Central Luzon	Diosdado Macapagal Gov't Center, Maimpis City		
IVA - CALABARZON	Regional Office for Region IV-A is located in NCR	Telof Compound, Telecom Road, Capitol Site, Kumintang Ibaba, Batangas City	
IVB - MIMAROPA	3/F Concepcion, Bldg., JP Rizal St. San Vicente, Calapan City, Mindoro Oriental		

Regional Location of Office	BFAR	MARINA	BFAR and MARINA located in the same city
V - Bicol Region	San Agustin, Pili, Camarines Sur	2/F RDC Primeland Inc. Bldg. Block 3 Lot 6 Landco Business Park, Capantawan, Legaspi City	
VI - Western Visayas	H. Del Pilar St., Molo, Iloilo City	4/F Arguelles Bldg. 402 E. Lopez St., Jaro, Iloilo City	√
VII - Central Visayas	Arellano Blvd., Pier Area, Cebu City	2/F, Qimonda I.T. Center, Don Sergio Osmeña Avenue, North Reclamation Area, Cebu City	√
VIII - Eastern Visayas	3/F Ir Tri-Star Bldg., Avenida Veteranos, Tacloban City	2/F Uytengkoc Bldg. Senator Enage St., Tacloban City	√
IX - Zamboanga Peninsula	R.T Lim Kawa-Kawa, Zamboanga City	N.S. Valderosa Street, Zamboanga City	√
X - Northern Mindanao	Macabalan, Cagayan De Oro City	2/F SE JO Lim Bldg Gemilina St., Carmen, Cagayan de Oro	√
XI - Davao Region	BFAR Compound, Ramon Magsaysay Ave., Davao City	2/F Davao Ching Printers Inc., Bldg. cor. Lakandula and Dacudao Ave. Agdao, Davao City	√
XII - SOCCSKSARGEN	-	No. 8 Kadulasan St., Dadiangas East, General Santos City	
XIII - CARAGA	Borromeo St., Surigao City, Motorpool Compound, Surigao City	Port Area, Surigao City	√
Autonomous Region in Muslim Mindanao	DAF-ARMM ORG Complex, Cotabato City	-	

- for DILG, in partnership with the National Competitiveness Council, to coordinate in further streamlining business registration and permit processes.

3.2 | Registration and Licencing of Commercial Fishing Vessels

MARINA handles the registration of all vessels while BFAR issues the commercial fishing licences. Fees correspond to the size of the vessel. Compliance with registration and licencing requirements could be difficult because some regional offices of MARINA and BFAR are in different local governments. For example, the MARINA regional office in Region XII is in General Santos City while the BFAR office is in Koronadal City (Table 5 and Figure 4). BFAR will address this issue by establishing a satellite office in General Santos City fish port complex.

MARINA, BFAR, the National Telecommunications Commission, and the Philippine Coast Guard have established a joint mobile registration and licencing of commercial fishing vessels to expedite registration and licencing. However,

this ad-hoc arrangement can be revoked at any time. An inadequate number of trained field inspectors in MARINA and BFAR leads to delays in registration and issuance of licences. Another issue is the proper scheduling of site visits by a limited number of staff.

The key agreements and recommendations include the following:

- for local governments to provide clear guidelines on the procedure and schedule of fees for vessel licensing, including barangay and purok clearances and fees;
- for BFAR, MARINA, the National Telecommunications Commission, and the Coast Guard to continue with joint mobile registration;
- for BFAR and MARINA to establish one-stop shops in General Santos City fish port complex; and
- for BFAR and MARINA to establish online registration and licencing process and coordinate schedule of site visits.

3.3 | Municipal Fishing Vessels Registration and Licence

Local governments do not have a uniform process for issuing licences (Table 6). In General Santos City, the process of acquiring a municipal fishing vessel licence is similar to that described in Table 6. Fishers in General Santos City neither register nor apply for a licence because their earnings are insufficient to cover the cost of registration and licencing. The municipal fishing vessel licence is renewed annually. Ordinary fishers have no incentives to register and obtain a licence because they cannot see the benefit of registration. The absence of effective monitoring is another reason for non-registration.

A barangay clearance is a requirement for registration. However, in addition to a barangay clearance, some puroks in General Santos City require a purok clearance. Fees vary across barangays and puroks. Although fees are minimal and may be waived sometimes, they can add up, burdening small fishers who want to register and licence their boats.

The key agreements and recommendations are the following:

- for local governments to provide clear guidelines on the procedure and schedule of fees for vessel licensing, including barangay and purok clearances and fees;

Table 6: Municipal Fishing Vessel Licence Process

Selected Municipalities of Panay Island		
Polopina, Concepcion	Pinamuk-an, New Washington	Culasi, Roxas City
1. Submission of barangay clearance and community tax certificate to the Municipal Agriculture Office (MAO)	1. Submission of barangay clearance and community tax certificate to MAO	1. Submission to the City Agricultural Office of barangay clearance, community tax certificate, 5"x7" colour photo of fishing boat, Philippine National Police maritime clearance (proof that ownership is legal), deed of sale (proof that boat was bought), builders' certificate, affidavit of ownership.
2. MAO to conduct ocular survey and measurement	2. Fishers will measure their respective boats and submit the measurement to MAO	2. The City Agricultural Office to conduct measurement
3. Payment of fees to the Municipal Treasurer's Office	3. Payment of fees to the Municipal Treasurer's Office	3. Payment of fees to the City Treasurer's Office
4. Mayor issues licence and/or permit upon recommendation from MAO	4. Mayor issues licence and/or permit upon recommendation from MAO	4. Mayor issues licence and/or permit upon recommendation from the City Agricultural Office
5. MAO issues vessel number	5. MAO issues vessel number	5. The City Agricultural Office issues vessel number

Source: Napata, et al., 2014.

- for BFAR to update and strengthen BoatR and FishR databases;
- for local governments, BFAR, MARINA, and FDA to launch an information and awareness campaign on the importance of registration and licence to operate; and
- for local governments to conduct joint mobile registration with BFAR and MARINA to facilitate registration.

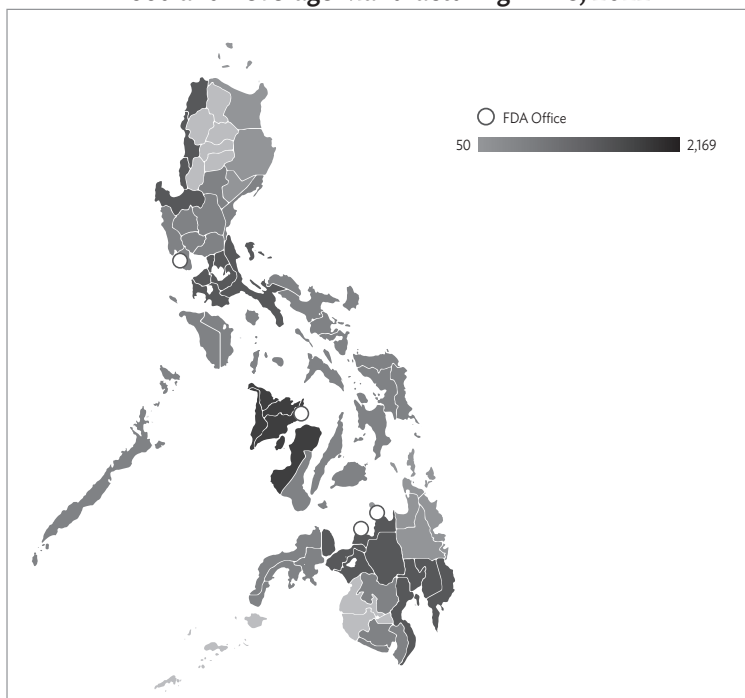
3.4 | Licence to Operate

Exporters and fish-processing plants must secure a licence to operate from FDA, a requirement for HACCP certification. The FDA shifted to online applications in 2013. An online processing system makes sense because there are only four FDA offices to service thousands of food and beverage establishments, including fish-processing plants and tuna canneries:¹² (i) the FDA central office in Muntinlupa City, Metro Manila; (ii) the FDA satellite laboratory in Mandaue City, Cebu, Visayas; (iii) the FDA satellite laboratory in Tagum City, Davao del Norte, Mindanao; and (iv) the Department of Health Region XI: Food and Drug Section, Davao City, Mindanao.¹³

¹² FDA website, <http://www.fda.gov.ph/location-map>

¹³ Additional offices may have been created since 2012.

Figure 5: Food and Drug Administration (FDA) Offices and Food and Beverage Manufacturing Firms, 2012



Lightest to darkest shade indicates lowest to highest number of manufacturing or processing firms.

Sources: Raw data from 2012 Census on Philippine Business and Industry, Philippine Statistics Authority, and Food and Drug Administration

Region Industry Description	Number of Establishments	Location of FDA Offices in the Philippines
Food and beverage manufacturing		
Philippines	12,190	
National Capital Region	2,168	FDA Central Office Muntinlupa City, Metro Manila, Luzon
Cordillera Administrative Region	104	
I-Ilocos Region	666	
II - Cagayan Valley	238	
III - Central Luzon	1,331	
IVA - CALABARZON	1,596	
IVB - MIMAROPA	236	
V - Bicol Region	428	FDA Satellite Laboratory, Mandaue City, Cebu, Visayas
VI - Western Visayas	869	
VII - Central Visayas	1,563	
VIII - Eastern Visayas	494	FDA Satellite Laboratory, Tagum City, Davao del Norte, Mindanao; Department of Health Region XI: Food and Drug Section, Davao City, Mindanao
IX - Zamboanga Peninsula	392	
X - Northern Mindanao	702	
XI - Davao Region	677	
XII - SOCCSKSARGEN	409	
XIII - CARAGA	267	
Autonomous Region in Muslim Mindanao	50	

Figure 5 shows the location of FDA offices vis-à-vis food and beverage manufacturing firms listed by the 2012 Census on Philippine Business and Industry. Metro Manila, the darkest-shaded region, had the most number of food-manufacturing firms, with 2,168 (18% of the total number), followed by CALABARZON,¹⁴ Central Visayas, Central Luzon, Western Visayas, and other regions. The lightest-shaded region, the Autonomous Region of Muslim Mindanao, had the least number of food manufacturing firms, with only 50.

However, industry sources allege that the online application process is not user friendly, especially for small operators. Applicants cannot verify online the status of their applications lodged with FDA, and queries are either ignored or given unsatisfactory replies. Exporters and fish-processing plant operators must visit either the FDA central or satellite office to inquire about their applications or renewal of LTOs, which could have been avoided because there is supposed to be an online process.¹⁵

It is not just the inefficient online system that exporters and fish-processing plant operators have to endure. They claim that delays in site visits by FDA inspectors and bureaucratic inefficiency stymie the licencing process. They complain about the huge transaction cost resulting from an inefficient bureaucracy.

The LTO by FDA and the HACCP certification by BFAR both require inspection of tuna-processing plants. The BFAR and FDA inspectors visit the tuna-processing plants at different times and conduct the same activities every time (Table 7). Industry sources say that BFAR conducts a more comprehensive inspection than FDA because of the detailed and rigorous requirements for HACCP certification. They also report that local government sanitary inspectors do not actually conduct inspections, yet the plant owners are required to pay the inspection fees. Sanitary inspection and approval are requirements before a mayor's permit to operate is issued.

¹⁴ CALABARZON is composed of five provinces: Cavite, Laguna, Batangas, Rizal, and Quezon.

¹⁵ FDA refused a request for interview to validate various allegations against it.

Table 7: Document Inspection Checklist, Bureau of Fisheries and Aquatic Resources and Food and Drug Administration

Inspection List	
BFAR	FDA
I. Goods-Manufacturing Process <ol style="list-style-type: none"> Plant premises Equipment Personnel training Sanitation and pest control Cleaning procedures Product recall system Records 	<ol style="list-style-type: none"> Organisational chart indicating qualification of key personnel in production and quality control List of products and brands to be manufactured and/or repacked List of production equipment with specifications List of quality-control facilities and equipment (if any) Flowchart of manufacturing process, with emphasis on identification of critical control points Detailed description of manufacturing process Quality control procedures and sanitation standard operating procedures enforced in the plant: <ol style="list-style-type: none"> Working area Equipment Personnel Pest control programme Certification with current laboratory analysis (from FDA-recognised laboratories) <ol style="list-style-type: none"> Source water For plant within Metro Manila: photocopy of recent MWSS or Maynilad water bill and/or satisfactory results of potability test performed by either the Department of Health laboratory or laboratories of water supplier or laboratories accredited by the Department of Health per A.O. 26-A s. 1994 Finished product's compliance with standards Packaging certification of suitability for food use Name and address of suppliers of raw materials and packaging materials HACCP programme
II. Sanitation Standard Operating Procedures <ol style="list-style-type: none"> Safety of water and ice Condition of cleanliness of food contact surfaces Prevention of cross-contamination Maintenance of hand-washing and toilet facilities Protection of food and food contact surfaces from adulteration Proper labelling, storage, and use of toxic substances Adverse employee health conditions Exclusion of pests and animals from the plant 	
III. HACCP Programme <ol style="list-style-type: none"> Endorsement letter signed and dated by company officials LTO Plant lay-out Company profile Organisational structure/composition/ qualifications/ experience/training of HACCP team Product description Process-flow diagram Narrative of the process flow Hazard-analysis worksheet HACCP plan Date of submission and signature in the HACCP plan 	

AO = Administrative Order; BFAR = Bureau of Fisheries and Aquatic Resources; FDA = Food and Drug Authority, HACCP = Hazard Analysis of Critical Control Points; LTO = licence to operate; MWSS = Metropolitan Waterworks and Sewerage System.

Sources: Bureau of Fisheries and Aquatic Resources – Pre-Evaluation Checklist for HACCP Programs, Food and Drug Authority – Requirements for License to Operate (LTO) Opening/Initial

The key agreements and recommendations are the following:

- for FDA to improve the online system for LTO applications by making it user friendly and efficient;
- for FDA to negotiate with the Department of Budget and Management on a sufficient budget for the right number of offices and field inspectors; and
- for FDA to deputise BFAR to conduct on-site inspections for purposes of the licence to operate and HACCP accreditation and/or certification, in view of BFAR's more extensive field presence and capacity.

3.5 | Certificate of Product Registration

After evaluation and approval of submitted registration requirements, FDA issues a CPR for specific food products. It is valid for two to five years for initial registration, and five years for renewals. Industry sources complain about a laborious and costly process and the lack of enforcement of CPRs. All types of food products are required to have a CPR number but some companies register only major products. Because of the cost involved in getting CPR, some companies do not secure CPRs for minor products. There is little incentive to fully comply because FDA does not make regular inspections. This is a question of effective registration, inspection, and monitoring. The CPR is an important instrument for safety and traceability of food products.

The key agreements and recommendations are the following:

- for FDA to improve online system for product registration, and conduct regular inspection and monitoring;
- for FDA to enforce more effectively the CPR requirement; and
- for FDA to negotiate with the Department of Budget and Management for a sufficient budget for the right number of offices and field inspectors.

3.6 | Qualified Persons in Industry Regulatory Affairs

Memorandum Circular No. 5, series of 1991, issued by the Bureau of Food and Drug (the forerunner of FDA) requires companies to designate a liaison officer for official transactions with the bureau. At present, FDA requires liaison officers and regulatory affairs officers of private companies to attend its training and accreditation seminars for Qualified Persons in Industry Regulatory Affairs (QPIRA). Only QPIRAs have the authority to transact business with FDA. They are trained to submit the correct and complete documents to ensure quick evaluation and approval of requests.

Industry sources complain that FDA released the circular on training for QPIRA without adequate consultation with the industry. Current complaints, especially from smaller firms, are about the cost and venue of the training. According to the FDA website, the training fee is ₱6,000 (US\$119.05) per person and it covers

training materials, meals, ID card, certificate of completion, posting of QPIRA on the website, and use of training equipment and facilities. It does not include transportation and lodging expenses of participants.

The key agreement and recommendation is for FDA to conduct training and accreditation seminars in accessible locations, and not just in Metro Manila, Cebu, or Davao.

3.7 | HACCP Certification and/or Accreditation, BFAR Signatories

Two documents of importance to exporters are the HACCP certification and the export commodity clearance issued for fresh and/or frozen tuna exports. An importing country will reject tuna export products without the HACCP certification and the export commodity clearance. Aside from monetary loss, the exporting firm suffers from potential delisting by the importing country.

Issuance of the HACCP certification and the export commodity clearance requires BFAR to inspect the tuna-processing plants. The EU has recognised BFAR as a competent authority for HACCP certification by virtue of EC 95/190. The BFAR head office inspectors have been trained under the EU–Trade Related Technical Assistance for many years based on EU guidelines. The EC–Food and Veterinary Office audits the BFAR food safety control system every two years. The BFAR head office fish inspection unit is the only inspection body that has been accredited by the International Organization for Standardization, i.e. ISO 17020:2012.

The BFAR fields an inspection team composed of head office and regional office inspectors. Joint inspection might not be efficient because of problems with scheduling and the lack of team members. However, it is a necessity because the regional offices are not yet ISO certified and accredited.

The availability of the BFAR signatories is another critical issue. Industry sources claim that the signatories are sometimes unavailable due to training or official business. A solution proposed by BFAR is to maintain offices at airports and seaports to make signatories more accessible, but this might not be feasible because of budgetary constraints.

The key agreement and recommendation is for the BFAR head office to facilitate the ISO certification and accreditation, and train regional office staff to make them qualified HACCP certifiers.

[4] Conclusion and Way Forward

The case study of the tuna industry validates the importance of reviewing the existing stock of regulations with a view to revoke or change those found to be burdensome. This will reduce the cost of doing business and help render firms competitive.

In the tuna industry, there is scope for a re-examination of various regulations imposed on the industry, better enforcement of appropriate regulations, training and accreditation of food inspectors, better communication and consultation between regulators and regulated entities, and better synergy and coordination amongst government agencies and local governments.

The study shows the usefulness of value chains as a framework for identifying regulators and regulations that affect each stage of the chain. Informed regulatory conversations could also be a practical mechanism to engage stakeholders in analysing an industry and arriving at solutions to regulatory problems.

REFERENCES

- Bureau of Agricultural Statistics (2012), *Profile of Commercial Fish Landing Center*. Quezon City, Philippines: Philippine Statistics Authority.
- Bureau of Fisheries and Aquatic Resources (2016), *Citizen's Charter*. Quezon City, Philippines. <https://www.bfar.da.gov.ph/2016/CITIZEN/CitizenCharter.pdf> (accessed 31 August 2016).
- Bureau of Fisheries and Aquatic Resources (2012), *National Tuna Management Plan of the Philippines*. Manila: Department of Agriculture.

- Bureau of Fisheries and Aquatic Resources (n.d.), 'Philippine Fisheries Profile 2014', Quezon City, Philippines: BFAR. [https://www.bfar.da.gov.ph/files/img/photos/2014FisheriesProfile\(Finalcopy\).pdf](https://www.bfar.da.gov.ph/files/img/photos/2014FisheriesProfile(Finalcopy).pdf) (accessed 21 August 2016).
- Espejo, E. (2015), 'Philippines Tuna Catch up Sharply in 2014; Highest in 12 years', Asian Correspondent. <https://asiancorrespondent.com/2015/01/philippines-tuna-catch-up-sharply-in-2014/> (accessed 22 February 2016).
- Food and Drug Administration (2015), *FDA Citizen's Charter*. Muntinlupa City, Philippines. <http://www.fda.gov.ph/citizen-charter-2015/227365-fda-citizen-s-charter> (accessed 31 August 2016).
- MindaNews (2015), 'DA to Start Talks with Indonesia on New Fisheries Pact', <http://www.mindanews.com/top-stories/2015/09/07/da-to-start-talks-with-indonesia-on-new-fisheries-pact/> (accessed 22 February 2016).
- Napata, R., L. Espectato, and G. Serofia (2014), 'Descriptive Study of the Fisheries Registration and Licensing System in Selected Municipalities of Panay Island, Philippines', *Journal of Environmental Science and Management*, 17(2), pp. 69–77.
- Philippine Fisheries Development Authority (2015), *Corporate-Wide Historical (2010–2015) Volume of Fish Unloading*. <http://www.pfda.da.gov.ph/images/PDF/Stat/historical/2015/unloadings.pdf> (accessed 12 March 2016)
- Philippine Statistics Authority (2016), 'National Accounts of the Philippines, as of August 2016', Quezon City, Philippines: PSA.
- Philippine Statistics Authority (2015), 'Supply Utilization Accounts (SUA) of Selected Agricultural Commodities 2012–2014', Quezon City, Philippines: Philippine Statistics Authority. https://psa.gov.ph/sites/default/files/sua_12-14.pdf (accessed 12 August 2016).
- Philippine Statistics Authority (2015), 'CountrySTAT Philippines Fishery: Supply Utilization Accounts', <http://countrystat.psa.gov.ph/?cont=10&pageid=1&ma=170FCSUA> (accessed 18 August 2017)
- World Bank (2005), 'Philippine Coastal & Marine Resources: An Introduction', in 2005 *Philippine Economic Monitor*. Washington, DC: World Bank. <http://siteresources.worldbank.org/INTPHILIPPINES/Resources/PEM05-ch1.pdf>. (accessed 28 July 2016).

World Bank and the International Finance Corporation (2010), *Doing Business in the Philippines 2011*. Washington, DC: World Bank and the International Finance Corporation.

Yamashita, H. (2008), 'The Value Chain for Philippine Tuna Commodity: Recent Developments and Future Directions', *Achieving a Sustainable Future: Managing Aquaculture, Fishing, Trade and Development*. Corvallis, Oregon, US: International Institute of Fisheries Economics & Trade.

CHAPTER 9

Road Passenger Services in Thailand

Sumet Ongkittikul

Nichamon Thongphat

Thailand Development Research Institute

[1] Introduction

Road passenger services enhance people's connectivity by supporting domestic and international economic activities, particularly in the tourism sector. According to Thailand's Ministry of Transport¹ statistics in 2015, public transport for domestic conveyance mostly relied on bus services (around 65% of all passengers) in 2010–2014. The average growth of international bus services rose by around 16% for each year in the same period.

Passenger bus services in Thailand are regulated by the Department of Land Transport (DLT) under the Land Transport Act B.E. 2522, with three types of operations requiring different licencing and regulations. Unfortunately, poor enforcement of regulations has led to inefficient operation of the business and low-quality and unsafe services for passengers. The Ministry of Transport statistics shows a 4% drop each year in domestic passengers traveling by bus in 2010–2014, while bus accidents were slightly up in the same period.

Despite the good intention to certify safety and quality, previous regulations and enforcement failed in the past. The decreasing number of passenger buses is getting worse and is a burden for business. Thus, it is an important task for the government to improve service by strengthening the licencing procedures and improving compliance to regulations.

¹ <http://www.mot.go.th/statmot.html?id=25>

This chapter identifies the problems and impediments of operating passenger bus services in compliance with existing regulations, including aspects that should be added to the regulations. The chapter then attempts to give recommendations to reduce the unnecessary regulatory burdens (RURB).

This study was conducted through desktop research, a survey, and public consultation. The chapter focuses on all types of domestic passenger bus services in Bangkok, which cover most non-fixed-route service operators and fixed-route operators. Section 2 provides a brief industry profile of domestic road passengers. Section 3 analyses the relevant regulations along the service value chain. Section 4 describes the methodology and results of the relevant issues. Finally, Section 5 provides policy suggestions for RURB.

[2] Industry Profile: Domestic Road Passenger Services

2.1 | Types of Bus Services

According to the Land Transport Act B.E. 2522, the types of bus services in Thailand are fixed-route operations, non-fixed-route operations, and private operations. They require different licences to operate as follows:

2.1.1. Fixed-route operations

Fixed-route bus operations or scheduled services are also known as public bus services. To operate, this business must have a fixed-route licence to provide service in each category described in Table 1. The private sector can operate a business through the sublicensing scheme in category 1 in Bangkok and category 2, while private operators can apply for licences from the Department of Land Transport in category 1 outside Bangkok, category 3, and category 4.

According to Pomlaktong et al. (2012), DLT is the government agency authorised to implement the following public bus regulations.

Table 1: Routes of Public Bus Services

Bus Route Category	Government or Private Operators
Category 1: Routes within city or town areas	
In Bangkok, contiguous routes in perimeter areas. Buses run on main roads in community areas crowded with people, business centres, schools, government agencies, etc.	The Bangkok Mass Transit Authority (BMTA) is exclusively granted licences to operate. It sublicenses private operators.
In provincial areas	Services are provided by private companies.
Category 2: Long-distance routes between Bangkok and regional provinces	
Routes that link Bangkok and the provinces.	The state enterprise Transport Co. Ltd. is exclusively granted the licence to operate buses. It delegates services to private operators under the joint service scheme.
Category 3: Interprovincial long-distance routes	
Interprovincial routes that link one province to another and may pass through other provinces.	Services are mostly provided by private operators.
Category 4: Intercity or town routes within a province	
In Bangkok, routes mainly on subordinate roads and feeder roads to main roads of Category 1.	Services are mostly provided by private operators. Routes have the highest number of licences granted, operators, and passengers.
Category 4 in provincial areas.	

Source: Pomlaktong et al., 2012; and authors.

a. Fixed-route operations

- Supervise and control fixed-route buses to run on fixed routes on the condition that passengers are picked up at specific locations according to a timetable, collect government-regulated bus fares, and stop at regulated bus terminals.
- Stipulate, improve, and revoke bus routes, and renew or withdraw bus operation licences.
- Stipulate and improve the condition of vehicle operations and the number and category of vehicles.
- Inform the Central Land Transport Control Board of fixing fare rates for approval.
- Stipulate bus standards; supervise the quality of transport operators' service to passengers; control bus safety (speed, parking duration, and age of bus); and control and examine the operation of transport operators, crew, and vehicles.
- Encourage and develop a system of mass transit by bus.

b. Non-fixed-route operations

Businesses operating non-fixed-route bus services must have a licence to operate commercially and contract approval from DLT. Non-fixed-route service is also known as 'for-hire bus service'.

The requirements for licencing fixed route and non-fixed route of the private sector are shown in Table 2.

Table 2: Differences Between Fixed-Route and Non-fixed-Route Licencing

Type of Licencing	Necessary Conditions	Category	Sufficient Conditions
Fixed route	<ul style="list-style-type: none"> - registered vehicle - vehicle ownership - adequate parking place - compulsory motor insurance 	1	Sublicencing from BMTA
		2	Sublicencing from Transport Co. Ltd.
		3	Selection protocol through the Provincial Land Transport Control Board
		4 (Bangkok)	Sublicencing from BMTA
		4 (provinces)	Selection protocol through the Provincial Land Transport Control Board
Non-fixed route		-	Having hired contract of non-fixed route bus service

BMTA = Bangkok Mass Transit Authority.

Source: Authors, 2016.

c. Private operations

Private bus operations are services that any government or private organisation provides. Thus, an owner has to operate with a private bus licence. Private bus operations, however, are not within the scope of this chapter.

2.2 | Market Status of Scheduled Services

According to the Land Transport Act B.E. 2522, a scheduled-service operator needs a licence to operate on every route, a system called ‘1 licence, 1 route’.

Table 3 shows the monopoly power in category 1, Bangkok and vicinity, and category 2.

For category 1, more than 55% of licences are in Bangkok and vicinity and those belonging to only a few licence holders (2% of all holders in the country). The Bangkok Mass Transit Authority (BMTA) was exclusively granted licences by a Cabinet resolution in 1983 to operate in category 1 in Bangkok and vicinity, and has sublicensed private operators. Similarly in category 2, the Transport Co., Ltd. has such exclusive power and jointly operates services with the private sector. However, the numbers of both operating licences and licence holders in category 1 gradually declined between 2011 and 2015.

Furthermore, the non-fluctuating numbers of operating licences and licence holders in category 4 are contradicted by the urbanisation along those routes. Therefore, they should be developed as routes under category 1, particularly in Bangkok and vicinity.

Table 3: Number of Operating Licences and Licence Holders for Scheduled Bus Services, 2011–2015

Category	Number of Operating Licences					Number of Licence Holders				
	2011	2012	2013	2014	2015	2011	2012	2013	2014	2015
Whole Country	2,994	3,034	3,042	2,961	2,932	1,458	1,472	1,489	1,461	1,473
1	646	653	621	602	595	194	197	195	189	187
2	202	206	206	204	200	1	1	1	1	1
3	514	524	528	526	511	297	307	310	314	318
4	1,624	1,641	1,674	1,615	1,612	965	966	982	956	966
Bangkok and Vicinity	1,229	1,259	1,242	1,221	1,185	335	347	350	351	353
1	360	369	344	329	323	4	5	5	3	2
2	202	206	206	204	200	1	1	1	1	1
3	514	524	528	526	511	297	307	310	314	318
4	145	150	151	148	137	32	33	33	32	31

Source: Department of Land Transport, 2016.

2.2.1. Types of Firms in the Scheduled Service Industry

Licence holders and joint operators are the two types of scheduled bus service operators in Thailand. According to DLT data in 2014, for category 1 in Bangkok and vicinity, around 80% of all scheduled buses are jointly operated by 108 private sector companies, with 13% being small enterprises owning fewer than 10 buses. Similarly in category 2, more than 80% of all operated buses belong to private joint operators, while the majority of operators in categories 3 and 4 are from the private sector.

According to the National Statistical Office's survey of bus operations in 2014, the numbers of these two types of operators differ as follows:

(1) Number of licence-holding operators

There are 776 licence-holding operators in Thailand. Figures 1 and 2 show that most operators are small firms, of which almost one quarter own only one to five buses. More than half of them do not own any buses but delegate the operation of their authorised routes to other joint operators.

Figure 1: Number of Licence Holders, Categorised by Size of Firms, 2014

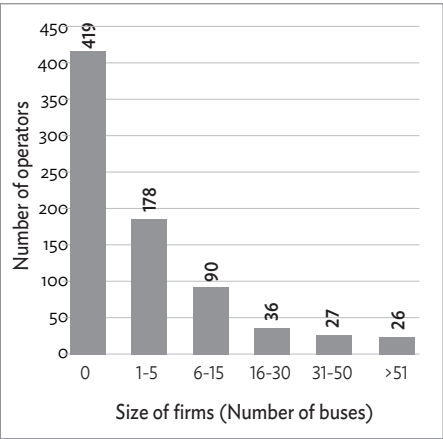
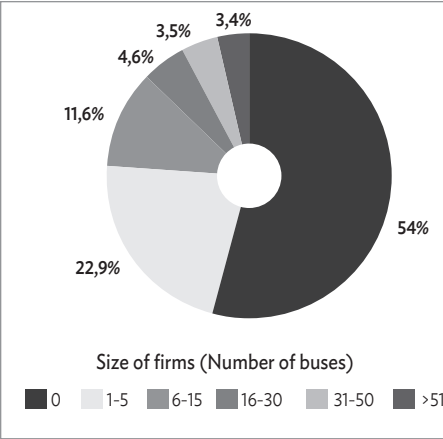


Figure 2: Proportion of Licence Holders, Categorised by Size of Firms, 2014



Source: National Statistical Office of Thailand, 2015.

(2) Number of joint operators

Most joint operators in scheduled bus services are small firms. According to the National Statistical Office’s survey, 9% or 30,339 joint operators own only one bus, and only 1.3% of all joint operators own more than five buses (Figures 3 and Figure 4).

Figure 3: Number of Joint Operators, Categorised by Size of Firms, 2014

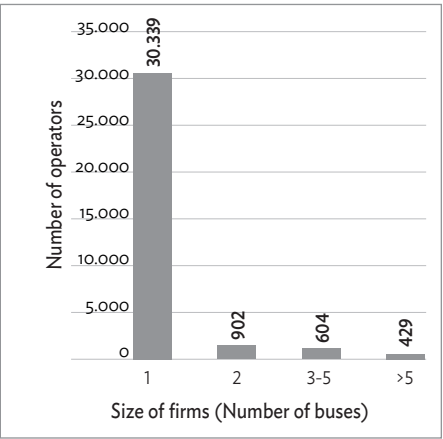
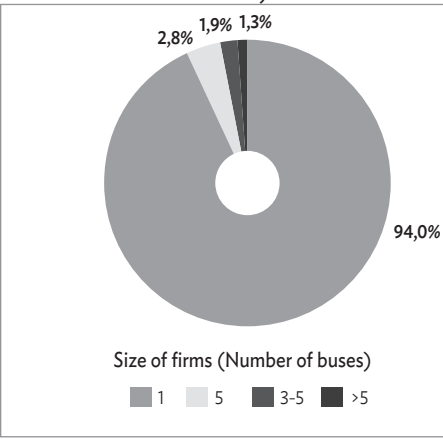


Figure 4: Proportion of Joint Operators, Categorised by Size of Firms, 2014

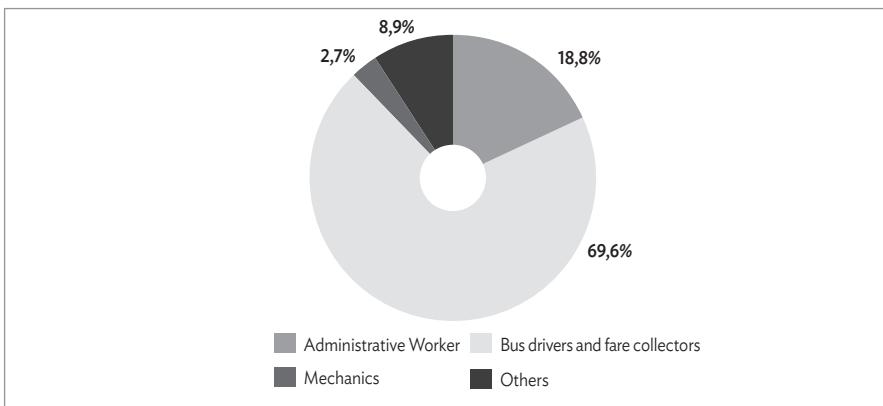


Source: National Statistical Office of Thailand, 2015.

2.2.2. Number of Employees

Of the 29,111 persons employed in all licence-holding bus operating firms, 69.6% are bus drivers and fare collectors. Administrative workers constitute 18.8% of total employees, while mechanics and other employees account for 2.7% and 8.9%, respectively. On the whole, the average number of employees in a firm is 37.5 (Figure 5).

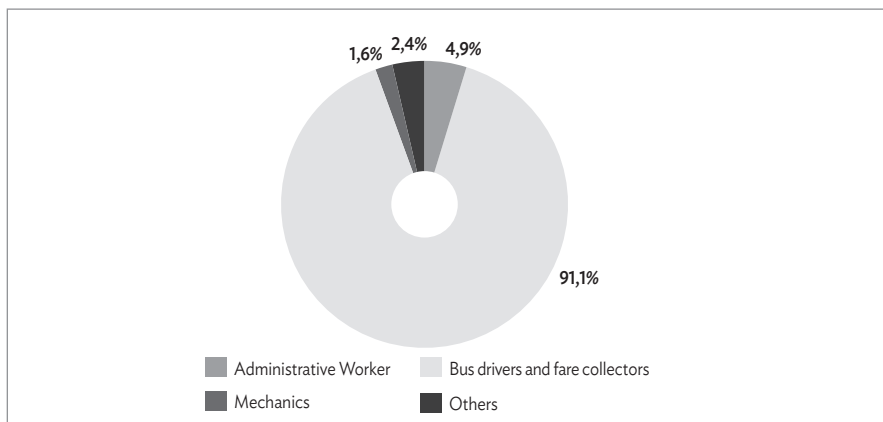
Figure 5: Employees in Licence-Holding Bus Operating Firms, 2014



Source: National Statistical Office of Thailand, 2015.

Out of the total 58,463 employees in Thailand's joint bus operating firms, 91% are bus drivers and fare collectors. Other employees are administrative workers (4.9%), mechanics (1.6%), and others (2.4%). On the average, there are 1.8 employees per operator (Figure 6).

Figure 6: Employees in Joint Bus Operating Firms, 2014



Source: National Statistical Office of Thailand, 2015.

2.2.3. Costs of Bus Operations

As shown in Table 4, the costs for each licence-holding bus operating firm and joint bus operating firm are B45.9 million and B1.5 million, respectively. Office expenses form the largest part (27.3%) of a licence-holding bus operating firm's total costs. Depreciation accounts for the second largest part of the total costs (24.4%). Other major costs are wages (19.6%) and fuel (15.5%).

For a joint bus operating firm, half of the total costs are depreciation. Fuel costs and wages make up 19.8% and 12.4%, respectively. In contrast to a licence-holding bus operating firm's costs, office expenses only represent 6.9% of the total costs.

Table 4: Costs for Bus Operating Firms, 2014

Type of Costs	Licence-holding Bus Operating Firm		Joint Bus Operating Firm	
	Amount (B1,000)	%	Amount (B1,000)	%
Wages	8,999.5	19.6	181.9	12.4
Tyres	233.0	0.5	25.5	1.7
Battery	38.0	0.1	5.6	0.4
Fuel	7,117.6	15.5	290.6	19.8
Lubricants	131.7	0.3	11.4	0.8
Bus repairs	3,326.9	7.3	72.2	4.9
Replacement parts	1,985.1	4.3	8.0	0.5
Office expenses	12,514.4	27.3	101.4	6.9
Taxes and fees	363.1	0.8	24.4	1.7
Depreciations	11,178.8	24.4	745.7	50.8
Total	45,888.2	100	1,466.7	100

Source: Calculated from National Statistical Office of Thailand, 2015.

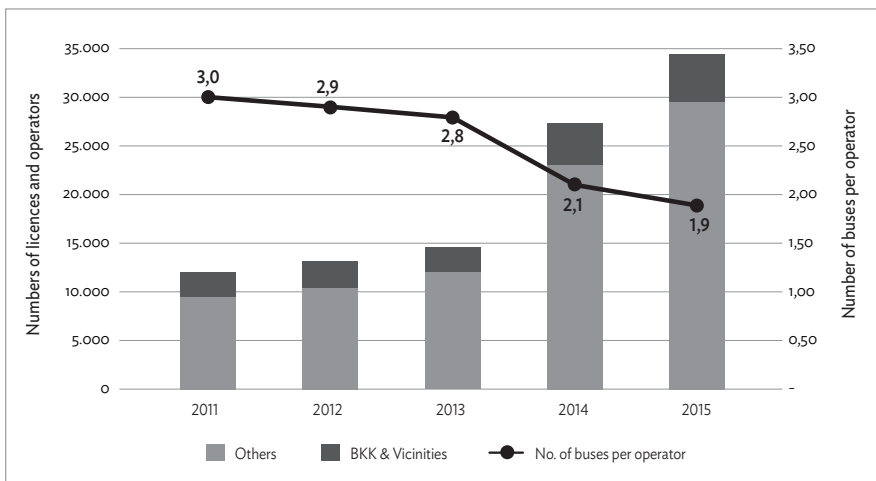
2.2.4. Problems of the Scheduled Bus Service Industry

Scheduled bus services are losing popularity to other modes of transport like the underground or sky train in Bangkok and airlines offering low-cost domestic air transport. One reason behind this is the rigid regulations that do not conform with the current economic and traffic circumstances. Operators cannot gain normal profits from operations since they have been burdened by government policies, controlled pricing, route licencing without proper planning, and poor regulations of non-licenced vehicles on licenced routes. Another problem occurs from the sublicencing scheme in category 1, Bangkok and vicinity, and category 2 since BMTA and Transport Co., Ltd. cannot control the service quality of their private joint operators.

2.3 | Market Status of for-hire Service

Influenced by growth in the tourism sector, for-hire bus service operators increased by 154% in 2011–2015 (Figure 7). The number of operators in Bangkok and vicinity increased by 24% each year during the same period. However, the additional operators were small firms since the number of buses per operator shrank from three to one in 2011–2015. One reason behind this is that many licenced operators are providing other services, i.e. scheduled bus operations, private-purpose operations, or for-hire services. This results in the higher number of licenced operators than the actual demand for these services and eventual price war on these services.

Figure 7: Number of Licences and Operators of For-Hire Services, 2011–2015



Source: Department of Land Transport.

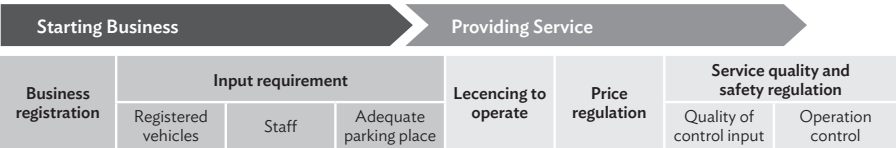
The serious consequence of greater supply in the market is uncontrolled quality. Since no criteria regulate the optimal number of operators in each area and no minimum standards set service quality and safety, a higher number of small firms could operate inefficiently and ruin the market by creating price wars.

[3] Regulations on Value Chain

This section describes the activities in complying with regulations along the value chain of road passenger transport services in Thailand. The last section discusses the key aspects of the regulations on value chain analysis.

Starting business and providing services are two major processes in the value chain of scheduled and hired bus services (Figure 8). All activities in starting a business are necessary requirements for both scheduled and hired bus services while the activities in providing services are different for the two types of bus service.

Figure 8: Value Chain of Road Passenger Transport Services



Source: Authors.

3.1 | Relevant Regulations for Starting a Business

This process in starting business consists of registering a business and preparing inputs for operations. All operators have to undertake the activities summarised in Table 5. Businesses need to be registered to comply with the Business Registration Act B.E. 2499 or the Foreign Business Act B.E. 2542 for both natural and juristic person owners. Registered vehicles and appropriate depots are inputs that need to be declared before a licence to operate is granted. However, this protocol does not apply to staffing. Most activities are regulated by DLT under the Land Transport Act B.E. 2522.

Table 5: Value Chain of Starting a Business Process

Activities	1. Business Registration	2. Input Requirements		
		Registered Vehicles	Staff	Appropriate Depot
	Register business via online platform	<ul style="list-style-type: none"> • Buying/renting vehicles • Vehicle registration <ul style="list-style-type: none"> - Vehicle inspection - Applied compulsory motor insurance 	Hiring qualified staff	Buying/renting adequate parking place or appropriate depot
Regulations	<ul style="list-style-type: none"> • Business Registration Act • Foreign Business Act 	<ul style="list-style-type: none"> • Civil and Commercial Code • Land Transport Act <ul style="list-style-type: none"> - DLT's vehicle standard for the public bus - Protection of Car Accident Victim Act 	<ul style="list-style-type: none"> • Land Transport Act • Vehicle Act • International agreement 	<ul style="list-style-type: none"> • Land Allocation Act • Land Transport Act
Regulators	Bureau of Foreign Business Administration, Department of Business Development, Ministry of Commerce	<ul style="list-style-type: none"> • Excise Department • Department of Land Transport <ul style="list-style-type: none"> - Office of Insurance Commission 	Department of Land Transport	<ul style="list-style-type: none"> • Department of Land, Ministry of Interior • Department of Land Transport

Source: Authors.

Regulations related to each activity in starting a business process are summarised below:

a. Business registration

All business registration activities can be done online through a set of guidelines and a standard form. After title approval, a business needs to submit its documents and application form to the Department of Business Development (online or at a branch office), which would be responded to in one day.

Registration for a foreign juristic person, however, is more complicated since eight and ten documents, including six supplementary ones, are needed under Thai law and foreign law, respectively.

b. Input requirements

Required inputs to operate a bus service are vehicle ownership, staff, adequate parking places, and compulsory motor insurance.

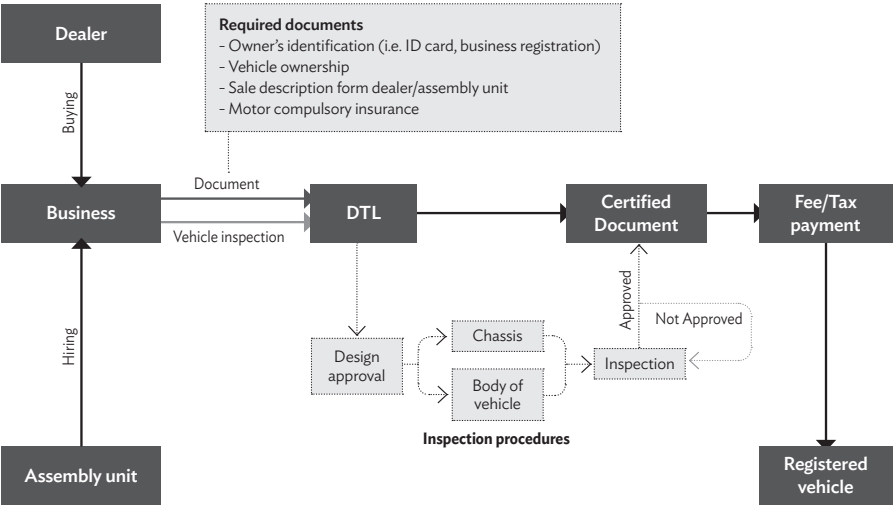
Registered vehicles ownership

Under the Land Transport Act B.E. 2522, vehicles used in bus services have to be registered. A business has to submit to DLT four documents showing owner's identification, vehicle ownership, sale description, and compulsory insurance for each vehicle. After the payment of fees and vehicle tax, all vehicles need to pass inspection. Figure 9 shows the process of vehicle registration, which usually takes less than 5.2 hours.

Vehicle inspection involves two procedures: design approval and inspection. Per regulations, the Department of Land Transport (DLT) is responsible for all activities. The vehicle’s chassis and body are major parts that require design approval. The standards for inspection, however, are not comprehensive compared to international vehicle standards.

All inspection activities can be done at a DLT branch or a private vehicle inspection unit certified by the Bureau of Vehicle Engineering under DLT. Vehicles that failed to pass inspection need to be modified to comply with the regulations, although the national standards are vague. The inspection, particularly by private units, usually relies on personal discretion instead of a standard engineering protocol.

Figure 9: Vehicle Registration Procedures



DLT = Department of Land Transport.
Source: Authors.

Hiring qualified staff

A business does not have to declare details of employment to obtain a licence to operate. Under the Land Transport Act B.E. 2522, drivers have to be Thai nationals, except in the case of drivers from countries who are under international agreements to work in Thailand. Unfortunately, shortage of drivers and absence of quality training programmes from DLT are key concerns of the passenger bus service market.

A business hires only licenced drivers as prescribed in the requirements. Also, a business is responsible for violations committed by drivers, for which a mechanism for rewards and punishment is created for staff management. Unfortunately, low-cost operators are often burdened with shortage of drivers that they fail to build this mechanism. Other personnel, i.e. ticket takers and bus hostesses, are usually relatives of drivers and are also required to obtain licences.

Preparing appropriate depot

Passenger buses can only park in allowed areas. Thus, a business must have adequate parking spaces or an appropriate depot. Similar to the property ownership process, a business has to comply with the Land Allocation Act and must show evidence of property possession before it can operate.

3.2 | Relevant Regulations for Providing Services

To provide service, activities along the value chain have to comply with the Land Transport Act B.E. 2522. Scheduled bus services need to have route licencing whereas for-hire services have to submit for-hire contracts to get permit from DLT. The process of licencing to operate, including regulations after licencing for each type of operators, is shown in Table 6.

Regulations related to each activity in providing a service are summarised as follows.

a. Licencing to operate

Several schemes for licencing passenger vehicles to operate depend on the type of service and operators. Licence holders and private joint operators of scheduled services experience different measures from different authorities. Private operators in hired services spend less time on the processes for licencing. Guidelines on the procedures are available on the DLT website and at the DLT office.

Private joint operators comprise the majority of the scheduled services market. To gain rights to operate on existing routes, they are subcontracted by BMTA and Transport Co., Ltd. These two state-owned enterprises have to complete the licencing process with DLT and can sublicense should there be a shortage of provision along the licenced routes.

Table 6: Activities on the Value Chain's Service Provision Process

Operators	1. Licencing to Operate	2. Price Regulations	3. Service Quality and Safety Regulations			
			Input Quality Control			Operation Control
			Vehicles	Staff	Depot	
Scheduled Services						
Licence holders	<ul style="list-style-type: none">• Pass necessary condition<ul style="list-style-type: none">- Submit documents- Examine depot• Approved by DLT	Price controlled by DLT	Vehicle inspection	<ul style="list-style-type: none">• Working hour limitation• Behaviour control (speeding)	Bus parking ban	Regulated by the service specification in the licence to operate: <ul style="list-style-type: none">• Number of vehicles requirement• Type of vehicle• Route• Bus stops
- SOE						
- Private sector	<ul style="list-style-type: none">• Pass necessary condition<ul style="list-style-type: none">- Submit documents- Examine depot• Submit operation and management plan• Approved by DLT					
Joint operators	<ul style="list-style-type: none">• Pass necessary condition through approvals of BMTA or Transport Co., Ltd.• Make contract with the SOEs					Regulated by the contract between SOEs and private operators: <ul style="list-style-type: none">• Number of vehicles requirement• Type of vehicle• Route• Bus stops
For-Hire Services						
	<ul style="list-style-type: none">• Pass necessary condition• Licenced operators<ul style="list-style-type: none">- Submit documents- Examine depot• Submit hired contract to DLT	-				<ul style="list-style-type: none">• Service limitation<ul style="list-style-type: none">- Only for-hire service- Banned route (risky route for traveling by bus)• Relevant regulations of DLT<ul style="list-style-type: none">- Seatbelt for passengers- Overloading prohibition

BMTA = Bangkok Mass Transit Authority, DLT = Department of Land Transport, SOE = state-owned enterprise.

Source: Authors, 2016.

All activities take a maximum 20 days to complete, 17 days of which are spent on examining the depot and approval processes. To obtain a licence for scheduled services, a business must submit an operations plan and a management plan to show its potential. Due to the 135 days required for depot examination and approval, it takes a maximum 196 days to complete all activities.

Further, by law, the operators may request to operate on a new demanded route. DLT will consider the request, design a suitable service for the new one, and accept the application. The process can take a year to complete. In truth,

however, the private sector has never participated in the route designation process since DLT always initiates new routes and rigidly manages the network. To obtain a licence to operate a for-hire service, a business must submit the request form and documents to DLT. The waiting time for data verification is around five minutes, after which a DLT agent will examine the parking place or depot to assure it has sufficient capacity. The problem, however, is that many buses are parked along roadsides, thus showing failure of enforcement. All activities take 14–35 days to be completed because not all can be done on the paperless platform.

b. Fare regulations

Fare regulations are implemented only for scheduled services. According to Pomlaktong et al. (2012), public bus fares are regulated by the Land Transport Committee, the Land Transport Policy Committee, the Central Land Transport Control Board, and the Provincial Land Transport Control Board. Prices are based on a cost-plus formula, including a target rate of return and an allowance for expected load factor. The fare rate (baht per kilometre) is adjusted according to changes in the price of diesel with 25 steps ranging between ฿10.07 and ฿40.57. For example, if the price of diesel increases from ฿28 per litre to ฿30 per litre, the 17th fare rate (฿0.5/km) is used to multiply the actual kilometres to provide a new fare for travelling on that section. However, any increase in bus fares is a sensitive political issue, in which the final decision is made by the Cabinet.

[4] Methodology and Results

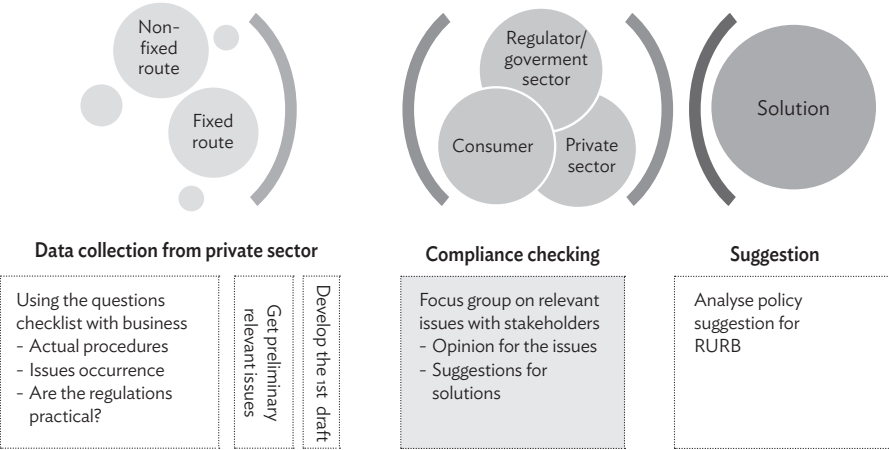
This section describes how the study was conducted and summarises the issues from a stakeholder's perspective. It analyses the policy suggestions to reduce the unnecessary regulatory burdens for business.

4.1 | Conceptual Framework

The actual process of bus operations was investigated from the private sector's perspective through desktop research and interviews with bus service providers and their association with both scheduled and for-hire service operations.

The purpose of the interviews was to analyse crucial issues caused by existing regulations or absence of measures, and to prepare a report on issues. This chapter then checks compliance amongst the government sector, the private sector, and the consumers. Therefore, we formed a focus group representatives from the government, the private sector, and a consumer organisation before we analysed the policy suggestions. Figure 10 shows the overview of this framework.

Figure 10: Conceptual Framework



RURB = reducing unnecessary regulatory burdens.
Source: Authors.

4.2 | Methodology

According to the conceptual framework, the working process has three parts: getting preliminary issues, validating the issues with relevant stakeholders, and analysing solutions (Table 7).

Table 7: Data Collection and Analysis Process

Activities	Sub-activities	Output
1. Getting preliminary issues		
(1) Desktop study	Literature review and secondary data collection	Regulation mapping on value chain of the service sector
(2) First-wave interview with the private sector	Preliminary interview with a business association <ul style="list-style-type: none"> • Fixed-route service • Non-fixed-route service 	Getting preliminary issues
1. Getting preliminary issues		
Interview with the private sector	<ul style="list-style-type: none"> • Interview with operators by size of firms* • Interview with drivers** 	<ul style="list-style-type: none"> • Issues from the scheduled service: both operators and drivers • Issues from the operators of the for-hire service
(1) Interview with non-private sector	<ul style="list-style-type: none"> • Interview with regulators <ul style="list-style-type: none"> - DLT (regulating) - Bangkok Metropolitan Administration (bus stop) • Interview with operators and sublicensing regulators <ul style="list-style-type: none"> - BMTA - Transport Co., Ltd. 	<ul style="list-style-type: none"> • Factors behind impractical regulations/inefficient policy • Way forward for impediments development
(2) Interview with a representative of consumers	Interview with Foundation for Consumers	<ul style="list-style-type: none"> • Impact of the issues • Consumer's benefits from the improvement
3. Analysing solutions		
	<ul style="list-style-type: none"> • Gathering information and analysing • Discussion about recommended solutions with stakeholders 	Accepted solutions

BMTA = Bangkok Mass Transit Authority; DLT = Department of Land Transport.

Note: * Small size of for-hire service is not included.

** Only fixed route service in route category 1 in Bangkok and vicinity.

Source: Authors, 2016.

4.3 | Results

This section focuses on identifying problems from the perspectives of both businesses and regulators. Most impediments along the value chain are involved with (i) vehicles; (ii) licencing to operate; (iii) pricing regulations; (iv) drivers; and (v) operation control. The section summarises the issues occurring along the value chain of passenger bus services.

a. Issues related to vehicles

The main purpose of vehicle-related regulations is to certify safety standards and reduce risks of road accidents. Vehicle inspections and registrations are the usual key protocols that are queried about inefficiencies.

Vehicle ownership registration shows that the lack of design standards burdens businesses, particularly low-cost operators. Vehicles used in bus services are mostly assembled in factories that are not regulated by DLT or the Ministry of

Industry. Due to the lack of regulations, a vehicle owner has to bear the costs of modifications and delays if his vehicle cannot pass inspection, whereas the factory that made it is not accountable for mistakes.

Moreover, evidence from the school bus business raises the inconsistency of regulations on vehicle inspection. For-hire businesses that provide school bus services must comply with the ministerial regulation of the Ministry of Education that requires all school buses to have yellow lights, while they have to be removed before inspection by DLT. According to the Land Transport Act B.E. 2522, all vehicles in for-hire services must comply with the standard prescribed in the ministerial regulation of the Ministry of Transport in which yellow lights are not allowed. Without the protocol for inspection of school bus services operated by a for-hire operator, the business has to bear this compliance cost.

The inefficiency in registration creates unnecessary waiting time. Excessive documentary requirements for vehicle registration are not sound for businesses that own many vehicles and that have to submit six to eight copies of documents per vehicle to be able to register at DLT instead of using a paperless platform or having a new protocol for a juristic person. Furthermore, vehicle inspections of some issued parts – body and chassis – rely on personal assessment instead of engineering standards. No quality standard is followed in the inspection processes between DLT and a certified private unit, or amongst the different offices of DLT.

Finally, regulations about safety standards of vehicles are usually not implemented at the beginning. Many are enforced without an action plan for the transition period or an incentive scheme. As a result, these regulations often encumber the businesses and waste resources when they are sometimes cancelled or poorly enforced due to inadequate resourcing of regulators. Furthermore, the government sometimes implements vehicle standard policies for economic objectives, such as changing engine type from one that uses diesel to one that uses compressed natural gas, and specifying the same vehicle size for scheduled services routes. These often poor policies create compliance costs to private operators. Changing an engine type, for example, costs around ฿400,000–฿500,000 (US\$12,000–US\$15,000), the minimum cost for engine modification, and which could buy a new vehicle.

b. Issues related to licencing to operate scheduled services

The impediments from licensing scheduled service lead to complexity in quality control. The process takes too much time in considering operators' qualifications and examining depots, thus the service cannot meet the demand on time, creating a demand gap that leads to informal and illegal service. A key concern about this is the lack of a database of operators that the regulators could reward with the rights to operate based on operators' performance and previous experience. Such database would also be beneficial for route designation.

Generally, the licence for scheduled service costs ฿7,000 or US\$217 with seven year validity. Because of the 'one licence per route' policy, each route is open to monopoly since an operator can renew the licence as long as he complies with DLT even if the licence is terminated after operating a route for seven years. However, the operator, particularly an Standard Operating Environment (SOE), can apply for a licence to provide services for a fixed term. The firm that receives a fixed-term licence will not operate the whole fleet but might sub-contract any of its operations to other operators. Without competitive tendering, private joint operators can create problems on quality of service.

Furthermore, an operator can apply for a licence to operate in more than one route. As a consequence, monopolistic licencing as a result of the 'one licence per one route' policy leads to indirect competition in alternative routes, i.e. many ways of travelling along the Bangkok–Chiang Mai route, resulting in route competitions amongst sublicensors and making the route designation process more complicated. This reduces incentives for dynamic efficiency, introduction of new technology, or improvement of services to increase profit.

c. Issues related to controlled pricing of scheduled services

The existing regulation for controlling prices is not practical and impedes competitiveness. The present bus fare calculation is based on the assumptions of a maximum seven year use of vehicle and a 70–90 load factor depending on the bus standard. In fact, this cost-plus pricing does not take into account the addition to capacity and changes in load factor due to the issuance of new licences and the entry of passenger vans. Regulated bus operations generally have a lower load factor and thus a lower margin of profit than what DLT assumes. Bus operators, therefore, have less incentive to invest in their services. At the same time, fare regulation contributes to falling quality in services. Not

only does quality suffer but maintenance and replacement as well. Prices cannot respond to demand shifts in the market: as the population increases, the gap between quantity supplied and that demanded at the regulated price widens. This provides an incentive for growth of illegal operations.

d. Issues related to drivers

Labour shortages, particularly of drivers, exist in road passenger services. Working environment, income, and working hours influence the supply of labour in the market. With road passenger service systems declining, business suffering from wrong policies, policies being poorly enforced, and negative externalities existing such as price regulation or excise tax deduction of national cars, uncontrolled illegal vehicles² affecting demand, and traffic jams occurring, revenues from bus operations could not cover business costs. Thus, revenue incentives in hiring drivers and improving quality control systems should be introduced.

Drivers in scheduled services have a high turnover rate. For-hire services are a favourable alternative in terms of income and compensation, working hours, and work pressure. Based on an interview with drivers (Table 8), drivers of scheduled services run by private joint operators spend the highest average time of work at around 13 hours per day, while Bangkok Mass Transit Authority (BMTA)'s drivers work only nine hours per day but earn double the average income. The average working hours of for-hire service drivers are eight hours per day, a better option to move from scheduled services. Under the poor road passenger service system, drivers have bargaining power and can move to other better-paying employers even if they have poor driving behaviour. Since no official driver database exists to record their work experience, it is difficult to develop quality control systems.

² Illegal vehicles include vehicles excluded from the Land Transport Act and vehicles abused in each type of service.

Table 8: Comparative Working Experience of Passenger Bus Operators

Type of Operators	Working Hours (hrs/day)	Working Days (days/month)	Workers' Income (baht/month)
Scheduled service			
BMTA	9	25	26,356
Private joint operators	13	23	14,909
For-hire service	8	N/A	N/A

BMTA = Bangkok Mass Transit Authority, N/A = not available.

Source: Interview by authors.

Potential drivers in the for-hire service market are limited since most businesses prefer those with expertise and are service oriented, and also because of the Thai nationality restriction under the Land Transport Act B.E. 2522. Training and quality control are more substantial since driving skills are important for long and complex routes. Essential skills training for bus services is often provided by business owners as the lessons and programmes provided by regulators for licencing drivers are too general.

Although driving behaviour and working hours are regulated to assure safety through checkpoints and global positioning systems, the inadequate resourcing of the regulators and inconsistency of the regulations are questionable from a business perspective.

e. Issues related to operation control

Poor enforcement is the main impediment to an operation's control process. Operating different licenced services is prohibited by law and the inability to enforce this law could be considered a burden for business, which, as a result, debilitates the passenger bus service system. Licencing to operate for-hire services has failed to create an efficient market. For example, licenced operators provide scheduled services, which then place a burden on incumbent operators by intervening in their market share. Another example is the distorted for-hire market itself since some licenced operators provide other business-purpose services, cutting their price to compete with existing firms when they return to provide for-hire services. Therefore, uncontrolled operation not only burdens business but also results in difficulty in quality control. Businesses are not willing to invest to comply with the quality control system unless there is a fair chance of succeeding.

The high supply of for-hire services is a significant problem in the industry since there is no quota restriction. Anyone who owns a bus and meets the requirements of the Land Transport Act B.E. 2522 can have a licence to provide bus service if it is hired with a clear contract. This results in price wars since small businesses rarely take the quality of service or safety standards into account but concentrate on cost reduction. Without efficient enforcement from the regulators, a bus service's strength is undermined.

Parking place limitation is another case that shows poor enforcement of operation control since small firms (the target group) are not monitored by the regulators. Bus stops are often not reserved for scheduled buses, allowing other vehicles to park, and their locations are sometimes inappropriate.

A neglected policy might cause an indirect burden to business. The example of inaccessible bus stations would not indirectly encourage demand for passenger buses, thus affecting a company's revenue. The locations of passenger bus stations for scheduled services are criticised for their poor accessibility, which hinders connectivity of public transport. Taxis, the most popular means for accessing passenger bus stations in Bangkok and vicinity, are costly. Meanwhile, passengers in other provinces have to use personal vehicles or regional taxis that do not follow standard fares. Some passenger bus stations in some provinces like Kon Kaen are located too far from the city that accessibility is almost impossible. Impact of the landmark laws' enactment to RURB in public transport sector

This section analyses the impact that the Licensing Facilitation Act and the Royal Decree on Revision of Law – two landmark laws for RURB – would bring to the public transport sector even at this early period.

a. Overview of the laws for RURB

According to Nilrapunt (2014), the Licensing Facilitation Act aims to enhance the ease of doing business in Thailand and transparency in Thai administrative procedures. This act narrows the discretionary power of government officials and makes known to the public the licencing process, workflow, and duration of the process, which can establish transparency and accountability environment in the licensing process. One of the substantial parts of the act is the requirement for a licencing manual and standard procedures for licencing applications, which

shall apply to all government agencies empowered by law to grant licences and permits or create regulations.³

The Royal Decree on Revision of Law or the Sunset Law is an initiative to ensure ex post evaluation in legislation (Nilrapunt, 2013). Under the Sunset Law, reviews of laws shall be conducted every five years or more frequently in close consultation with stakeholders, and reports of such reviews shall be disclosed to the public and tabled in the Council of Ministers and both Houses of Parliament for consideration in accordance with public participation and open government doctrine.⁴ The Sunset Law also requires all government agencies to publish an English translation of all laws and regulations under their responsibility.

b. Impact of RURB to public transport sector

The enactment of these two laws is aimed at removing burdens to improve national competitiveness, enhance transparency, and make all laws and regulations dynamic. Still, its level of implementation will depend on the policy agenda and characteristics provided by the different government authorities.

Compliance with the Licensing Facilitation Act is a good start for DLT as its services deal with the daily life of people and businesses. The manuals for licencing and permit applications are published through the Government Service Information website. The publicised turnaround time could make DLT commit to reduce unnecessary processes or improve performance to meet its key performance indicators. The impact of the Sunset Law will take time since it involves big changes in policy such as drafting new laws and reforming the public bus services system.

Currently, the DLT policy agenda is concentrating on the enactment of the Land Transport Act (the new Land Transport Act) to replace the Land Transport

³ Section 7 of the Licensing Facilitation Act requires any government agency or authority that has been entrusted by law to grant any licence to prepare a manual for licencing applications. The manual must contain rules, procedures, and conditions (if any) for the application for a licence together with workflow, period of time for processing, as well as a list of documents or evidence needed to be submitted with the application.

⁴ Failure to comply with the duties under the Sunset Law shall be regarded as a minister's wilful omission of the performance of his or her official duty and shall be grounds for recall from office under the Counter Corruption Commission law, and shall also be grounds for criminal liability under section 157 of the Penal Code

Act and the Vehicle Act. Major revisions of all the rules and regulations will be required under these two laws. Reforming the public bus service system in Bangkok and vicinity is another driving factor to revise the Land Transport Act. Thus, the new procedure of licencing and monitoring requires transparency and consistency, which should burden business as little as possible particularly during the transition period or in the next five years.

[5] Policy Recommendations

The enactment of the Licensing Facilitation Act and the Sunset Law is a good initiative for RURB in Thailand. However, the government must show leadership in this initiative. Due to the complicated passenger bus system, prioritising the solution is called for through public consultation. The two aspects that the stakeholders should deem necessary and advocate for are the following:

a. Standardise processes in licencing

The processes of licencing are associated with vehicle inspection and registration, including licencing to operate. Three prioritised steps need to be followed.

- **Step 1: Reduce unnecessary procedures, particularly waiting time**
Having guidelines available officially on the Government Information Centre website is a good starting point. However, DLT as regulator should commit itself to what is written in the ministerial regulations or department notification. It must have a plan to reduce the waiting time and unnecessary procedures by setting annual reduction targets.
- **Step 2: Review and standardise regulations or measures**
Unnecessary regulations should be revised and standardised for consistency. All DLT branches must provide standard protocols. A clear plan must be in place to solve the inconsistency of regulations and measures of different ministries. Fortunately, establishing vehicle specification standards is now in progress. Having these standards will benefit the whole service industry, since vehicle suppliers could have a marketing strategy by claiming their products as the certified ones. Convincing operators and vehicle suppliers to have a promotion plan is the next step in creating this incentive mechanism for vehicle suppliers.

Since a demand-driven mechanism is another alternative for the quality control system, DLT should implement standard measures. A standard contract for hired services is a good example. Consumers and businesses must commit to a contract that contains quality and safety concerns. The merits a standard contract can bring to the market are transparency, consistency, and cost reduction.

- **Step 3: Replace traditional platform with technology**

The DLT must implement a paperless platform to support licence and permit procedures. As this step would take time to set up, managing the database must be a priority. The database should contain relevant data, operational information, operators' qualifications and experience, and drivers' information. Internal users should have access to the database. The database could help regulators save time, resulting in efficiency.

b. Develop quality control system efficiently

- A quality control system can be constructed with a demand-driven mechanism, an incentive policy for operators, and a stronger system with relevant enforcement.

With adequate information, consumers can choose the best service for them. The consumer's bargaining power will prevent a 'lemon' market, with the qualified ones shaping strategy to compete through quality. The DLT should take part in initiating the information centre, starting with the database system and data flow management.

Stakeholders have agreed to start setting up the database with operators then with drivers, according to the Official Information Act B.E. 2540, and make use of the accessed data that are under DLT's responsibility. The relevant data on operators that should be publicised are type of route being operated on, licence holder's name, licence expiration date, including vehicle registration number and its expiration.

- **Implement incentive policy for operators**

A quality control policy in terms of convincing operators might be more effective. Excise tax reductions for certified passenger buses should be considered as

an incentive tool to specify certified vehicle standards. This aspect is favoured amongst operators since they have been burdened with vehicle-related costs.

- Strengthening quality control system by enforcement

This is considered to be the most important aspect for quality control, although the hardest to implement. Limiting illegal vehicles and controlling driver behaviour would be most affected.

A ban on illegal vehicles and illegal services would help licenced operators increase their market share and invest in quality service. Its implementation would also complement other regulations and should begin after the core network of transportation is strengthened through reforms in the licencing scheme. Thus, the effectiveness of implementation depends on the action plan. Global positioning systems must be installed in passenger buses to help manage driver's behaviour. Relevant data must be used to enforce and strengthen sustainable quality control system. Hence, DLT must prepare appropriate platforms, qualified human resources, and needed regulations.

REFERENCES

- Nilrapunt, P. (2013), Thailand's Facilitation Act: An Overview. <http://lawdrafter.blogspot.com/2015/07/thailands-facilitation-act-overview-by.html>
- Nilrapunt, P. (2014), Thailand's Licensing Facilitation Act. <http://lawdrafter.blogspot.com/2015/06/thailands-licensing-facilitation-act-by.html>
- Ongkittikul, S. and N. Thongphat (2016), 'Regulatory Coherence: The Case of Thailand', in Gill, D. and P. Intal, Jr. (eds.), *The Development of Regulatory Management Systems in East Asia: Country Studies*. ERIA Research Project Report 2015-4, Jakarta: ERIA, pp. 295–258.
- Pomlaktong, N. et al. (2012), 'Public Transport Vehicle Standard: Issue of Standard Setting and Compliance Checking' (in Thai), Final report of Thailand Development Research Institute (TDRI), Bangkok, January 2012, pp. 11–135.

CHAPTER 10

Value Chain Development: Case Study of Viet Nam's Fishery Exports

Thanh Tri Vo

Duong Anh Nguyen

Central Institute for Economic Management, Viet Nam

[1] Introduction

Since 1986, Viet Nam has undertaken various market-oriented reforms to promote the development of its economy, including the agricultural sector. Amongst the key measures for inducing agricultural development are policy efforts to facilitate domestic and foreign trade of key agricultural products, thereby deepening the links between production premises and markets for such products. For decades, agriculture has increasingly contributed to Viet Nam's direct and indirect trade. Fishery products are amongst its key agricultural outputs for exports. The continuous growth of fishery exports has led into the rapid expansion of domestic aquaculture production and, in recent years, induced imports of fishery products for domestic processing. In turn, the extent of connectivity within the supply chain of fishery products is a critical factor. Reducing unnecessary regulatory burdens (RURB) then becomes important since it can help enhance connectivity and reduce inefficiency in operations along the supply chain.

Reducing unnecessary regulatory burdens fits Viet Nam's broader agenda for structural reforms. The country has acknowledged the need for institutional reforms, especially at the microeconomic level, to enhance efficiency. The RURB is instrumental in doing so. As an example, Viet Nam has embarked, together with other Asia-Pacific Economic Cooperation member economies, on RURB alongside other instruments (regulatory impact assessment, ex-post evaluation, public consultation, and international regulatory cooperation). The commitments for regulatory coherence under the Trans-Pacific Partnership also

make way for good regulatory practices, including RURB, to enable the smooth performance of firms.

This chapter reviews the present regulatory issues and burdens related to the supply chain for fishery exports in Viet Nam, adopting the participatory approach to analyse regulatory impediments to efficient flows of products from import and/or production to the final export channel. All other factors that might potentially affect the fishery supply chain, such as underdevelopment of infrastructure and changes in aquaculture conditions, form no part of the research.

The focus of this study is threefold. First, the authors assess the potential regulatory burdens on importers and exporters of fishery products via the trading-across-borders indicators of the World Bank (World Bank, 2016b). Second, the authors consider regulatory issues that may hamper efforts to start businesses in the fishery sector. Third, several regulatory issues are drawn out from analyses and interviews with fishery producers.

To achieve the above objectives, this chapter combines methodologies. First, the literature review draws on secondary statistical inputs from relevant studies, reports, and legal documents on regulatory issues of the fishery supply chain. Second, the authors adopt the RURB framework to find possible regulatory issues and burdens, connecting them with stakeholders, fine-tuning the analysis, and presenting recommendations to the appropriate regulators. In almost all cases, regulations in Viet Nam do not include statements of objectives. As such, the authors rely on consultations with regulators and business associations to understand what those objectives are.

The remainder of this chapter is structured as follows: Section 2 provides a brief overview of the overall business environment and the fishery sector in Viet Nam. Section 3 presents the key findings from the research and interactions with regulators and businesses in the fishery sector. Section 4 draws out key recommendations on how to alleviate unnecessary regulatory burdens on businesses.

[2] Background Information

2.1 | Assessment of Business Environment

In 2014, the Government of Viet Nam issued Resolution No. 19/NQ-CP, marking an important breakthrough in initiating action to significantly reduce compliance costs and facilitate business activities.¹ This resolution deepened the simplification of administrative procedures as per Program 30,² but was aligned with international assessment (i.e. the World Bank rankings on doing business). The resolution was updated in 2015 and 2016. In 2016, Resolution 19 set out to improve the doing-business indicators of Viet Nam by the end of 2017 to at least equal the average of the Association of Southeast Asian Nations (ASEAN).³

Following Resolution 19/NQ-CP in 2014, the government has relied more on the doing-business indicators, which are sourced from the annual surveys conducted by the World Bank and the International Finance Corporation, to measure the relative attractiveness of Viet Nam's business environment. Now on its 13th series, this annual survey analyses and presents quantitative indicators in the following areas:

- Starting a business
- Dealing with construction permits
- Employing workers (since 2014, getting electricity)
- Registering property
- Getting credit
- Protecting investors (since 2014, protecting minority investors)
- Paying taxes
- Trading across borders
- Enforcing contracts
- Closing a business (since 2014, resolving insolvency)

¹ For details on implementation of Resolution No. 19/NQ-CP, see Ministry of Planning and Investment (2015, 2016).

² Since 2007, Viet Nam has started to implement Project 30 (under Decision 30/QĐ-TTg of the Prime Minister, dated 10 January 2007) with several key objectives for 2007–2010: (i) to simplify at least 30% of administrative procedures and reduce administrative costs by at least 30%; (ii) to harmonise domestic regulatory system with international commitments (especially the World Trade Organization); (iii) to set up the first unified national database for administrative procedures; and (iv) to improve Viet Nam's competitiveness, boost investment, and increase productivity (for more details, see Vo and Nguyen 2016).

³ Malaysia, Philippines, Singapore, and Thailand.

Table 1 shows the trading-across-borders indicators⁴ for Viet Nam's exports from 2005 to 2016. Overall, Viet Nam ranked 93rd out of 190 surveyed economies in 2016, an improvement compared to 2015 (99th out of 189 surveyed economies). The number (at 5) of documents is unchanged over time. The costs and time to export slowly improved before 2015. In 2016, the time to comply with documentary requirements for exports was shortened from 83 hours (in 2015) to 50 hours. However, the time to comply with border procedures rose slightly, while the costs of both border and documentary compliance stayed unchanged in 2016.

Table 1: Indicators of Exports in Viet Nam, 2005–2016

Year	Time to Export: Border Compliance (hours)	Cost to Export: Border Compliance (US\$)	Time to Export: Documentary Compliance (hours)	Cost to Export: Documentary Compliance (US\$)	Time to Export (days) (Old Methodology)	Cost to Export (US\$ per container) (Old Methodology)
2005	N/A	N/A	N/A	N/A	24	468
2006	N/A	N/A	N/A	N/A	24	468
2007	N/A	N/A	N/A	N/A	24	468
2008	N/A	N/A	N/A	N/A	24	533
2009	N/A	N/A	N/A	N/A	22	555
2010	N/A	N/A	N/A	N/A	22	555
2011	N/A	N/A	N/A	N/A	22	580
2012	N/A	N/A	N/A	N/A	21	610
2013	N/A	N/A	N/A	N/A	21	610
2014	57	309	83	139	N/A	N/A
2015	57	309	83	139	N/A	N/A
2016	58	309	50	139	N/A	N/A

N/A = not applicable.

Source: World Bank, 2016b.

Table 2 shows the trading-across-borders indicators for Viet Nam's imports from 2005 to 2016. The number (at 8) of documents is unchanged over time. Unlike exports, the costs and time to import decreased over 2008–2013. In 2014–2015, nonetheless, the costs and time to import hardly improved. Like exports, the time for documentary compliance for imports was shortened drastically from 106 hours in 2015 to 76 hours in 2016.

⁴ For details on methodology and computation of Trading Across Border indicators, see: <http://www.doingbusiness.org/methodology/trading-across-borders> (accessed 3 March 2017).

Table 2: Indicators of Imports in Viet Nam, 2005–2016

Year	Time to Import: Border Compliance (hours)	Cost to Import: Border Compliance (US\$)	Time to Import: Documentary Compliance (hours)	Cost to Import: Documentary Compliance (US\$)	Time to Import (days) (Old Methodology)	Cost to Import (US\$ per container) (Old Methodology)
2005	N/A	N/A	N/A	N/A	23	586
2006	N/A	N/A	N/A	N/A	23	586
2007	N/A	N/A	N/A	N/A	23	586
2008	N/A	N/A	N/A	N/A	23	606
2009	N/A	N/A	N/A	N/A	21	645
2010	N/A	N/A	N/A	N/A	21	645
2011	N/A	N/A	N/A	N/A	21	670
2012	N/A	N/A	N/A	N/A	21	600
2013	N/A	N/A	N/A	N/A	21	600
2014	64	268	106	183	N/A	N/A
2015	64	268	106	183	N/A	N/A
2016	62	392	76	183	N/A	N/A

N/A = not applicable.

Source: World Bank, 2016b.

From 2011 to 2015, Viet Nam tried to establish the National Single Window (NSW) to facilitate trade across borders in line with ASEAN's integration agenda to establish the ASEAN Single Window. By September 2015, nine ministries with dozens of procedures were connected to NSW. Viet Nam then set to reduce the time for completing procedures in NSW by 15%–30% by the end of 2016 (compared to the baseline at the end of 2015), and by another 15% in 2017. Viet Nam was also the fifth country to get connected to ASW, after Indonesia, Malaysia, Singapore, and Thailand (in the later stage). With more ministries and procedures connected to NSW from 2016 onwards, Viet Nam is expected to significantly reduce the time and costs for trading across borders. With around eight million lodged forms of traded goods by the end of October 2016, the savings in dossier preparation via NSW were approximately US\$600 million (Phuong, 2016).

The remaining issues related to the trading-across-borders indicator lie mainly in the stages prior to or after customs clearance. In particular, various types of licences and specialised certificates are currently regulated in various legal documents. Some shortcomings still prevail in terms of capacity, division of

function and time in testing and checking quality of imported goods, sanitary and phytosanitary measures, foods safety and sanitation, etc.

Table 3 shows the component indicators on starting a business in Viet Nam from 2003 to 2016. The documented time to start a business was drastically shortened from 62 days in 2003 to 20 days in 2015. The associated costs also fell from 31.9% of income per capita to 4.9% over the same period. In particular, Viet Nam set out the minimum paid-in capital of 0%, which relaxed the requirements for setting up a business. The main impediments to setting up businesses now lie in the sector-specific conditions stipulated by different authorities, although these are on track to be simplified following the amended Enterprise Law and the Investment Law (both promulgated in November 2014, and took effect in July 2015). Although more slowly, the procedures for starting a business were also simplified in 2015 (Table 3). In 2016, however, Viet Nam saw mixed progress in starting a business as the number of procedures was reduced to nine, the cost was cut to 4.6% of income per capita, and the time to start a business lengthened to 24 days.

Table 3: Starting-a-Business Indicators, Viet Nam, 2003–2016

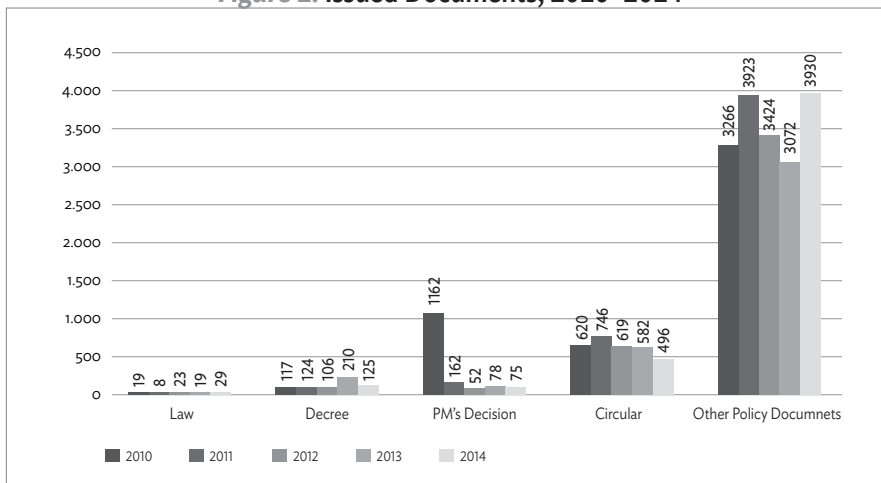
Year	Time to Export: Border Compliance (hours)	Cost to Export: Border Compliance (US\$)	Time to Export (days) (Old Methodology)	Cost to Export (US\$ per container) (Old Methodology)
2003	12	62	31.9	0
2004	11	48	30.6	0
2005	11	42	27.6	0
2006	11	47	24.3	0
2007	11	37	20	0
2008	11	37	16.8	0
2009	11	37	13.3	0
2010	10	36	12.1	0
2011	10	36	10.7	0
2012	10	32	8.8	0
2013	10	34	7.7	0
2014	10	34	5.3	0
2015	10	20	4.9	0
2016	9	24	4.6	0

Source: World Bank, 2016d.

More importantly, the ‘positive list’ approach, rather than the ‘negative list’ used in the amended Investment Law and the Enterprise Law, still dominates the contents of other laws and their guiding documents. Such documents set out thousands of different business conditions, creating significant barriers for market entry in certain sectors while increasing inequality and business costs.

The Central Institute for Economic Management has reviewed business conditions stipulated in various regulations issued by various ministries. Out of the 5,850 business conditions, more than 3,000 were introduced in circular-level documents. All these conditions were automatically abolished on 1 July 2016 per the amended Investment Law in 2014. In October 2016, Viet Nam drafted a new law to amend various articles of the existing laws related to investment and business activities, which required reviews of existing business conditions proposed to be abolished. Nevertheless, the business conditions were only reviewed from the legal documents that had already been issued by ministries, excluding those being drafted. The risk was substantial given the large number of documents issued in 2010–2014 (Figure 1).

Figure 1: Issued Documents, 2010–2014



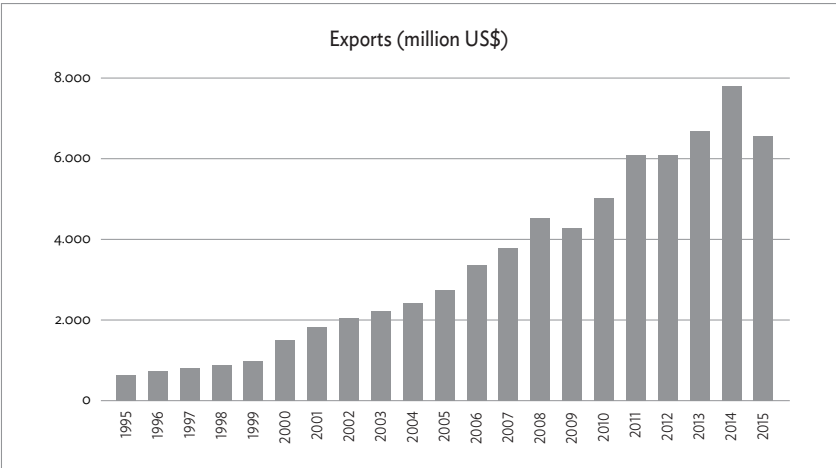
PM = Prime Minister.

Source: Central Institute for Economic Management, 2015.

2.2 | Overview of the Fishery Sector

The value of fishery exports rose almost continuously from US\$621 million in 1995 to over US\$7.8 billion in 2014. Over 1995–2014, exports of fishery products went up on average by 14.3% per annum, slower than that of total exports, which grew by 18.9% per annum. Accordingly, the share of fishery in Viet Nam’s total exports increased from 10.2% in 2000 to 12.1% in 2002, then decreased continuously to 5.2% in 2014. The key markets for Viet Nam’s fishery exports have been the United States (US), the European Union (EU), and Japan. It was only in 2015 that fishery exports fell in absolute term to US\$6.5 billion, largely due to the smaller world demand and lower export prices.

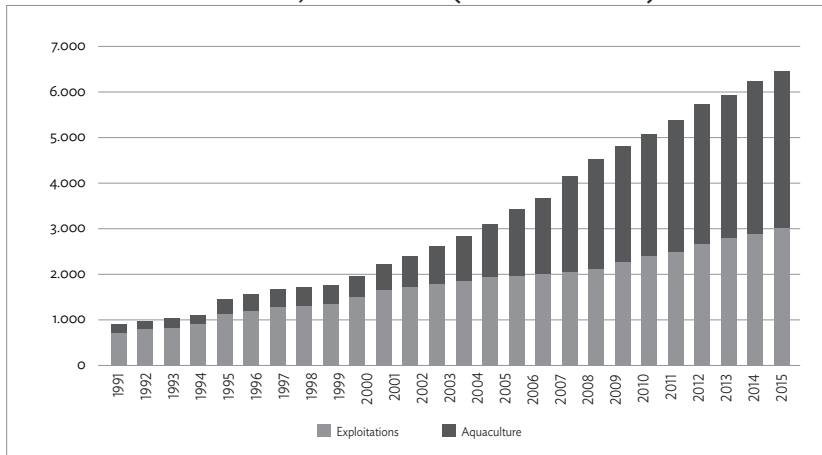
Figure 2: Exports of Fishery Products, 1995–2015



Source: General Statistics Office (2016a).

The rapid growth of fishery exports was largely due to Viet Nam’s favourable conditions for the sector. Viet Nam has a long coastal line (about 3,260 km), with diverse and complicated river networks. Viet Nam can exploit both fresh-water and marine-water fishery resources and other aquaculture activities. Overall fishery output increased continuously from 890,000 tonnes in 1990 to over 6.5 million tonnes in 2015, i.e. 8.3% on average per annum. In particular, aquaculture output rose from 162,000 tonnes in 1990 to above 3.5 million tonnes in 2015. Accordingly, the share of aquaculture in gross fishery output climbed from 18.2% to 53.6% in the same period.

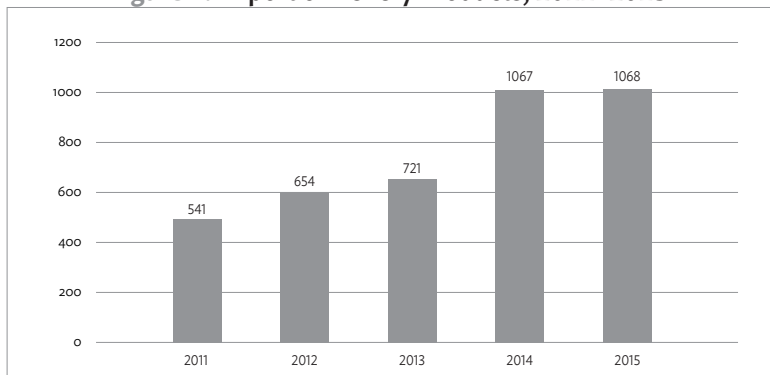
Figure 3: Output of Fishery Exploitation and Aquaculture Activities, 1995–2015 (thousand tonnes)



Source: General Statistics Office (2016a).

Even so, it should be noted that the inputs of fishery products (especially those under Chapter 03 of the Harmonized System classification) have recently been insufficient to meet demand in Viet Nam. Interviews with fishery business representatives indicate two reasons for the insufficiency. First, consumers in Viet Nam have enjoyed higher incomes and are more willing to pay for fishery products. Second, the production scale of fishery products has been rapidly expanded to meet export demand, thereby requiring more inputs. Accordingly, since 2011, Viet Nam has started to import fishery products, most of which are unprocessed. The value of fishery imports almost doubled from US\$540 million in 2011 to almost US\$1.1 billion in 2014 (Figure 4). Still, Viet Nam remains a net exporter of fishery, with the trade surplus of fishery products reaching almost US\$6.7 billion in 2014.

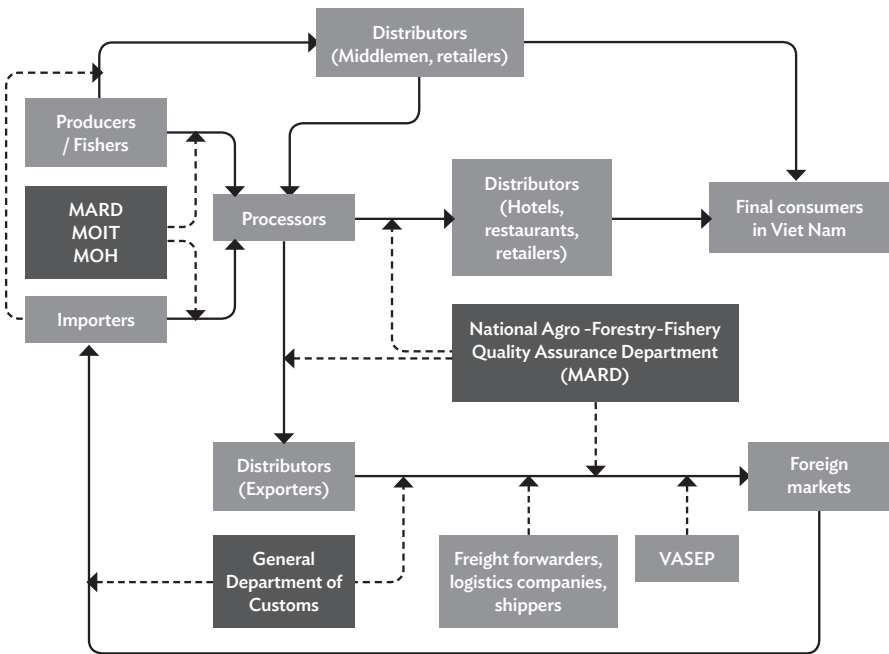
Figure 4: Import of Fishery Products, 2011–2015



Source: General Department of Customs, 2012, 2013, 2014, 2015, 2016a, b, c.

Figure 5 shows the general supply chain of fishery products in Viet Nam. Produced or exploited products may reach processors directly in some areas and, after some processing, be distributed to final consumers via distributors such as hotels, restaurants, and retailers. Less directly, the farmers or fishers may sell their products to local traders. Some largely small-scaled local traders then sell the acquired output to final consumers who then do the processing or cooking themselves. Alternatively, the traders may sell raw fishery products to local processors. After processing, the products may be distributed to final consumers via traders and exporters. In this respect, the final consumers may include both domestic and foreign customers.

Figure 5: Supply Chain of Fishery Products



MARD = Ministry of Agriculture and Rural Development; MOH = Ministry of Health; MOIT = Ministry of Industry and Trade; VASEP = Vietnam Association of Seafood Exporters and Producers.
Note: The solid lines refer to supply relationships; the dashes indicate regulatory effects.
Source: Vo, Nguyen, and Dinh, 2013.

Some regulatory agencies, led by the Ministry of Agriculture and Rural Development (MARD), are in the supply chain of fishery products. Apart from other responsibilities, MARD is in charge of issues related to (i) planning the production, processing, and distribution of fishery products; (ii) technical requirements on producers and traders of fishery products; (iii) technical requirements on imported and exported products (mostly sanitary and phytosanitary measures); (iv) coordination with the Ministry of Finance to identify tariff on fishery products; and (v) international regulatory cooperation (including mutual recognition agreements). In particular, the National Agro-Forestry-Fishery Quality Assurance Department, directly under MARD, is mainly responsible over quality control and related regulations over the production and distribution of fishery products.

The Ministry of Industry and Trade (MOIT) assumes general responsibility of (i) exports, imports, and domestic trade of fishery products; and (ii) other technical requirements (other than sanitary and phytosanitary measures) of producers and traders. The Ministry of Health is in charge of issues and regulations over food safety and sanitation, which requires coordination with MARD and MOIT. The Ministry of Finance sets out the tariff and other customs- and tax-related regulations on trade, including that of fishery products.

The General Department of Customs, apart from implementing tariff and customs policies, also promulgates and enforces regulations over customs procedures. The Ministry of Planning and Investment regulates starting businesses (including those in processing and trading of fishery products) in coordination with other agencies (especially MARD). Lastly, the State Bank of Vietnam decides on the policy to control supply of foreign currency loans by

commercial banks, which affects the activities of fishery importers and their downstream stakeholders.

Table 4 lists the regulatory agencies and stakeholders that are relevant to the fishery value chain. For simplification, the value chain is hypothetically broken into three major stages: (i) imports; (ii) production and/or processing; and (iii) exports.

Table 4: Regulatory Agencies and Stakeholders

	Importers	Producers	Exporters
Regulatory agencies (including line authorities)	<ul style="list-style-type: none"> • MARD (National Agro-Forestry-Fishery Quality Assurance Control) • Ministry of Health • MOIT 	<ul style="list-style-type: none"> • MARD (National Agro-Forestry-Fishery Quality Assurance Control) • Ministry of Health • MOIT • Ministry of Planning and Investment 	<ul style="list-style-type: none"> • MARD (National Agro-Forestry-Fishery Quality Assurance Control) • Ministry of Health • MOIT
Business stakeholders	<ul style="list-style-type: none"> • Fishery importers • Logistic service providers • Employees • Testing and laboratory 	<ul style="list-style-type: none"> • Fishery producers • Employees • Testing and laboratory • Trainers • Quality certification 	<ul style="list-style-type: none"> • Fishery exporters • Logistic service providers • Employee • Testing and laboratory

MARD = Ministry of Agriculture and Rural Development, MOIT = Ministry of Industry and Trade.

Source: Authors' compilation from Luat Viet Nam database.

Some regulations, which might have implications for the fishery supply chain, are at various levels, covering laws, ordinances, decrees, prime minister's decisions, ministerial decisions, and ministerial and inter-ministerial circulars. The regulations can also be horizontal and sector-specific, with the former regulating the general registration of businesses, transport requirements, minimum wages, and social insurance fees, amongst others; and the latter setting out the registration requirements for fishery firms (in operations and/or imports and/or exports), quality control, labour certification requirements, transport

Table 5: Laws and Ordinances with Potential Implications for Fishery Value Chain

No.	Title of Law/Ordinance	Major Adjustments
1.	Commercial Law	General regulations over management of trade (including exports, imports, and domestic trade of fishery products)
2.	Law on Product Quality	Regulations that enforce the management of product quality and standards
3.	Law on Food Safety	Regulations that ensure the safety and sanitation of food products, including those from fishery
4.	Law on Phytosanitary Protection	Regulations on the use of phytosanitary measures against imports of food products (including fishery products)
5.	Customs Law	Regulations on customs procedures and practices, which may increase burden to import and export activities
6.	Law on Environmental Protection	Regulations that enforce higher standards of environmental protection during production and processing (including of fishery products)
7.	Labour Code	Regulations on minimum wage for employees
8.	Ordinance on Management of Breeds of Animal	Regulations on protecting the diversity of animal breeds (including fishery)
9.	Ordinance on Anti-Dumping	Regulations on the identification and settlement of anti-dumping practices by exporters to Viet Nam (including exporters of fishery products)
10.	Ordinance on Safeguarding Measures	Regulations on safeguard measures that Viet Nam may take against a partner country's products, following their act on Viet Nam's exported products (including fishery products)
11.	Ordinance on Veterinary Medicines	Regulations on the use of veterinary medicines which may affect aquaculture activities and processing activities of fishery products
12.	Ordinance on Anti-Subsidy	Regulations on the use of countervailing measures in the presence of excessive subsidy by other countries on their exports to Viet Nam (including exports of fishery)
13.	Ordinance on Foreign Exchange Management	Regulations on the supply of foreign currency (including foreign currency loans, which is considered important to fishery importers)

Source: Authors' compilation.

requirements, and non-tariff measures on imports and/or exports, amongst others. The main laws and ordinances that have implications for the fishery value chain are listed in Table 5.

[3] Findings

Regulatory burdens are divided into four groups, depending on their occurrence along the fishery value chain: (i) imports of fishery products; (ii) starting-up of businesses in fishery production and/or processing; (iii) existing fishery producers; and (iv) exports of fishery products.

3.1 ■ Regulatory Burdens on Importers of Fishery Products

3.1.1 Testing Requirement on Imported Fishery Products

Fishery products are subject to sanitary and phytosanitary requirements, the key objective of which is, as claimed, to ensure conformance with quality standards of imported products regardless of whether they are consumed in Viet Nam or exported to another country. For years, the regulators have been ensuring food safety in the domestic market and, facing the difficulty in observing the production/exploitation process overseas, agree it would be reasonable to impose the testing requirement on imports of fishery products.

However, various ports lack adequate testing facilities for fishery products that enter Viet Nam. Samples of fishery products have to be sent to major cities for testing, after which testing results will be issued. This takes time and causes burden on importers. This issue is acknowledged by more than two-thirds of the interviewed enterprises. For some enterprises, the testing requirement is relevant to ensure that all inputs meet the same bar in terms of quality and to help protect producers and/or exporters against the risk of an entity importing poor-quality products. Other enterprises consider the costs of getting test results as reasonable.

Business representatives, regulators, and other stakeholders have discussed options to reduce the unnecessary burdens related to the testing requirement. The first option involves efforts to improve the effectiveness of the existing testing requirement by investing in laboratory and testing facilities in major port cities. This option can, arguably, help retain quality control over imported fishery products. The costs, however, can be significant. This measure can be accompanied by improved information exchange, and information and communication technology infrastructure in major ports. Interviewed enterprises support this option. The regulators also indicate a positive response to the option, albeit with substantial doubt about the capability to seek funding from the state.

Alternatively, the testing requirement could be removed. Given the consumers' profound concern over food safety in Viet Nam, as well as compliance with sanitary and phytosanitary requirements in export markets, all regulators and

more than half of the interviewed enterprises reject the applicability of this option.

The final option is to improve management approach with respect to the risk profile of importers, i.e. those with good compliance should be subject to less frequent testing of imported products. As customs procedures have already been improved under the commitments towards trade liberalisation and facilitation, most regulators do not view it as essential in going further with a relaxed management approach for fishery importers. The enterprises support this approach and emphasise its complementarity to investment in testing facilities in major ports. Some enterprises, however, have expressed concern about whether the process would be transparent, fair, and justifiable to the whole group of fishery importers.

3.1.2 Quality Standards on Imported Fishery Inputs

From the business representatives' perspective, the regulators are seen as applying excessively high standards on the quality of imported fishery inputs. Circular 48/2013/TT-BNNPTNT (on checking and certifying food safety for fishery exports) requires that imported inputs for fishery exports be exploited, transported by EU-coded vessels, or certified by relevant EU authorities to meet its equivalent standard. As the key objectives, this regulation helps set out a threshold for the quality of fishery inputs that might be subsequently used for exporting to major markets (including the EU), and creates a habit of fishery importers in Viet Nam ahead of new-generation free trade agreements such as the Trans-Pacific Partnership and the EU–Viet Nam Free Trade Agreement.

Two issues, however, are raised by businesses. First, adopting the EU standard is only viable in the long run, and it might not be appropriate to require existing importers (and producers) to adjust quickly to this. Complying with the regulation is no easy task. Very few vessels for exploiting fishery products in importing sources can readily or quickly meet the standards. Meanwhile, approaching relevant EU authorities for certification of meeting the equivalent standard is also costly for firms. Even other exporters of fishery products to the EU such as Thailand do not impose similarly restrictive measures. This issue was raised in the Report of Government Resolution 19 in June 2015. Nonetheless, up to October 2016, no change was made to Circular 48/2013/TT-BNNPTNT.

Second, this was also a case of poor communication between regulators and fishery importers during the drafting of the regulation. Had there been appropriate consultation with businesses, the regulators could have designed a feasible roadmap for adopting such standards and/or permitted more effective preparation by businesses.

The regulators and businesses agree that enforcement of these quality standards remains essential. More effective implementation of the policy is needed. As such, improving consultation with businesses prior to imposing new binding quality standards is considered important to leverage their awareness and to identify relevant supporting measures and technical assistance to ensure compliance with the regulation.

3.1.3 Labelling Requirement in Vietnamese for Imported Fishery Inputs for Export-oriented Production

Item 1, Article 5 of the Inter-ministerial Circular No. 34/2014/TTLT-BYT-BNNPTNT-BCT on product labelling specifies that ‘the label [in Vietnamese] must include information on: ..the dossier Number of Announcement of Technical Compliance Certification or dossier Number on Announcing Certification of Compliance with Food Safety Requirements, ..’. From the regulators’ perspective, this regulation may help ensure that buyers have information on conformance of imported fishery inputs with Vietnamese quality standards.

In 2015, some importers of fishery products were fined for not complying with the requirement to append additional product labels in Vietnamese. However, most imported fishery products serve the export-oriented production and could not get the dossier number in either case. Meanwhile, Article 10 of Decree No. 89/2006/ND-CP stipulates that the labelling requirement is only applicable on imported products for domestic consumption (not export-oriented production). In addition, importers of fishery products already had to comply with food safety requirements at the border (i.e. sanitary and phytosanitary measures), and the requirement on additional conformance is claimed to merely add to the costs to firms without additional information values to customers.

Regulators and businesses have proposed several options to address the issue. In one option, the regulators would carefully review and harmonise the labelling requirement, an option that would take time, as the process has to follow careful procedures. Some time, however, could be saved with efforts to consult businesses. The regulators admit that such reviews and harmonisation would be necessary, although the timing is to be determined given their other duties. Enterprises view public consultation as essential during reviews and harmonisation of the labelling requirement. The other option is to abolish the labelling requirement, subject to a concrete regulatory impact assessment. Nevertheless, regulators are uncertain about the need to remove this requirement, while only a third of the businesses see it as meaningful.

3.1.4 Zero Grace Period for Payment of Import Duties

Prior to July 2013, fishery importers enjoyed a grace period of 275 days to pay the import duties. Since July 2013, however, this privilege has only been applicable to those that import materials to support their direct exports. For payment of import duties, importers must comply with the grace period of 0 days, instead of 275 days as before, if they do not engage in direct exports. Thus, importers of fishery inputs could only enjoy the grace period of 275 days if they have their own production premises for exporting fishery products. From the regulators' point of view, this horizontal regulation might serve the objectives of (i) discouraging imports that compete with local products by increasing import-related costs; and (ii) increasing the time value of collected taxes.

Many producers of fishery products in Viet Nam, however, do not engage in direct imports for their production but instead buy direct from fishery importers. Accordingly, importers reselling to producers are no longer entitled to the 275-day grace period, which effectively increases the costs of export-oriented production. In this regard, the interviewed enterprises claim that the preferential treatment on import duties has failed to help the fishery sector, even though it was designed with such a purpose.

The discussions gave rise to two options to address this issue. First, the regulators could consider applying the 275-day grace period of duty payment for fishery imports. The regulators do not see this as a major boost for fishery value chain. One regulator pointed out that exempting the fishery sector from such

change could place the sector – perceivably under support – under the focus of investigation in other major markets (such as the United States and the EU). Fishery importers, on the other hand, claim that this option is essential. Second, concerned regulators who might reduce the grace period of duty payment for all sectors could reduce the value of grace period for fishery imports. Nonetheless, the regulators would be concerned that the scope of impact of such option could be wide since some export-oriented sectors in Viet Nam are currently using imported inputs.

3.2 | Regulatory Burdens on Starting a Business in Fishery Production and/or Processing

3.2.1 Registration of Fishery Producers and/or Processors

The necessity of imposing conditions in registering firms that produce and/or process fishery products is debatable. First, owners and direct producers of food products (including fishery products) are required by MARD authorities to train on food safety. Regulators deem such training as essential in leveraging and harmonising the understanding of owners and/or producers of the regulations and techniques to ensure food safety. Yet, this condition is considered by business to be of little importance since all fishery producers recognise the importance of having a good knowledge of food safety. Meanwhile, the training on food safety is often seen as too simplistic as it fails to capture new developments in food processing technology.

Second, the regulations require that owners possess certificates of good health issued by health institutions. Again, regulators offer little justification for this condition, which is seen by firms as adding no significant value to their operations.

Third, producers and/or owners must have environmental impact assessment reports of new production premises that should contain solutions for waste treatment and approved by the provincial departments of natural resources and environment. From the regulators' viewpoint, such reports are important

to ensure that firms have foreseen possible environmental impacts and have preparatory measures to address such impacts. Interviewed enterprises, however, contend that this condition adds to their paperwork on building new production premises. Meanwhile, the practice of developing environmental impact assessment reports is not yet popular in Viet Nam. In this regard, the requirement has a good objective (to ensure minimum adverse environmental impacts), yet the designation and enforcement fail to help realise such an objective.

Fourth, producers and/or processors are required to have at least one manager or technical staff with tertiary qualifications specialising in food processing technology, fishery processing, biology, or biochemistry. The regulators want to ensure that firms have the capacity to manage processing chains and related technical issues. Given the large investment in the fishery production line, however, the firms argue that they would need eligible staff to ensure smooth and efficient operations. From this perspective, having such a condition increases the paperwork of the firms upon registering themselves. More generally, the interviewed businesses emphasise the absence of rigorous consultation during establishment of the above conditions. During the amendment of the Enterprise Law and the Investment Law in 2014, the fishery producers proposed the removal of these conditions to simplify business registration.

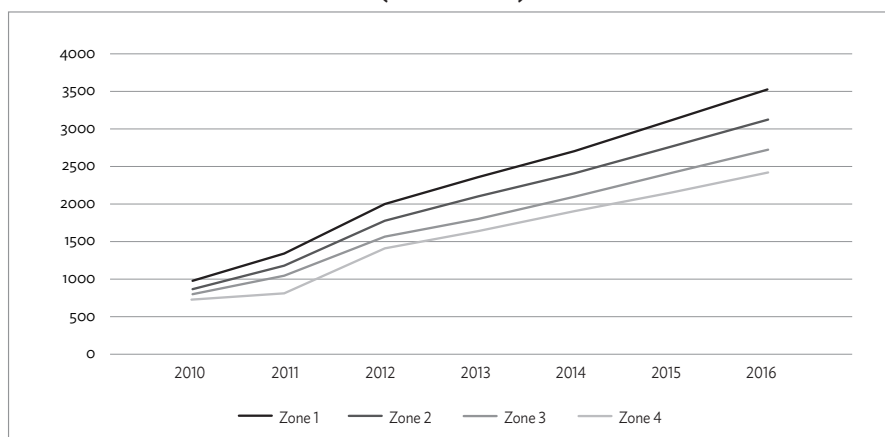
3.3 | Regulatory Burdens on Operations of Existing Fishery Producers

3.3.1 Successive Increases in Minimum Wage

Viet Nam has been implementing a national roadmap to increase the minimum wage. This has been justified by the need to ensure workers' livelihood after high inflation from 2008 to 2014. The extent of a minimum wage increase is subject to the increase in consumer prices, and consultation with the relevant authorities (i.e. Ministry of Labour, the Invalids and Social Affairs; Confederation of Labour; Vietnam Chamber of Commerce and Industry).

Nonetheless, the roadmap to increase the minimum wage is costly for fishery producers and/or processors who rely on large amount of labour. In 2016, the minimum wage was set to increase by 12.4%, notwithstanding consensus forecast of inflation of roughly 4% and a low inflation rate for 2015 (0.6%). The benefit to workers was not meaningful, since the effective wage did not increase in line with the increase in the minimum wage. The scheduled pace of increase in 2016 was also larger than that promised (10%) by the Vietnam Chamber of Commerce and Industry, the representative of the business community. More importantly, the actual increase in the minimum wage was more administrative, and generally exceeded the pace of productivity improvement. For fishery processors, the burden from increasing the minimum wage can be significant since contributions to social insurance, health insurance, and trade union fees are calculated as fractions of the minimum wage.

Figure 6: Minimum Wage in Different Zones, 2010–2016
(D thousand)



Note: The zone classification is stipulated each year by the government to reflect comparison of costs of living across different localities.

The latest zone classification is stipulated under Decree 153/2016/ND-CP dated 14 November 2016.

Source: Trang, 2016.

The discussion then shows that the issue can be addressed via two solutions. First, Viet Nam should consider rescheduling the minimum wage increase. That is, the wage should not be expected to increase on an annual basis but only after cumulative inflation exceeds a certain threshold. Consultation with labour-intensive enterprises, including fishery producers, is needed. Second, the regulators should establish rules for increases of the minimum wage that would

equal a certain fraction of inflation. Again, consultation with labour-intensive enterprises is essential.

3.3.2 Requirements on Food Safety

Given the importance of the fishery sector, it is understandable that Viet Nam has strict requirements on food safety, including the checking and monitoring of these requirements. All the interviewed enterprises and regulators agree with the need for strict requirements, since any noncompliance by an individual firm could quickly threaten the whole industry. However, the degree of strictness of the requirements is overwhelming.

Decree 36/2014/ND-CP presents a typical case, where the maximum ice-glazing ratio of 10% and maximum water content of 83% are required on *pangasius* products.⁵ The justification for this requirement is to improve the quality of pangasius products while helping screen the technical capacity of fishery processors. Most fishery processors, however, have already upgraded their production capacity and the new requirement means additional investment is needed. Meanwhile, even though *pangasius* products mainly serve exports, the importing countries are yet to enforce this restrictive requirement. The requirement then effectively presents a regulatory cost for exporters. In addition, Decree 36/2014/ND-CP did not go through a good consultation process.

In another example, NAFIQAD's fee for testing (for food safety) is claimed by fishery producers to be excessively high. The previous fee of D3.9 million per batch was raised to D8.125 million per batch in 2016. This fee is high and uncompetitive relative to other private testing facilities. Again, this presents a case of inadequate consultation beforehand between NAFIQAD and fishery producers.

Finally, since late 2015, raising pangasius has been required to meet Vietnam Good Agricultural Practices (VietGAP). VietGAP, however, is not recognised by

⁵ *Pangasius* refers to the species of fish which is popular in Southeast Asia. There are 13 species of the Pangasiidae family (Tra family) with Vietnamese names, but only 12 belong to the *Pangasius* family. *Pangasianodon hypophthalmus*; *Pangasius hypophthalmus* (Tra) and *Pangasius bocourti* (Basa) are major products for export-oriented processing in Viet Nam. Source: Vietnam Association of Seafood Exporters and Producers.

most key markets. Thus, the benefits to firms with a certificate of compliance from VietGAP may only occur in the medium or long run when or if recognition of key markets is achieved. In the short term, VietGAP's requirement should be advisory rather than compulsory to reduce the investment burden to firms.

3.3.3 Association of Food Safety Checks as a Requirement for Duty Drawback

Notwithstanding the priority to develop the fishery sector, the preferential treatment is sometimes not implemented effectively. An example is the duty drawback scheme that refunds import duties on materials if these are used for export-oriented production. This scheme is also applicable for the fishery sector. Decree 83/2013/ND-CP requires that the export-oriented fishery firms be subject to onsite checking for food safety before a tax refund. However, onsite checking can take a long time. Besides, the business community thinks that checking for food safety should be separated from the procedure for duty drawback, and that eligibility for it should come from other conditions and not the satisfaction of food safety requirement in production. This issue is included in this sub-section since it affects operations of firms irrespective of the scale and timing of their export activities.

3.4 | Regulatory Burdens on Exporters of Fishery Products

3.4.1 Quality Control of Fishery Exports

According to the regulators, testing fishery exports for food safety is essential to minimise the issues of export product quality which might undermine the reputation of Viet Nam's fishery sector. However, designing a separate requirement for testing fishery exports for food safety (as per Circular No. 48/2013/TT-BNNPTNT of MARD) might be too burdensome for firms. It should be noted that food safety is already a requirement at both import and production and/or processing stages. Requiring tests for food safety before export, even though the producers and/or processors are subject to similar periodic tests, increases the compliance costs for firms.

In another aspect, regulatory burdens might also result from the administrative behaviour of regulators. Hypothetically, if the regulators reduce actions towards quality control of fishery exports, the products are still subject to similar requirements in the importing countries. Accordingly, removing the test for food safety on fishery exports should be beneficial.

This issue receives little consensus between regulators and businesses. Although fishery exporters appreciate the removal of this requirement, they also understand the rationale for such tests (which have been in place for years). The approach of the regulators is, however, more extreme since they fear that any incidence with a single exporter concerning product quality could cease support for all other exporters in the same market.

3.4.2 Requirement to Register Exports

Under Decree No. 36/2014/ND-CP, exporters of pangasius products are required to register batches of exports with the Vietnam Association of Seafood Exporters and Producers (VASEP). From the perspective of exporters, this registration is unnecessary since all details related to customers, quantity, and price, amongst others, are already submitted to the customs agency. This requirement adds paperwork and could cause additional burden to firms should there be delays on the part of VASEP.

Regulators justify that registration with VASEP serves to increase transparency and helps avoid dumping activities by its members. However, details related to export contracts are held in confidence and only the customs agency has the statutory power to receive those details. Requiring firms to register their export batch does not help in realising the stated objective. Moreover, such a requirement goes against the principle of market competition since disclosing information (without discipline) may weaken a firm's competitiveness. Even VASEP does not want this responsibility since it creates additional administrative burden and weakens the confidence between itself and its members.

[4] Recommendations

As Viet Nam strengthens its efforts for structural reforms and creates a more enabling business environment, identifying and reducing unnecessary regulatory burdens on business activities continue to be an important priority. The priority is even more vital for business activities within supply chains of key export products, of which fishery constitutes a major category. Within its limited scope, this chapter can only show that unnecessary regulatory burdens exist and are diverse along the fishery supply chain in Viet Nam, although the relative seriousness of such burdens is subject to the purview of business representatives and regulators. Therefore, while horizontal efforts (preferably unilateral) to improve the overall business environment are still essential, the recommendations below should also be considered for implementation.

The first group of recommendations serves to reduce unnecessary regulatory burdens on fishery imports. Based on the findings, the authors suggest that Viet Nam should:

- a. improve the management approach with respect to risk profile of importers;
- b. give incentive to the establishment of more laboratory and testing facilities near main ports and/or international gateways of agricultural products (especially fishery products);
- c. develop an electronic platform to enhance information exchange and cooperation in government management of trade (especially for fishery products);
- d. encourage the better implementation of information and communication technology in customs clearance procedures and government management;
- e. remove the labelling requirement in Vietnamese;
- f. apply a grace period of 275 days to importers of fishery materials that serve export-oriented production even if such importers are not engaged in direct exports; and
- g. set-up a consultation process between regulators and importers before drafting regulations to ensure viability and minimal compliance costs for business.

To alleviate the regulatory burdens on starting new businesses in fishery production and/or processing, the regulators should consider abolishing all the conditions listed in sub-section 3.2 and newly emerging conditions identified by future RURB-based attempts, where appropriate.

Other efforts should relieve fishery producers and/or processors of regulatory burdens through (i) serious and intensive consultation with the fishery enterprises on the agenda for increasing the minimum wage; (ii) evidence-based consultation with fishery producers and/or processors on the ice-glazing ratio and water content of pangasius; (iii) removal of requirement for food safety test before duty drawback; and (iv) communication of policy objectives to businesses, even in the drafting process.

Finally, fishery exporters would benefit from Viet Nam's efforts to (i) gradually simplify the requirement of food safety on fishery exports; (ii) standardise and harmonise its standards at least with regional partners; and (iii) remove the requirement of registering batch of fishery exports with VASEP.

REFERENCES

- Central Institute for Economic Management (2015), *Macroeconomic Report for Q4 and 2014*. Hanoi: Financial Publishing House. (In Vietnamese).
- General Department of Customs (2012), Imports in December and 2011. <https://www.customs.gov.vn/Lists/ThongKeHaiQuanLichCongBo/Attachments/221/15b.pdf> (In Vietnamese). (accessed 24 March 2016).
- General Department of Customs (2013), Imports in December and 2012. [https://www.customs.gov.vn/DocLib/Cac%20Bieu%20Thong%20Ke/Nam2012/2012-T12T-2N\(VN-CT\).pdf](https://www.customs.gov.vn/DocLib/Cac%20Bieu%20Thong%20Ke/Nam2012/2012-T12T-2N(VN-CT).pdf) (In Vietnamese). (accessed 24 March 2016).
- General Department of Customs (2014), Imports in December and 2013. [https://www.customs.gov.vn/Lists/ThongKeHaiQuanLichCongBo/Attachments/144/2013-T12T-2N\(VN-SB\).pdf](https://www.customs.gov.vn/Lists/ThongKeHaiQuanLichCongBo/Attachments/144/2013-T12T-2N(VN-SB).pdf) (In Vietnamese). (accessed 24 March 2016).

- General Department of Customs (2015), Imports in December and 2014. [https://www.customs.gov.vn/Lists/ThongKeHaiQuanLichCongBo/Attachments/605/2014-T12T-2N\(VN-SB\).pdf](https://www.customs.gov.vn/Lists/ThongKeHaiQuanLichCongBo/Attachments/605/2014-T12T-2N(VN-SB).pdf) (In Vietnamese). (accessed 24 March 2016).
- General Department of Customs (2016a), Imports in December and 2015. [https://www.customs.gov.vn/Lists/ThongKeHaiQuanLichCongBo/Attachments/738/2015-T12T-2N\(VN-SB\).pdf](https://www.customs.gov.vn/Lists/ThongKeHaiQuanLichCongBo/Attachments/738/2015-T12T-2N(VN-SB).pdf) (In Vietnamese). (accessed 24 March 2016).
- General Statistics Office (2016b), Exports of Fishery Products. <http://www.gso.gov.vn/default.aspx?tabid=720> (In Vietnamese). (accessed 9 September 2016).
- General Statistics Office (2016c), Outputs of Fishery Products. <http://www.gso.gov.vn/default.aspx?tabid=717> (In Vietnamese). (accessed 9 September 2016).
- Luat Viet Nam database. www.luatvietnam.vn (In Vietnamese).
- Ministry of Planning and Investment (2015), Report on the Implementation of Resolution 19/NQ-CP in 2015. (In Vietnamese).
- Ministry of Planning and Investment (2016), Report on the Implementation of Resolution 19/NQ-CP in 2016. (In Vietnamese).
- Phuong, M. (2016), 'Report of the First Meeting of the Steering Committee on ASEAN Single Window' [Phiên họp lần thứ nhất của Ủy ban chỉ đạo quốc gia vé Cỗ chế một cửa ASEAN]. 12 December. (In Vietnamese). <http://www.customs.gov.vn/Lists/TinHoatDong/ViewDetails.aspx?ID=24702&Category=Một cửa> (In Vietnamese). (accessed 14 December 2016).

- Trang, L. (2016), 'Graph of Minimum Wages in Different Zones Over the Years' [Biểu đồ lương tối thiểu vùng qua các năm]. (In Vietnamese). <http://thukyluat.vn/news/trong-nuoc/bieu-do-luong-toi-thieu-vung-qua-cac-nam-11100.html> (accessed 28 August 2016).
- Vietnam Association of Seafood Exporters and Producers (2017), 'What Are Species of Pangasius in Viet Nam?' http://seafood.vasep.com.vn/panga/724_10854/what-are-species-of-pangasius-in-vietnam.htm (accessed 5 September 2017).
- Vo. T.T., A.D. Nguyen, and T.H. Dinh (2013), 'Enhancing Supply Chain Connectivity and Competitiveness of ASEAN Agriculture Products – Identifying Chokepoints and Opportunities for Improvement: Country Paper for Viet Nam', Report for Economic Research Institute for ASEAN and East Asia (ERIA). June. Jakarta: ERIA.
- Vo, T.T., and V.C. Nguyen (2016), 'Regulatory Coherence: The Case of Viet Nam', in D. Gill and P. Intal (eds.), *The Development of Regulatory Management Systems in East Asia – Country Studies*. Jakarta: ERIA.
- World Bank (2016a), *Doing Business*. www.doingbusiness.org (accessed 12 November 2016).
- World Bank (2016b), 'Trading Across Borders Methodology'. <http://www.doingbusiness.org/Methodology/Trading-Across-Borders> (accessed 12 November 2016).
- World Bank (2016c), 'Trading Across Borders in Vietnam'. <http://www.doingbusiness.org/data/exploreeconomies/vietnam/trading-across-borders> (accessed 12 November 2016).
- World Bank (2016d), 'Starting a Business in Vietnam'. <http://www.doingbusiness.org/data/exploreeconomies/vietnam/starting-a-business> (accessed 12 November 2016).