Reducing Unnecessary Regulatory Burdens on Business: CONSTRUCTION

27 Jun 2016
Foreword

In the 10th Malaysia Plan, the Malaysia Productivity Corporation (MPC) had mandated to review all regulations affecting the conduct of business in Malaysia with the view to modernize business regulations. This is crucial in order for the country to move towards its national aspiration of becoming a high-income nation. Towards this, the MPC has embarked on a comprehensive review of existing business regulations with the focus on the 12 NEW Key Economic Areas (NKEA) which have been identified to have high growth potential.

In this study, the research team led by Halimatus Saadiah Alias has been asked to examine the regulatory regimes of the construction sector with the aim of recommending options to remove unnecessary regulatory burdens.

Through regulation governments can leverage their policy interests on businesses. Regulation can contribute to a range of social, environmental and economic goals. However, in practice, some regulations are not well designed and many regulations are not implemented efficiently or cost-effectively, and some regulations do not even adequately achieve the ends for which they are designed. Poor regulatory regimes invariably result in unnecessary regulatory burdens which will stifle business growth.

For this particular study, the focus was on the construction phase up to its completion, which is the most complex part of the value chain and the most regulated.

The study emulated the approach used by the Australian Government Productivity Commission (AGPC) and the team was guided by a regulatory expert previously from the AGPC, Ms. Sue Holmes. A comprehensive study of existing regulations governing the construction industry and their regulators was conducted. The regulations were correlated to the value chain. Engagements with the associations across the country including Sabah and Sarawak and one-to-one interviews were used in the study. Issues pertaining to regulations were selected and documented in the study report.

From these issues and using principles of good regulatory practice, the team then formulated feasible options for further deliberation. These issues and options are
presented in this report for public consultation with relevant stakeholders in order to develop concrete recommendations to reduce unnecessary regulatory burdens imposed by construction regulations.

In the course of the study, the stakeholders including MPC have benefited greatly from discussions and interviews with various companies, government officials and industry associations. Valuable input and feedback were received from the AGPC expert, MPC’s Board of Directors and other interested parties. The MPC is grateful for their assistance and contributions.

The study was conducted in the MPC Head Office by the Smart Regulation Directorate led by Mr. Zahid Ismail and overseen by me.

Dato’ Mohd. Razali Hussien
Director General, MPC
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<tbody>
<tr>
<td>ACEM</td>
<td>Association of Consulting Engineers Malaysia</td>
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<td>AFTA</td>
<td>ASEAN Free Trade Area</td>
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<td>AGPC</td>
<td>Australian Government Productivity Commission</td>
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<td>AP</td>
<td>Approved Permit</td>
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<td>BAM</td>
<td>Boards of Architects Malaysia</td>
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<td>BCA</td>
<td>Building and Construction Authority</td>
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<td>BEM</td>
<td>Board of Engineers Malaysia</td>
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<td>BOWEC</td>
<td>Building Operations and Works of Engineering Construction</td>
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<tr>
<td>BPKU</td>
<td>Bahagian Pembangunan Kontraktor &amp; Usahawan</td>
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<td>BQSM</td>
<td>Board of Quantity Surveyors Malaysia</td>
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<td>BSC</td>
<td>Balance Score Card</td>
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<td>CCC</td>
<td>Certificate of Compliance and Completion</td>
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<td>CCD</td>
<td>Contractor Continuous Development</td>
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<tr>
<td>CEPT</td>
<td>Common Effective Preferential Tariff</td>
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<td>CIDB</td>
<td>Construction Industry Development Board</td>
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<td>CIMP</td>
<td>Construction Industry Master Plan</td>
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<td>CIPAA</td>
<td>Construction Industry Payment and Adjudication Act</td>
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<td>CIS</td>
<td>Construction Industry Standards</td>
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<tr>
<td>CITP</td>
<td>Construction Industry Transformation Program</td>
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<td>CLAB</td>
<td>Construction Labour Exchange Centre Berhad</td>
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<tr>
<td>CMU</td>
<td>Concrete Masonry Units</td>
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<tr>
<td>DOS</td>
<td>Department of Statistics</td>
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<td>DOSH</td>
<td>Department of Occupational Safety and Health</td>
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<td>EPU</td>
<td>Economic Planning Unit</td>
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<td>ETP</td>
<td>Economic Transformation Programme</td>
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<tr>
<td>EC</td>
<td>Energy Commission</td>
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<td>EMP</td>
<td>Environmental Management Project</td>
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<td>FWCS</td>
<td>Foreign Workers Compensation Scheme</td>
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<td>GATS</td>
<td>General Agreement on Trade in Services</td>
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<td>GDP</td>
<td>Gross Domestic Product</td>
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<td>GST</td>
<td>Goods and Services Tax</td>
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<td>HDA</td>
<td>Housing Development Act</td>
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<td>Acronym</td>
<td>Full Name</td>
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<tr>
<td>IBS</td>
<td>Integrated Building System</td>
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<td>IEM</td>
<td>Institution of Engineers Malaysia</td>
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<td>ISM</td>
<td>Institution of Surveyors Malaysia</td>
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<td>JBPM</td>
<td>Jabatan Bomba Dan Penyelamat Malaysia</td>
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<td>JKPP</td>
<td>Jawatankuasa Perwakilan Penduduk</td>
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<td>JKR</td>
<td>Jabatan Kerja Raya</td>
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<td>JMG</td>
<td>Jabatan Mineral Dan Geosains</td>
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<td>JTKSWK</td>
<td>Jabatan Tenaga Kerja Sarawak</td>
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<td>KLIA</td>
<td>Kuala Lumpur International Airport</td>
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<td>LA</td>
<td>Local Authorities</td>
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<td>LPIPM</td>
<td>Lembaga Pembangunan Industri Pembinaan Malaysia</td>
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<td>LPKP</td>
<td>Lembaga Pelesenan Kenderaan Perdagangan</td>
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<td>LTFMP</td>
<td>Logistic And Trade Facilitation Master Plan</td>
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<td>MPC</td>
<td>Malaysian Productivity Corporation</td>
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<td>MITI</td>
<td>Ministry of International Trade And Industry</td>
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<td>MHLG</td>
<td>Ministry of Housing and Local Government</td>
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<td>MBAM</td>
<td>Master Builders Association of Malaysia</td>
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<td>MNKT</td>
<td>Majlis Negara Kerajaan Tempatan</td>
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<td>Ministry Of Works</td>
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<td>Malaysia Standard Industrial Classification</td>
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<td>Ministry Of Finance</td>
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<td>M &amp; A</td>
<td>Memorandum &amp; Articles of Association</td>
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<td>MIDA</td>
<td>Malaysian Investment Development Authority</td>
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<td>NIOSH</td>
<td>National Institute of Occupational Safety and Health</td>
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<td>NKEAs</td>
<td>National Key Economic Areas</td>
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<td>NLTF</td>
<td>National Logistics Task Force</td>
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<td>NPDINR</td>
<td>National Policy on the Development and Implementation of Regulations</td>
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<td>Abbreviation</td>
<td>Full Form</td>
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<td>NREB</td>
<td>National Resources Environmental Berhad</td>
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<td>OIC</td>
<td>Organisation of Islamic Cooperation</td>
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<td>OHS</td>
<td>Occupational Health and Safety</td>
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<td>OSC</td>
<td>One Stop Center</td>
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<td>OSHA</td>
<td>Occupational Safety and Health Act</td>
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<td>PAM</td>
<td>Pertubuhan Akitek Malaysia</td>
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<td>PBA</td>
<td>Perbadanan Bekalan Air</td>
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<td>Public Works Department</td>
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<td>RMR</td>
<td>Rumah Mesra Rakyat</td>
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<td>RURB</td>
<td>Reducing Unnecessary Regulatory Burdens</td>
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<td>RIA</td>
<td>Regulatory Impact Assessment</td>
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<td>SDBA</td>
<td>Street, Drainage and Building Act</td>
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<td>Securities Commission</td>
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<td>Service Level Agreement</td>
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<td>Small Medium Enterprises</td>
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<td>Social Security Organisation</td>
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<td>Suruhanjaya Perkhidmatan Air Negara</td>
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<td>SPC</td>
<td>State Planning Committee</td>
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<td>Sijil Perolehan Kerja Kerajaan</td>
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<td>Sijil Taraf Bumiputera</td>
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<td>TNB</td>
<td>Tenaga Nasional Berhad</td>
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<td>TOP</td>
<td>Temporary Occupation Permit</td>
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<td>Glossary</td>
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<tr>
<td><strong>CCD or Contractor Continuous Development</strong></td>
<td>A program that is designed to ensure contractors registered with CIDB are continually well-informed and knowledgeable.</td>
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<tr>
<td><strong>Civil engineering</strong></td>
<td>A professional engineering discipline that deals with the design, construction, and maintenance of the physical and naturally built environment, including works like roads, bridges, canals, dams, and buildings</td>
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<td><strong>Closed Tender</strong></td>
<td>Only pre-qualified or known bidders are allowed to participate. Closed Tender are not advertised in newspapers, as a result other bidder generally do not come to know that such tender is floated. The Lowest Bidder or L1 generally wins the contract</td>
</tr>
<tr>
<td><strong>Construction Industry</strong></td>
<td>The industry concerning construction works</td>
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<tr>
<td><strong>Construction Manager</strong></td>
<td>A construction manager is involved in personnel management at the construction site. He is someone who plans, coordinates, budgets, and supervises construction projects from early development to completion. He ensures that materials are delivered on time and that tools are available on the work site. He will request work order changes and make decisions as to building practices in compliance with building codes.</td>
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| Construction site | - A place where a building is being built or repaired  
|                  | - Where construction work is carried out  
| Construction site supervisor | A person assigned to the construction site by the contractor to supervise the construction works  
| Construction works | The construction, extension, installation, repair, maintenance, renewal, removal, renovation, alteration, dismantling or demolition of  
|                    | (a) any building, erection, edifice, structure, wall, fence or chimney, whether constructed wholly or partly above or below ground level;  
|                    | (b) any road, harbour works, railway, cableway, canal or aerodrome  
|                    | (c) any drainage, irrigation or river control works;  
|                    | (d) any electrical, mechanical, water, gas, petrochemical or telecommunication works; or  
|                    | (e) any bridge, viaduct, dam, reservoir, earthworks, pipeline, sewer, aqueduct, culvert, drive, shaft, tunnel or reclamation works,  
|                    | and includes any works which form an integral part of, or are preparatory to or temporary for the works described in paragraphs (a) to (e), including site clearance, soil investigation and improvement, earth-moving, excavation, laying of foundation, site restoration and landscaping;  
<p>|                    | Any building, civil engineering or engineering works |</p>
<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Construction worker</td>
<td>A construction worker is a tradesman, labourer (by tradition considered an unskilled tradesman), or professional employed in the physical construction of the built environment and its infrastructure. A worker is someone who works for or under the control of a contractor on a construction site.</td>
</tr>
<tr>
<td>Contractor</td>
<td>A person who undertakes to carry out and complete any construction works;</td>
</tr>
<tr>
<td>Federal Government</td>
<td>The Federal Government is the Central Government comprising 25 Federal Ministries headed by their respective Ministers and administrative heads, the Secretary-Generals</td>
</tr>
<tr>
<td>Foreign contractor</td>
<td>A company incorporated in Malaysia or in a foreign country which has a foreigners’ equity holding of thirty-one per cent (31%) or more</td>
</tr>
<tr>
<td>Foreign worker</td>
<td>A foreign worker is a person who is employed in a country on a temporary basis to which the person is not a citizen.</td>
</tr>
<tr>
<td>General contractor (main contractor, prime contractor)</td>
<td>Responsible for the day-to-day oversight of a construction site, management of vendors and trades, and communication of information to involved parties throughout the course of a building project.</td>
</tr>
<tr>
<td>Illegal Immigrant</td>
<td>In Malaysia, the term &quot;illegal immigrant&quot; usually refers to an alien who enters the country without any proper documents or those who enters legally</td>
</tr>
</tbody>
</table>
but overstays, thus abusing their passport or visa. This also include to those who are using false identities to live on the country.

<p>| Joint venture contractor | Joint venture company which, though not incorporated in Malaysia, has been awarded a construction project. One or all the companies within such joint venture company be registered with CIDB |
| Local Authorities        | The Local Authorities constitute the City Councils, Municipalities and District Councils that operate with revenue derived from sources within their jurisdiction and boundaries namely assessment, licensing etc. They also receive financial grants from the Federal Government and their respective State Governments. These Local Authorities enjoy financial autonomy although they adhere to the general Government procurement procedures. |
| Local contractor         | A company incorporated in Malaysia which has a local equity holding of not less than seventy per cent (70%). Foreign equity from citizens of ASEAN countries are permitted but shall not exceed fifty-one per cent (51%) of the total paid up capital or accumulated capital |
| Local workers            | In Malaysia define as a potential workforce born in Malaysia and exceptional is also given to citizen who holds Malaysian Permanent Resident. |</p>
<table>
<thead>
<tr>
<th><strong>Non-residential building</strong></th>
<th>A building is regarded as a non-residential building when the minor part of the building (i.e. less than half of its gross floor area) is used for dwelling purposes. Non-residential buildings comprise: industrial building, commercial buildings, educational buildings, health buildings, other buildings.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>One-Stop Centre</strong></td>
<td>To coordinate, facilitate and expedite the process of approving applications for land developments, planning permits applications, building plans, earthworks plans, roads and drains plans and other plans related to development proposals</td>
</tr>
<tr>
<td><strong>Open Tender</strong></td>
<td>Open tender is an arrangement where an advertisement in local newspapers or trade journals invites contractors to apply for tender documents. Open Tender is a transparent process which ensures that only the contractor with the best price and meeting all the technical requirements will win the tender</td>
</tr>
<tr>
<td><strong>Party Wall</strong></td>
<td>A <a href="#">party wall</a> (occasionally parti-wall or parting wall, also known as common wall) is a dividing partition between two adjoining buildings (or units) that is shared by the tenants of each residence or business</td>
</tr>
<tr>
<td><strong>Project Manager</strong></td>
<td>A Project Manager (PM) will have overall responsibility for the successful planning, execution, monitoring, control and closure of a project</td>
</tr>
</tbody>
</table>
| Residential Building | A building should be regarded as residential building when more than half of the floor area is used for dwelling purposes. Other buildings should be regarded as non-residential.

Two types of residential buildings can be distinguished:
- houses (ground-oriented residential buildings): comprising all types of houses (detached, semi-detached, terraced houses, houses built in a row, etc.) each dwelling of which has its own entrance directly from the ground surface;

- other residential buildings: comprising all residential buildings other than ground-oriented residential buildings as defined above. |
<p>| Safety Officer | A safety officer monitors workplace activities to ensure that workers comply with company policies and government safety regulations. The duties of this job vary by employer, but safety officers typically have responsibilities pertaining to policy development, safety inspections, safety training and compliance with the federal Occupational Safety &amp; Health Administration, commonly known as OSHA |
| Safety supervisors | Safety supervisors are responsible for maintaining a hazard-free workplace |
| Site safety supervisor | Site safety supervisor is a person whose duties include: |</p>
<table>
<thead>
<tr>
<th>Role</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site Supervisor</td>
<td>The precise role of a site supervisor depends a lot on the sort of site being supervised, but in most cases the job revolves around managing and instructing staff, setting goals, and seeing projects through to completion</td>
</tr>
<tr>
<td>Skilled construction worker</td>
<td>Concretor, Bar-bender, Carpenter, Bricklayer/Mason, Plasterer/Pavior, Tiler, Painter, Joiner, Metalworker, Drain-layer, Glazier, Welder, Construction plant operator, Plumber, Licensed Electrician</td>
</tr>
<tr>
<td>Special trade works</td>
<td>Comprises activities of metal works, electrical works, plumbing, sewerage and sanitary works, refrigeration and airconditioning works, painting works, carpentry, tiling and flooring works and glass works.</td>
</tr>
<tr>
<td>State Governments</td>
<td>There are 13 State Governments within Malaysia implementing state functions along with Federal Departments. The State Governments generate</td>
</tr>
</tbody>
</table>
their own revenues and incur their own expenditures even though the Federal Government undertakes projects at the state level agreed upon in the Concurrent List and Federal List in the Constitution of Malaysia.

<table>
<thead>
<tr>
<th>Structure</th>
<th>Include an extensive list of elements that are structures</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sub-contractor</td>
<td>A subcontractor is a person who is hired by a general contractor (or prime contractor, or main contractor) to perform a specific task as part of the overall project and is normally paid for services provided to the project by the originating general contractor. Subcontractors can be anything from an individual self-employed person - eg a plumber carrying out work for a building contractor - to a large national organisation. A subcontractor has a contract with the contractor for the services provided - an employee of the contractor cannot also be a subcontractor.</td>
</tr>
<tr>
<td>Tender</td>
<td>An offer to do work or supply goods at a fixed price</td>
</tr>
</tbody>
</table>
The construction industry makes up an important part of the Malaysian economy due to the number of industries linked to it, such as basic metal products and electrical machinery and because it impacts on every industry. It plays a significant role in terms of its contribution to revenue, capital formation and employment which ultimately supports gross domestic product (GDP). The industry is labour intensive with majority of the labour are foreigners.

The construction sector can be classified into the following subsectors:

a. Professional construction services (incl. architects, engineering services, cost controllers and building control bodies);

b. Onsite construction: Site preparation, Construction of complete buildings, building installation, completion and rental of construction machinery;

c. Manufacturing of construction materials: Suppliers of building products and components (incl. wholesale);

d. Real estate services as a key client base of the sector.

The value chain of construction sector can be broken down into three major phases: pre-construction, construction (on-site construction) and post-construction.

The study focuses only on the construction phase up to its completion. This is the most complex part of the value chain and the most regulated as it involves a variety of disciplines and functions.

Main contractors, sub-contractors, construction managers, site supervisors, safety officers, labours, engineers, regulators and others are the main parties involved in on-site construction. This stage of construction is highly regulated to ensure quality, safety, timely payment, environmental impact, etc.

The industry is regulated at the federal, state and local government levels. The industry is bound by several federal Acts on matters such town planning, road and
transport, the environment, occupational safety and health, labour and the professionals services.

The Construction Industry Development Board (CIDB) is the main regulator for the construction industry.

The objective of the study is to identify and report on which aspects of Regulations on Construction that raise concerns that are unnecessarily burdensome to businesses and to provide options to address these concerns. The interviewed businesses raised the following concerns:

1. Too many registration requirements for a local contractor and Duplication of documents required for registration
2. Unnecessary barrier on entry of new contractor
3. Foreign contractors are required to register for every job bid or awarded. Similar supporting documents are required for every registration (in addition to official letter of job awarded).
4. Listed local construction companies having foreign equity/participation – refusal on renewal registration application

5. Lengthy Application Process for Foreign Workers
6. Shortage of Skilled Workers (local and foreign)
7. (a) Shortage of Health and Safety Officers and lack of enforcement
   (b) Lack of safety awareness training for workers
8. CIDB Green Card and Overlapping/Redundancy of Insurance Coverage Requirement for Workers
9. Implementation of Industrialized Building System (IBS)
10. Importing Machinery for Construction
11. No clear guidelines on the Approved Permit (AP) to import machinery and lengthy process to get the AP
12. Uplifting of value of imported machinery by customs when charging the import duty
13. Tedious inspection process on imported new machinery by PUSPAKOM and other relevant agencies
<p>| | |</p>
<table>
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<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>14.</td>
<td>Restriction on Registration of Contractors in Sabah</td>
</tr>
<tr>
<td>15.</td>
<td>Limited courses offered by CIDB for Renewal of a Contractor’s Licence in Sabah and venue centered in town only</td>
</tr>
<tr>
<td>16.</td>
<td>Limitation on which countries from which foreign workers can be sourced</td>
</tr>
<tr>
<td>17.</td>
<td>Monopoly of cement producer in Sabah</td>
</tr>
<tr>
<td>18.</td>
<td>Lack of Transfer of Knowledge – Sabah and Sarawak. Local contractors are not given the opportunity to be main contractor for bigger projects</td>
</tr>
<tr>
<td>19.</td>
<td>No One-Stop Center (OSC) in Sabah</td>
</tr>
<tr>
<td>20.</td>
<td>Confusion on the Thickness of Party (Separation) Wall</td>
</tr>
<tr>
<td>21.</td>
<td>Inconsistency and Lack of Transparency in Tendering Process In Sarawak</td>
</tr>
<tr>
<td>22.</td>
<td>Construction Materials</td>
</tr>
</tbody>
</table>
Overview

In the 10th Malaysia Plan, the Malaysia Productivity Corporation (MPC) was mandated to review all regulations affecting the conduct of businesses in Malaysia with a view to modernising business regulations in order to promote enterprise growth, wealth and employment. There are two main strands to this effort: one is impact analysis of new regulations and the other is review of existing regulations.

This review focus on the second strand, identifying regulations which are imposing unnecessary regulatory burdens on business and in particular, regulations that impact on the 12 National Key Economic Areas (NKEAs) which have been identified as areas with high potential growth.

This review has contributed to the 11th Malaysia Plan by identifying areas where the regulation and governance of the construction sector, the sector being reviewed, could be improved.

The construction industry makes up an important part of the Malaysian economy as it creates a multiplier effect to other industries, including manufacturing, financial and professional services. It plays a significant role in terms of its contribution to revenue, capital formation and employment which ultimately supports gross domestic product (GDP). The construction industry could be described as a substantial economic driver for Malaysia.

Construction sector’s contribution to Malaysian economy is relatively small as compared to other sectors of economy like services, manufacturing, and agriculture. Its contribution to GDP is 12 times smaller than services sector, 7 times smaller than manufacturing sector and 2.2 times smaller than agriculture sector. For the period 1990 to 2010, average contribution of construction to GDP was 4.1% compared to average contribution from services, manufacturing and agriculture sector for the same period i.e. 48.3%, 28.2% and 9.2% respectively. However, due to backward and forward linkage to other industries and its spill over impact, it remains the important sector to the country’s economy.
In 2014, the construction sector continued to register a double digit growth of 11.6% (2013: 10.9%), owing mainly to stronger growth in both the residential and non-residential sub-sectors. The robust growth in the residential sub-sector was attributed to continued progress in high-end housing projects in Johor, Klang Valley and Penang, while construction activities in the non-residential sub-sector were supported by commercial and industrial projects. The civil engineering sub-sector provided further support to the sector, underpinned by existing and new infrastructure projects. The sector is expected to contribute 4% to GDP.

The construction sector is expected to continue to record high growth, albeit at a more moderate pace in 2015. After several years of robust growth, activity in the residential sub-sector is expected to increase at a more moderate pace due to lower housing approvals and property launches. Nonetheless, growth in the non-residential sub-sector is projected to be sustained, amid higher construction activity for industrial and commercial buildings. New and existing multi-year civil engineering projects, particularly in the transport and utility segments, will continue to provide additional support to the sector.

The construction sector plays a significant role in creating employment opportunities and generating new income sources for both skilled and unskilled people of the society. Therefore the variation in construction sector and its activities have great impact on all aspects of human life. The sector helps to accelerate social and economic development and fight against poverty and unemployment. In first decade (1991-2000) of Vision 2020 the average annual employment rate in construction sector was 8.07% of available work force, while in second decade (2001-2010) it was reached to 9.15 % per year. In 2013, 9.42% of the total workforce in the country was consumed by the construction sector

Current legislative arrangement
Regulation of construction activities is critical for public and employee safety, as well as managing environmental and other impacts, ensuring constructions comply with agreed uses of the land on which they are built and ensuring buyers get the quality of construction for which they have paid. However, poorly designed and/or implemented regulation, excessive coverage, overlap or inconsistency, overly complex approval
and licensing processes, exceedingly prescriptive measures and burdensome reporting contributes to higher costs, inefficiencies, delays in completion of projects, etc.

The main act governing the construction industry is Act 520 Construction Industry Development Board Act 1994. This is an Act to establish the Lembaga Pembangunan Industri Pembinaan Malaysia (Construction Industry Development Board) (CIDB)) and to provide for its function relating to the construction industry and for matters connected therewith.

The main functions of CIDB to the construction industry as laid down under subsection 4 (1) of Act 520 can be classified into 3 main categories: Development and Facilitative, Advisory and Regulatory. The functions laid out in the Act are:

- To promote and stimulate the development, improvement and expansion of the construction industry;
- To advise and make recommendations to the Federal Government and the State Governments on matters affecting or connected with the construction industry;
- To promote, stimulate and undertake research into any matter related to the construction industry;
- To promote, stimulate and assist in the export of service related to the construction industry;
- To provide consultancy and advisory services with respect to the construction industry;
- To promote quality assurance in the construction industry;
- To initiate and maintain the construction industry information systems;
- To encourage the standardisation and improvement of construction techniques and materials;
- To provide, promote, review and coordinate training programme organized by the public and private construction training centres for skilled construction workers and construction site supervisors;
- To accredit and register contractors and to cancel, suspend or reinstate the registration of any registered contractor; and
- To accredit and certify skilled construction workers and construction site supervisors.
Other main Acts that also govern the construction industry are:

- *The Federal Roads Act 1959*;
- *The Quantity Surveyors Act 1967*;
- *The Registration of Engineers Act 1967*;
- *The Architects Act 1967*;
- *The Malaysian Highway Authority Act 1980*;
- *The Federal Roads Act 1984* (private management);
- *The Road Transport Act 1987*; and

The main legislation in Malaysia that governs safety and health in the construction industry are the *Occupational Safety and Health Act 1994* (and its 6 Regulations) and *Factories and Machinery Act 1967*, (with its 15 Regulations).

One specific regulation, which have great influence on the construction industry, is the Building Operations and Works of Engineering Construction (Safety) Regulation 1986 (BOWECS).

Other acts and regulations in implementing construction works are:

a. Construction Industry (Registration of Contractors) Regulations 1995  
b. Construction Industry (Collection of Levy) Regulations 1996  
d. Factory and Machinery (Safety, Health & Welfare) Regulation 1970  
e. *Street, Drainage and Building Act 1974*  
f. *Street Drainage and Road (Amendment) Act 1978*  
g. Uniform Building by Laws 1984  
h. *Sewerage Services Act 1993*  
i. *Environmental Quality Act 1974*  
k. Earth Work By-Laws (Federal Territory Kuala Lumpur) 1988  
l. *Workers’ Minimum Standards of Housing and Amenities Act 1990*  
m. *Workers Act 1966*  
n. *Social Security Act 1969*
Local regulations are bound by the *Local Government Act 1976 (Act 171)* which outlines the form, organizational structure, functions and responsibilities of a local authority/local government. The local government which forms the third tier of the government responsible for the town planning and building control, provision and maintenance of public places and amenities, waste and rubbish disposal, environment protection, social and economic development and maintenance of all infrastructures within the local authority areas.
Summary of Issues and Recommendations

Issue 1: Too many registration requirements for a local contractor and Duplication of documents required for registration

To be a contractor and undertake a contracting job, a person or company is required to register with the followings:

1. Company Registration
   Applicants must have registered their business operations with the relevant authority in Malaysia before they could be considered for registration with CIDB. The different types of registration are as follows:
   (i) Suruhanjaya Syarikat Malaysia (Pendaftaran Perniagaan/Perkongsian Liabiliti Terhad/Pendaftaran Syarikat) (Registration of business/Limited Liability Partnership/Company Registration)
   (ii) Pendaftar Koperasi/Persatuan (Registration of Co-operative/Society)
   (iii) Pendaftaran Perniagaan (Cap 64), Ekstrak Perniagaan & Lesen Perdagangan – Borang I (negeri Sarawak)
   (iv) Lesen Perniagaan – Borang B (negeri Sabah)
   (v) Pendaftaran Pertubuhan (Persatuan) (Registration of Society)

2. For private projects:
   a. Company registration
   b. CIDB registration

3. For Government Projects:
   a. Company registration
   b. MOF
   c. CIDB
   d. SPKK (Sijil Perolehan Kerja Kerajaan) – to participate in government projects
   e. STB (Sijil Taraf Bumiputera) – to participate in government projects which are allocated for Bumiputera
   d. Agencies like SPAN, EC, TNB, Telekom, UTM, Petronas- to participate in procurement activities/contracting jobs with the respective agencies
f. UPKJ (for state projects) and PKK (for Bumiputera status) for contractors in Sarawak

g. PUKONSA- for contractors in Sabah

4. Addition of Category or Specialization (Source: Buku Pendaftaran Kontraktor 2015, Malay Language Version):
   a. M16 Tower Crane – (Registration with DOSH) – for individual
   b. B20 (Indoor gas pipeline installation) – (Registration with Energy Commission) – for company
   c. CE09 (Oil and gas pipeline) – (Registration with DOSH/Energy Commission) – for company
   d. M08 (Heat restoration system) – (Registration with DOSH) – for company
   e. M03 (Lift and Escalator) – (Registration with DOSH) – for company
   f. E04 (Low voltage installation) – (Registered as electrical contractor with Energy Commission (EC)) – for company
   g. E12 (Electric signboards) – (Registered as electric signage contractor with Energy Commission (EC)) – for company

Details of other registration requirements are as per Appendix A

Currently, the process for new applications with UPKJ and PKK takes a long time. Responding to applications can take up to 3 months while approval can stretch to almost one year. Validity of UPKJ licence is 2 years and the renewal process is long and not consistent.

To register as a contractor with CIDB, SPKK and other agencies, a company is required to provide various documents pertaining to the company. Some of these documents are the same and requires certification by (i) the agency which issued the document, or (ii) an authorised person (company director, business proprietor, company secretary).
Recommendation
Have only one Ministry or Agency to issue one licence that allows contractors to do jobs that they are qualified for.

Government could consider authorising one Ministry or Agency to issue one overarching licence for a contractor. The Ministry or Agency would set criteria for a contractor to be eligible for different types of contracting jobs. The licence issued would spell out the category of contracting jobs a contractor is eligible to undertake based on the criteria met.

The blanket approval would eliminate the requirements for a contractor to obtain multiple registrations as per current practice and contractors would only need to provide one set of supporting documents, hence save cost and time. This would also help improve industry productivity as contractors would no longer have to wait for approval from various agencies before they can participate in any project. On the part of issuing agencies, the present processing officers could be deployed to productive jobs, and hence improve the organisations’ productivity.

Issue 2: Unnecessary barrier on entry of new contractor
To be eligible for registration, applicants must satisfy the registration requirements before they can be considered for registration. The registration requirements are as follows

a. The applicant must be registered with the company registration authority or other authority applicable to its business operation.

b. The applicant must have adequate financial resources and must maintain its financial standing for the duration of its registration. Provide previous three months bank statements

c. The applicant must have or must employ an adequate number of qualified technical personnel and retain them throughout the duration of the registration

d. The CEO or his representative must be experienced in the construction industry for at least two (2) years.

e. All new registrations will be given conditional approval for a period of one (1) year only. During this period, contractors are required to attend an Integrity
Course for Building Contractors organised by CIDB and must have the minimum CCD points within the approval period. The Registration Certificate will not be renewed if the contractor fails to attend the Integrity Course.

f. Green Card

g. Provide supporting documents

h. Pay fees

**Improvement made by CIDB**

In promoting self regulation, developing contractors and promoting compliance, CIDB has recently reviewed the process of registering new contractor which has resulted in shorter approval period for registration. Amongst the improvement made was simplifying the requirements for new registration which include:

1. the 2 years experience requirement will no longer be mandatory. Applicant who does not possess the 2-year-experience is allowed to register but he must attend CIDB business course within one (1) year prior to renewal.

2. removal of Green Card requirement at the point of registration

3. no supporting documents required. The applicant is only required to self-declare in the registration form. Post-registration random audit however, will be conducted by CIDB.

**Issue 3: Application for Registration of joint venture contractors (local and foreign) and registration of foreign contractor:**

- Contractors are required to register for every job bid or awarded. Similar supporting documents are required for every registration (in addition to official letter of job awarded)

There are two types of registration required for foreign contractors:

1. **The Provisional Registration Certificate** - requires the foreign contractor to seek permission to participate in any construction tender bid. And this registration is only for a specific tender bid.
2. **Registration Certificate for Foreign Contractor**- permission to carry out construction works as stated in the Registration Certificate for Foreign Contractor.

Before a foreign contractor undertakes any construction work which they have been awarded, they are required to apply for a *Registration Certificate for Foreign Contractor*. And this registration is for the specific project only. Also, if foreign contractors are awarded a tender, they have to apply for two registrations: the Provisional Registration Certificate and the Registration Certificate.

Validity period, as indicated in the offer letter of work. Where for some reason, the completion date extended, the contractor must apply to CIDB within 14 days of the expiry date of the Registration of Certificate to extend the validity period.

**Recommendation**

1. **Enhancement of the current online registration system**

Presently, CIDB provides for online registration through its SMB Online Registration System, for the registration and registration renewal of local contractors. The system could be enhanced to include the registration of foreign contractors. This would provide for seamless registration and ease the administrative burdens for foreign contractors.

2. The following are the initiatives currently undertaken by CIDB however, its success in resolving the above issues has yet to be determined:

   a. CIDB is in the process of automating the registration of foreign contractors. the system is under testing (due to improvement made on requirements/syarat-syarat) and targeted to be ready by July 2016.

   b. CIDB is also looking into reviewing the requirement on application for the Provisional Registration Certificate whereby only one time registration might be required on condition that the foreign contractors declare the jobs they are bidding for and submit the score rating.
**Issue 4: Listed local construction companies having foreign equity/participation – refusal on renewal registration application**

CIDB did not approve application for renewal registration made by locally incorporated listed construction company whose foreign equity holding exceeds 30 percent (30%) at the point of applying for renewal registration. This was due to the failure to meet the CIDB’s Registration Requirements and Procedure i.e. Bumiputera shareholdings should not less than 70% of the paid-up capital or accumulated capital of the company.

The company is allowed to appeal but it takes about one and a half months to get the approval and after making several follow-ups. The approval given is subject to condition that the registration is valid for one year only (normal local renewal registration is up to 3 years) and the foreign shareholdings should be brought down to below 30%. Re-application/appeal need to be made within sixty days from the date of Letter of rejection, failing which the company has to apply for registration as foreign company (i.e. per tender bid and per project awarded).

Being a listed company, the foreign equity shareholding is difficult to control because its shares are floated and subject to purchase by foreign parties. In addition the company have to undergo the same process of appealing if the foreign shareholdings exceed 30% at the time of renewal. The appeal process and the yearly renewal is burdensome to contractors as similar documents need to be submitted for the renewal if the appeal is successful. Current regulation is viewed as counter-productive by the industry players.

**Recommendation**

1. Government and CIDB could consider increase the maximum level of foreign shareholdings in listed local construction companies e.g. up to 49%. This would encourage foreign direct investment into the country, enable the companies to renew registration on time, thus avoid losing job opportunities, save cost and time on documents preparation, hence increase productivity level of the industry.
2. CIDB to simplify documents requirement for renewal e.g. request only supporting documents that have changes since the last renewal. Contractors only need to make Self Declaration that everything is in order since the last renewal. Unscheduled/random audit by CIDB is recommended to ensure compliance by the company.

**Issue 5: Lengthy Application Process for Foreign Workers**

Lengthy process and high cost to bring in foreign workers. In Peninsular the process takes between 6 to 8 months while in Sabah and Sarawak it takes between 3 to 6 months. In Peninsular, to expedite contractors can apply through Construction Labour Exchange Centre Berhad (CLAB) but it only provides permit to bring worker and must pay fees. However, there is no CLAB in Sabah and Sarawak. Contractors need to apply a license and employment quota for foreign workers first from Director of Labour, Sabah and Department of Labour Sarawak before they can bring in foreign workers. These applications involve fees. All these result in shortage of legal workers, delay in construction work, encourage employment of illegal workers that lead to social problems.

**Recommendation**

Re-educate locals on perception to working in construction industry and offer higher wages to locals to attract them to work in the construction industry. Hence, less dependent on foreign workers.

**Issue 6: Shortage of Skilled Workers (local and foreign)**

- Majority of foreign workers employed in the construction industry are unskilled. They came to the country as general workers. CIDB does not allow local companies to train them in their home countries before they come to Malaysia/ while waiting for their visa approvals.
- Training provided in Malaysia is insufficient.
- Unable to retain existing skilled foreign workers because of government ruling on the maximum number of years any foreign worker is allowed to stay in the country.
Recommendation:
Conduct more IBS training programme instead of conventional training programme so that the industry can produce more IBS skilled workers. By moving into IBS method the industry will require fewer workers, hence resolve the issue of shortage of skilled conventional workers.

Issue 7:
a. Shortage of Health and Safety Officers and lack of enforcement
b. Lack of safety awareness training for workers


Construction industry is currently shortage of qualified health and safety officers and to train them is costly. At present, there is inadequate site supervision and site safety supervisors in Sarawak. There is also lack of enforcement at construction site. Authority will come in only when there is accident at the site. Training on safety awareness for workers is also insufficient.

Recommendation:
CIDB could utilise levy paid by contractors to train more site supervisors and site safety officers and improve on enforcement to reduce or minimise accidents and casualties at the site.

Issue 8: CIDB Green Card and Overlapping/Redundancy of Insurance Coverage Requirement for Workers
1. The CIDB Green Card was initiated by CIDB in August 1997. This is an integrated program that involves the registration and accreditation of Construction Personnel (all personnel working in construction site.) to enhance safety on Construction Sites. This Program entails a one day Safety and Health Induction
Course for construction workers (enforced by DOSH) and provision of personal protective equipment consisting of a safety booklet and helmet. Those construction personnel who have been registered with CIDB and issued the Green Card are automatically covered by a special Insurance Scheme that insures the construction personnel against death and accidents. The insurance is free of charge and is not compulsory. The contractor or Green Card holder can opt whether to take the insurance or not. The insurance coverage is 24 hours and it is worldwide. CIDB will pay the insured in the event of an accident provided it is specified under the insurance coverage.

2. In Sarawak, some of the projects are far from town or in rural areas and some of these projects are small and require fewer workers. The requirement for registration and training/induction courses to obtain Green Cards for these workers is seen as burdensome to the contractors as they are located far from town.

3. The multiple insurances required for the workers both in Peninsular and East Malaysia are redundant. Apart from having insurance coverage under CIDB Green Card, there are 3 other types of insurance coverage required for foreign and local workers and each type is paid by the employer:
   a. Insurance required at the time of applying for working permit by a foreign worker
   b. Workmen compensation (required by local authorities for foreign workers)
   c. SOCSO (for local workers)

In the event of an accident, local workers can only make claims to SOCSO and foreign workers can only claim from Workmen Compensation.

**Recommendation**

Have only one agency to issue one insurance cover for all workers (foreign or local), hence eliminate redundancy of insurance coverage as well as less cost to contractors.
Issue 9: Implementation of Industrialized Building System (IBS)

Through engagement with the industry players, amongst of the issues raised are:

1. Lack of enforcement to use IBS in Malaysia unlike Singapore
2. Contractors have to pay upfront 30% of a project value to implement IBS in their construction project.
3. Absence of IBS catalogue to assist consultants and contractors in design stage. This IBS catalogue could also help in approval process (i.e. approval from BOMBA).
4. The initial cost of IBS in a project is high and can be used for one project only. Contractors who undertake private projects hesitate to use IBS because they will have to pay for all the cost, compared to government contractors in which the costs will be paid by the government.
5. No clear definition of IBS and normal construction. For example, the difference between pre-cast, pre-fabrication on site or off site, which one of them is considered as IBS.
6. Implementation of IBS in construction projects promotes safety and clean construction sites, and projects can be completed earlier. However, there is a need to see its practicability and it may more costly to implement.
7. Places like Sarawak encounter logistic problems if using IBS because some of the construction works are in rural areas.
8. The use of IBS is much more feasible for large construction projects and those in urban areas. IBS is less suitable for smaller projects due to the high cost involved.

Recommendation

Government could consider providing incentive or grant to IBS manufacturer and also to contractors to encourage contractors to use IBS. If more contractors using IBS, demand for IBS products will increase. With the increase in demand and with the availability of incentives more companies will venture into manufacturing of IBS products hence allows for price competitiveness thus reduce costs of using IBS. Issues on shortage of labour and foreign workers could be resolved, casualties/accidents and wastage at the work site could be reduced.
**Issue 10: Importing Machinery for Construction**

In Malaysia, all goods dutiable on import go through customs according to Customs Duties Order, 1996. Current import duties for heavy construction equipment range from 10% to 35% which is high if compared to other ASEAN countries. The high import duty rates create unnecessary burdens to importers of the construction heavy machinery given that it is unclear what purpose these duties are serving. The high cost has a domino effect on overall construction costs and usually will be absorbed by end users/buyers. The high import duties could also limits new entrants to the industry.

**Recommendation**

Consider reducing import duties.

**Issue 11: No clear guidelines on the Approved Permit (AP) to import machinery and lengthy process to get the AP**

A restrictive Import license or Approved Permit (AP) is charged on heavy construction equipment that is less than five years old and is not available locally. AP is issued by MITI and approval process for AP is said takes 2 months. Industry sources said that recently, application for AP is restricted to Sendirian Berhad (Sdn Bhd) and Berhad (Bhd) companies but this does not make known in the application procedures. Documents requirement are tedious and some not stated in the application procedures (e. g. Certificate of Cancellation of Registration from the importing country and Letter of consent from Favelle Favco (a local manufacturer for cranes) or from other local manufacturers stating the type of cranes that these manufacturers manufactured before MITI can consider the application).

**Recommendation**

Although the processing time for AP takes only 7 days (1st time application) and 5 days (subsequent application) as confirmed by MITI and the procedures for application and documentation requirement are clearly stated in MITI’s website, it is however recommended that the requirement for AP for importing construction machinery be removed. By removing the requirement for AP, it will expedite the importing of the
machinery required hence machinery can be deployed to construction site on timely manner and project delays can be avoided. It is a cost and time saving for importers in terms preparation of documents. Overall construction cost could be reduced thus improved productivity. On the other hand, the application processing offices can be deployed to a more productive jobs.

Note:

MITI currently in view to abolish 8426 tariff code:

Issue 12: Uplifting of value of imported machinery by Customs when charging the import duty
Since 2014, at the North Port and West Port of Port Klang, there have been frequent cases where the Customs officer, at the time of valuing the imported machinery to be levied, increased the value of the machinery between 10% to 100% of the purchase price and at times even higher than the selling price to the importer’s customer, despite importers having provides necessary supporting documents. This resulted in higher cost incurred by the importer and importer unable to determine the sales price for his customer and also has domino effect to the overall cost of construction.

There were no reasons given by the Customs officers for increasing the value to be levied. If the forwarder and importer are not satisfied with the valuation, they can pay the import duty by “Payment Under Protest” as specified under Section 13A of Customs Act 1967. By paying under this method, if successful, the importer will be reimbursed for the excess payment. However, industry players claim that the reimbursement takes too long.
Recommendation
Customs must constantly communicate with businesses to ensure that businesses have a clear understanding on valuation guidelines, method and criteria of valuation. Customs must improve communication through website to ensure business understanding about process, guidelines and valuation criteria.

Issue 13: Tedious inspection process on imported new machinery by PUSPAKOM and other relevant agencies

To obtain certificate of registration, new machinery must be inspected by agencies: Customs, PUSPAKOM, DOSH and Road Transport Department. Approval processing time takes between 4 to 7 months depending on the type of machinery. Some of the documents required by agencies for inspection are similar e.g. the design drawing of the machinery and sometimes the material used to manufacture the equipment. PUSPAKOM also requests for design drawing apart from checking chassis number. Paper work costs money and time.

Recommendation
For short term solution, expansion to the existing mySIKAP system for inspection process and establishing comprehensive guidelines with timelines to obtain registration certificates for imported construction machinery are recommended. By having comprehensive guidelines and automating the inspection process, the timeline for inspection can be expedite and rejection can be minimise as new players in particular and the existing players would know the right documents that they have to provide and submit to the respective agencies. Re-submission can be avoided that help save cost and time. The industry players can plan the deployment of the machine to the site/ to their clients. Project delays can be avoided.

As for medium term, establishing One-Stop Centre for inspection is preferred. Due to the various agencies involved and to complement the various Acts in the inspection process the One Stop Centre (OSC) is viewed as better solution in the medium term. The OSC will enable to reduce the processing time as the importer does not have to go from one agency to another to obtain the approvals. Duplications of documents
could be eliminated, hence reduce cost. Machinery could be deployed to construction site on a timely manner, thus avoiding construction delay. Industry productivity would be improved accordingly.

**Issue 14: Restriction on Registration of Contractors in Sabah**

In Sabah, if a person has registered his name in a construction company e.g. Class F company, he is not allowed to register his name in another construction company of different Class e.g. Class G

**Recommendation:**
Remove the limitation to allow contractors to grow for the better of the industry

**Issue 15: Courses Offered by CIDB for Renewal of a Contractor’s Registration in Sabah**

For the purpose of renewal in registration, contractors must have Contractor Continuous Development (CCD) points and the required CCD point is according to their grades. CCD was imposed on August 2008 under CIDB Circular No. 2/2008.

Certificate for courses attended is only valid for one period of renewal. In Sabah, there is no variety of syllabuses offered. Most of the courses are targeted for G1 contractors. Most contractors attend the same course to renew their registration and hence they do not learn anything new each year. The fee for every course is RM350 or depends on type and duration of courses. Contractors are willing to pay higher cost if CIDB can offer new knowledge or new syllabus.

**Recommendation**
CIDB provide a variety of courses/syllabuses that can enhance the knowledge and skill of contractors and the courses keep up to date with new developments.

Currently, CIDB gives freedom to the accredited training providers to conduct courses outside CIDB centres (e.g. on-site training). Accredited training providers can
customize their training based on CIDB modules. Hence, CIDB could further assist the accredited training providers in facilitating the courses, choice of modules and conducting the courses at places convenient to the participants. Furthermore CIDB could enhance awareness on different ways available for contractors to accumulate CCD points.

**Issue 16: Limitation on which countries that can be sourced for foreign workers**

Foreign workers can only be sourced from countries approved by government. Unlike in the Peninsular, where contractors can source foreign workers from various countries approved by Government, contractors in Sabah can only source workers from the Philippines and Indonesia. If they want to employ workers from China, they must apply through Peninsular Malaysia.

In Sarawak, there are fewer immigration rules for foreign workers. These workers are free to work in Malaysia and go back to Indonesia after three months of working, because Indonesia is close to Malaysia. In addition there are two kinds of passports for Indonesians; one is a border passport and the other an international passport. A border passport is used by Indonesians who stay along the borders between Indonesia and Sarawak. Workers who stay in Kalimantan Barat will use the border passports to go to town to work and when the passport expire they return to Indonesia. The border passport is very popular among the workers because it is cheaper and easier to obtain. It is endorsed by both the Immigration Departments of Indonesia and Sarawak.

**Recommendation**

Expand number of source countries

**Issue 17: Monopoly of cement producer in Sabah**
Currently, there is only one cement producer and supplier in Sabah which is state-owned company, Cement Industries (Sabah) Sdn Bhd. In 2011, Sabah experienced shortage of cement and it could not be delivered on time to construction site. This situation had affected construction work progress.

There is however, no specific regulation or policy in Sabah with regard to setting up cement factory in that state. The only thing is that there is no company interested in investing in the cement industry in Sabah due to the small market and low demand. Cement Industry (Sabah) has established itself in terms of processing, innovation and marketing of cement in Sabah that can sustain itself in the industry.

**Recommendation:**
1. Allow contractors to buy cement from any source, including from overseas for example, cement from Thailand which is cheaper
2. Government may provide incentives to encourage or attract investors to invest in cement in Sabah so that it can create competition and provide alternative sources of cement in that state.

Either option and certainly both would address the issue of shortage of cement supply that leads to project delays.

**Issue 18: Lack of Transfer of Knowledge – Sabah and Sarawak**
Currently, major projects and contractors are centered in Peninsular Malaysia, while in Sabah and Sarawak projects are mainly small to medium size. However, whenever bigger projects take place in Sabah and Sarawak, the local contractors are not given the opportunity to participate directly in the development of that project given the size of the contractors. These projects are mainly carried out either by joint ventures between the big contractors from Peninsular and foreign contractors or the established Peninsular’s contractors. The local contractors only manage to get sub-contract work like drainage.
Recommendation
Given their small size and low ranking, it is recommended that local contractors to consider forming a consortium to enable them to participate in bigger projects.

Issue 19: No One-Stop Center (OSC) in Sabah
One-Stop Center (OSC) is a unit under the Local Authority or Local Government. In general the roles of OSC are:

- To coordinate and monitor development proposals and other applications;
- To inform the decision on approval of development proposals to the applicant;
- To make recommendations on the land development application to the Land Office; and
- To prepare periodic report.

Currently, there is no OSC in Sabah, thus applications have to go through various units or agencies to obtain approvals resulting in longer approval processes. There is an overlapping of roles between these agencies. For example application for approval on land matters from local government where approval must be obtained from Central Board which can takes years to approve. Fast approval is crucial especially for bank loan application.

The decision to establish an OSC in Sabah depends on the Sabah State Authority. Sabah is not governed by the same law as Peninsular Malaysia. In addition to that, Sabah and Sarawak did not adopt and gazette Act 133 Street Drainage Building Act 1974.

Recommendation:
It is recommended that a One-Stop Center be established in Sabah to expedite approval processes.
**Issue 20: Thickness of Party (Separation) Wall**
A party wall (occasionally parti-wall or parting wall) is a dividing partition between two adjoining buildings (or units) that is shared by the tenants of each residence or business.

In Sabah, Bomba follows the specification under UBBL 1994 in reference to the thickness of party walls even though this specification has been revised. Thus, it creates confusion for contractors as to which requirement to follow and higher cost to contractors if they have to re-do the party wall.

**Recommendation**
Bomba to update themselves on the current specification for the thickness of the party wall to avoid confusion amongst contractors.

**Issue 21: Construction Materials**
**Higher costs are incurred by Sabah contractors for importing construction materials**

1. Because of the current Cabotage policy that prevents international shipping from calling at Sabah ports, any import of construction materials, like steel, must go through Peninsular Malaysia which is then shipped to Sabah and on to the construction site.
2. Small to medium construction companies are particularly disadvantaged by the many stages to get the materials.

**Recommendation**
Government could relook at the Cabotage policy in particular the trade between ASEAN countries.
CHAPTER ONE

1 About the Review

The number of regulations has grown at an unprecedented pace in Malaysia over recent decades. There are regulations that were formulated way back even before independence which are still being enforced. Until recently no systematic effort has been made to review the relevance and effectiveness of existing regulations, even though new regulations are being formulated. This has been a response to the needs and demand of an increasingly affluent and risk-adverse society and an increasingly complex global economy. Good and well implemented regulations deliver economic, social and environmental benefits but they also impose substantial costs. Some costs are the unavoidable secondary impact of pursuing legitimate policy objectives although a significant proportion is often not. In many cases, costs exceed the benefits. Moreover, regulations have not always been effective in addressing the objectives for which they were designed, including some regulations designed to reduce risk (APGC 2011).

The growing recognition of these costs and other deficiencies of regulation have led the Government to decide that major reforms are needed and has mandated MPC to review regulatory burdens including for construction as reflected by this review of the costs imposed by regulation, both written and as implemented.

1.1 The 10th Malaysia Plan: Modernising Business Regulation

The Government recognized that the regulatory environment had a substantial effect on the behaviour and performance of companies. Innovation and private sector participation in the economy require a regulatory environment that provided the necessary protections and guidelines, while providing flexibility for businesses to choose the best ways to operate. Too often, Malaysian firms faced a tangle of regulations that have accumulated over the years and now constrained growth.

Malaysia has consistently improved its regulatory performance over the last few years as can been seen from its ranking in the World Bank Report on Doing Business, see
Table 1.1. To maintain a top-10 overall competitive ranking the country has to continuously improve its regulatory performance. The 2016 report, shows Malaysia overall ranking drop one position from seventeenth to eighteenth. This has been the result of efforts in reforming regulations in areas such as construction permits, starting a business, electricity and insolvency. Although the overall ranking in doing business has improved there is much to do to ensure its position in the top-ten ranking (Malaysia 2010a).

Table 1.1: Malaysia’s Competitiveness Performance in Doing Business Report

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Malaysia’s ranking with other countries</th>
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</thead>
<tbody>
<tr>
<td>Overall</td>
<td>18</td>
</tr>
<tr>
<td>Starting a business</td>
<td>14</td>
</tr>
<tr>
<td>Dealing with construction</td>
<td>15</td>
</tr>
<tr>
<td>permits</td>
<td></td>
</tr>
<tr>
<td>Getting Electricity</td>
<td>13</td>
</tr>
<tr>
<td>Registering property</td>
<td>38</td>
</tr>
<tr>
<td>Getting credit</td>
<td>28</td>
</tr>
<tr>
<td>Protecting Minority Investors</td>
<td>4</td>
</tr>
<tr>
<td>Paying taxes</td>
<td>31</td>
</tr>
<tr>
<td>Trading across borders</td>
<td>49</td>
</tr>
<tr>
<td>Enforcing contract</td>
<td>44</td>
</tr>
<tr>
<td>Resolving</td>
<td>45</td>
</tr>
</tbody>
</table>


To achieve this goal, the Government began with a comprehensive review of business regulations, starting with regulations that impact on the NKEAs. Regulations that contribute to improve national outcomes will be retained, while unnecessarily burdensome, redundant and outdated regulations will be eliminated. These reviews are led by MPC and its work complements the efforts of PEMUDAH.
1.2 What has MPC been asked to do?

The 10th Malaysia Plan has mandated MPC to carry out regulatory review in view of making it easy to do business in Malaysia. This review process has drawn on the expertise and views of public sector and private sector leaders to help identify key issues and proposed possible solutions. Figure 1.1 shows MPC’s regulatory review framework.

As mandated in the 10th Malaysia Plan, MPC has been (Malaysia 2010a):

- reviewing existing regulations with a view to removing unnecessary rules and compliance costs. The priority has been on regulations affecting NKEAs
- undertaking cost-benefit analysis of new policies and regulations to assess the impact on the economy
- providing detailed productivity statistics and benchmarking them against other countries
- undertaking productivity research (e.g. the impact of regulations on growth of small-medium enterprises (SME))
- making recommendations to the Cabinet on policy and regulatory changes that will enhance productivity
- overseeing the implementation of recommendations.
The Government formalized and institutionalized mandate given to MPC with the introduction of a national regulatory policy through the policy document *National Policy on the Development and Implementation of Regulations*. This document was launched by the Chief Secretary of the Government of Malaysia in July 2013.

The objective of the national policy is to ensure that Malaysia's regulatory regime effectively supports the country's aspirations to be a high-income and progressive nation whose economy is competitive, subscribes to sustainable development and inclusive growth. The policy is to ensure a regulatory process that is effective, efficient and accountable and to have greater coherence among policy objectives (Malaysia 2013).

**The 11th Malaysia Plan Strategy A2: Implementing Comprehensive and Integrated Governance Reform**

In the Eleventh Malaysia Plan, coordination and collaboration between ministries, agencies and other relevant stakeholders will be strengthened to improve their effectiveness and efficiency. The Special Committee on the Services Sector will oversee the implementation of the services sector development strategies and action plans, particularly the Services Sector Blueprint, the Logistics and Trade Facilitation
Master Plan (LTFMP), and the Construction Industry Transformation Programme (CITP). The Committee will also ensure cross-sectoral policy coherence with national development objectives. For the logistics industry, the National Logistics Task Force will be set up to lead the implementation of the LTFMP.

Comprehensive and integrated governance reforms will be pursued to ensure a thriving and competitive environment for the services sector. The National Policy on the Development and Implementation of Regulations (NPDIR) to modernise the current regulatory regime will be fully implemented to include states and local governments. The capacity of regulatory coordinators in ministries and agencies will be strengthened to ensure adherence to the NPDIR. The regulatory reform will also be aligned to Malaysia’s commitments in existing free trade agreements and unilateral liberalisation initiatives. A regulatory portal will be established to improve access to and transparency of regulations.

This review will contribute to the 11th Plan by identifying areas where the regulation and governance of the construction sector could be improved and thus contribute to:

- improved coordination and consistency across ministries and agencies
- ensuring the regulatory environment for construction facilitates its development and efficiency
- consistency across federal, state and local government regulation
- regulatory transparency and accessibility
- alignment to free trade agreements and trade liberalisation, in general.

### 1.3 The approach and rationale of this review

The construction industry makes up an important part of the Malaysian economy due to the number of industries linked to it, such as basic metal products and electrical machinery and because it impacts on every industry. It plays a significant role in terms of its contribution to revenue, capital formation and employment which ultimately supports gross domestic product (GDP). The construction industry could be described as a substantial economic driver for Malaysia.
The construction industry creates a multiplier effect to other industries, including manufacturing, financial and professional services. It provides the infrastructure for industrial growth and production and basic amenities such as accommodation, buildings, parks, playgrounds and stadiums, health care units, roads, highways, railways, ports, airports, dams, power generating and supplying stations, communication utilities, as well as the other basic infrastructure which is necessary for the country and to develop and improve living standards of the society.

1.4 Conduct of the study
The investigations have involved collection, review and analysis of data and information from two sources: secondary data from literature reviews and primary data from interviews with key stakeholders.

Secondary data (see References) which were reviewed and used as inputs for this study are from many sources and are classified as follows:

a) Research papers published by international agencies and other countries such as the World Bank, the Australian Government Productivity Commission.

b) Local research papers and reports commissioned by the government such as Economic Planning Unit (EPU) commissioned reports, Ministry of International Trade, Industry (MITI) commissioned reports and Bank Negara Report. Reference to these papers will be cited in this report.

c) Laws of Malaysia, the various Acts and Regulations relevant to construction sector.

d) Statistical data relating to the construction sector will be from international sources and local sources, primarily the World Bank, CIDB (Construction Industry Development Board) publications, Department of Statistics Malaysia publications.

e) Information from local government agencies, quasi government bodies, professional bodies, private businesses and the relevant associations on policy matters, news, reports and statistics for analysis and inputs to this study. Much of this was accessed from their web-sites and the sources will be listed in the final report.
Primary data has been collected through the interviews of key stakeholders comprising business players, the relevant associations, representatives of professional bodies and the regulators. The business players in this study are primarily the construction and construction related companies which are licensed by the CIDB and MUHLG/KPKT (Ministry of Urban Wellbeing, Housing and Local Government).

Through consultation, the review has established the key areas which the construction industry views as the more burdensome. Some options to reduce regulatory burdens are listed, based on inputs from the stakeholders. Feedback on these will inform the final report and further improve MPC’s final recommendations.

The study is carried out in two stages: the exploratory stage to prepare the draft paper and the option stage to verify the feasible options formulated to achieve the aim of the study. An interview brief was prepared for dissemination to the selected respondents (construction companies and related associations) and with the assistance of the AGPC expert, and a list of relevant questions was developed for the one-on-one interviews with the respondents. The respondents were selected from the members of Master Builders Association of Malaysia (MBAM), Persatuan Kontraktor Melayu Malaysia, Persatuan Kontraktor India Malaysia, Penang Master Builders Association and Building Materials Association, Johor Master Builders Association, Sabah Builders Association, Sarawak Building and Civil Engineering Contractors Association, Dewan Perniagaan Melayu Malaysia Sabah, Kuching Samarahan Division Building & Civil Engineering Contractors Association, Malaysia, Malaysian Heavy Construction Equipment Owner’s Association and Association of Projects Managers Malaysia. The listing of these key stakeholders interviewed will be included in the final report. The interviews were carried out until a saturation level was reached, that is when no new issue was raised.

From these inputs, detailed analysis was made at three levels:

a) at the individual level, where the principal researcher carried out her analysis on the inputs and drafted this draft report for further deliberation
b) at the team level (various researchers), where the inputs and draft report were further analysed to achieve further insights,
c) with the expert from AGPC, Ms. Sue Holmes then provided her expert’s inputs and insights.

Figure 1.2 below summarizes the study process for this research.

**Figure 1.2: Study of Summary Process**

1.5 Structure of the report

This report on the Review of Unnecessary Regulatory Burdens (RURB) has been organized into **eight** chapters, starting with this introductory chapter. Here, the rationale of the review is highlighted and the approach to the study follows the Australian Government Productivity Commission (AGPC) methodology. An Australian expert previously with the AGPC was engaged by MPC to provide the advisory input to the study team throughout the study duration.
In Chapter Two, the construction sector is analysed via the value-chain concept. The value chain for the construction industry is mapped out and used to identify the businesses in the industry. Reference is made to the *Malaysia Standard Industrial Classification 2008 Version 1* on this. The chapter also shows the macro-economic performance of the construction sector from *2005 to 2014*.

Chapter Three deals with the rationale for regulating the construction sector by looking at reasons why businesses may not deliver the best outcomes without intervention by the government. This chapter also looks at the sources of regulatory burdens and those which may be unnecessary.

Chapter Four gives an overview of the development of the regulatory regimes for construction in the country. The chapter gives some background on the overarching intent of the Government in regulating the construction industry and concludes showing where various regulations impact on the different stages of the construction industry’s value chain.

Chapters Five, Six, Seven and Eight present the unnecessary regulatory burdens identified by the industry and suggests possible options to reduce them. The study identified twenty two issues as being the most pertinent regulatory issues.

Chapter Five covers the issues relating to *pre-construction*. Seven interrelated issues that pose heavy regulatory burdens are analysed and potential options to ameliorate them are proposed. Chapter Six analyses four regulatory issues relating to the *construction* phase and potential options to ameliorate them are proposed. Chapter Seven analyses issues on Importing Machinery and Materials, while Chapter Eight analyses other issues in Sabah and Sarawak related to construction along with possible options.

Chapter Nine reports the public consultation exercise which includes the feedbacks from the principal regulator and other key stakeholders of MPC on the findings and proposed options covered in Chapters Five, Six, Seven and Eight.
All the key findings of the nine chapters are summarized in the overview and the recommendations at the beginning of this report. Appendices are included at the end of the report in the Appendix section for easy reference of the reader. The last section of the report lists the references used.
CHAPTER TWO
Sector Analysis

2 Sector Analysis on Construction Industry

Historically, construction activities in Malaysia can be traced back to the British Administration (1786 - 1957). The discovery of large deposits of alluvial tin in Perak and Selangor and the demand for tin by British industries necessitated the tin to be transported from the mines to the port. British engineers and workers were seconded from the colonial Government of India and Ceylon (Sri Lanka) to construct the metre gauge railway track in 1882. The 8-mile Taiping-Port Weld line was opened on 1st June 1885. Labourers from China and India were also brought in to work in the tin mines, rubber and cocoa plantations (MBAM).

In the early days, “contractors” would be either individuals or small groups of people offering their services and working under the direction of an architect or engineer in the employment of the client. There were few general or main contractors of the kind responsible for construction then. The sub-contracting system, which is still predominant today, grew from such early practices from which sub-contractors are hired and organised by main contractors who bid for and obtain projects and subsequently subcontacted out parts of the projects in packages. Post-independence, construction companies tended to be family dominated and characterised as clannish, paternalistic, thrifty, risky, hard-working and using the apprenticeship system (MBAM).

Traditionally, the contracting system follows the British model and contractor involvement in the public sector was on a “build only” basis. The contractor’s role was restricted mainly to the execution of work according to designs prepared by consultants who were appointed separately by the client.

The Look East Policy, initiated by the Government in the early 1980s, saw the phenomenal growth of the construction industry with the influx of foreign contractors to undertake mega projects, such as the construction of the Penang Bridge completed in 1985, North-South Toll Expressway completed in 1994, the Petronas Twin Towers and the Kuala Lumpur International Airport. This opened the eyes of local contractors
to the adoption of new construction technology and management techniques in delivering projects ahead of schedule. Foreign contractors were usually technologically more advanced and financially strong.

In the presence of foreign contractors, local contractors can either be joint-venture partners or specialist sub-contractors. Foreign contractors usually enter Malaysia under Mode 4 of GATS as personnel recruited as management and technical support. It is not competitive for them to bring in their workers because of the availability of labour at a lower cost and the employment of foreign labour involves tedious and laborious processes that might contribute to project delays (source: MBAM).

During the formative years in the sixties and seventies, particularly when Sabah and Sarawak joined the Federation of Malaya to form Malaysia in September 1963, the Government launched five-year plans to build more roads and for rural electrification. Men and machines were mobilised to blaze new trails, open up new towns, and transform jungles into vibrant human habitats, linking remote communities to the main stream of development. Bridges and roads were built to facilitate faster and more efficient movement of people and vehicles in the pursuit of a better life and progressive nation.

2.1 Construction Industry in Malaysia

The construction industry plays an important role in any country’s economic development. It provides great support to aggregate economy by backward and forward linkages with other sectors of economy. Furthermore it contributes in generating of huge employment in the economy. Malaysia - realized the significance of the construction sector in the early days of its independence so it began to develop this sector.

The construction sector can be classified into the following subsectors:

a. Professional construction services (incl. architects, engineering services, cost controllers and building control bodies);

b. Onsite construction: Site preparation, Construction of complete buildings, building installation, completion and rental of construction machinery;
c. Manufacturing of construction materials: Suppliers of building products and components (incl. wholesale);
d. Real estate services as a key client base of the sector.

Professional construction services include those of architects, engineers (civil, electrical, structural), planners, draughtsman, surveyors. Each of these professionals have different roles and are governed by different Acts and regulatory bodies. Professionals’ involvement is primarily at the predevelopment stage of a construction project. Details on professional services are covered in another review.

Main contractors, sub-contractors, construction managers, site supervisors, safety officers, labours, engineers, regulators and others are the main parties involved in on-site construction. This stage of a construction is highly regulated to ensure quality, safety, timely payment, environmental impact, etc.

The manufacturers and suppliers of construction materials play significant roles in ensuring timely completion of a project. They provide a strong link between owners, contractors and end users.

Real Estate services provide the links between the owners/developers, purchasers/customers and financiers. They provide property solutions such as leasing agency and brokerage, integrated property and facilities management, capital markets, investment and asset management, valuation, building consultancy and project management.

The contractors’ stakeholders is illustrated in Figure 2.1.
2.2 Industry value chain

The construction industry value chain is shown in Figure 2.2. It can be divided into two broad categories: Primary and Support. The Primary comprises inception, development and building plan, construction and completion. The value chain also can be broken down into three major phases: pre-construction, construction and post-construction. These phases are inter-related and each phase has its own value chain and is governed by sets of Acts and regulations.
The pre-construction phase involves the initiative/inception to develop by the owner/client, the preparation of the development order and the building plan for submission to the relevant authorities for approval.

The construction phase covers project development/construction after approvals have been obtained. The value chain of the construction is related to the value chains of the manufacturers and suppliers of construction materials and machineries, human resources, professional services and other related services. Manufacturers, suppliers of construction materials/machineries and human resources significantly impact on the success or failure of the construction phase. For example, delays in importing heavy machinery or delays in getting approval for foreign workers will disrupt construction. Figure 2.4 shows the value chain of construction phase.
Professional and real estate services link to this stage of the value chain such as the issuance of certificate of compliance and completion (CCC) by architect and marketing of completed buildings by the real estate agency.

Figure 2.3: The Primary Level Value Chain

Source: MPC

Primary level value chain

Figure 2.3 shows the Primary Level value/supply chain, which begins with the initiative to develop/construct by the client/owner. Qualified professionals/consultants are then appointed, including the project manager. The next process is tendering out projects to main contractor(s) to carry out the development project.
The professionals/consultants do the designing and specifications and if agreed by the owner, the architects or planners will submit the development and building plans to authorities for approval.

The project manager, appointed by the client/owner on a consultancy and management basis, provides advice to the client during the pre-construction stages and then manages the construction of the works. He is also responsible for employing consultants, the main contractor, as well as managing the finances.

The main contractor, appointed by clients, carries out construction works and takes full responsibility for the completion of the construction project. The main contractor is responsible for providing all of the materials, labour, equipment (such as engineering vehicles and tools) and services necessary for the construction of the project. The main contractor hires specialized subcontractors to perform all or parts of the construction work. Responsibilities may include providing temporary utilities on site, managing personnel on site, providing site surveying and engineering, disposing or recycling of construction waste, monitoring schedules and cash flows, and maintaining accurate records.
Figure 2.4: Value Chain Construction Phase

Construction Phase

Client/Owner

Architects, Consultants & Project Manager

Project Manager

Initiative/Inception

Design

Tendering

Procurement

Main Contractor

Sub-contractors & Direct Suppliers

Machineries Suppliers

Material Suppliers

Manufacturers

Manufacture/Assemblies

Materials

Import Countries

Importers

Customs

Materials Suppliers

Parts Manufacturers

Indirect Suppliers

Employment Agencies/Ministries

Workers/Labours

Skilled/Unskilled

Training

Municipality/Agencies: Licences/Permits

Utilities & Transportation

Information, Communication & Technology

Finance & Insurance

Legal Services

Use

Handover

Construction on site & Completion

Regulatory Environment
Value Chain Construction Phase

Figure 2.4 shows the value chain of the construction phase which is the main focus of this review. It demonstrates the activities that take place during construction to the completion stage. It also shows the interconnected hierarchy of supply contracts necessary to procure a built asset. The value chain involves the breakdown and traceability of products and services, organisations, logistics, people, activities, information and resources that transform raw materials into a finished product that is fit for its purpose.

The types of businesses related to the total construction value chain can be determined using the Malaysian Standard Industrial Classification 2008 (MSIC 2008). The detailed list is given in Appendix A.

From the entire construction value chain the study focuses only on the construction phase up to its completion. This is the most complex part of the value chain and the most regulated as it involves a variety of disciplines and functions. The MSIC2008 codes for constructions and the related activities (up to 5-digit level) are summarized in Table 2.1.

Table 2.1: MSIC 2008: Construction

<table>
<thead>
<tr>
<th>DIVISION 41: CONSTRUCTIONS OF BUILDINGS</th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>CLASS</td>
<td>ITEM</td>
<td>DESCRIPTION</td>
<td>MSIC2000</td>
</tr>
<tr>
<td>4100</td>
<td>Construction of buildings</td>
<td></td>
<td></td>
</tr>
<tr>
<td>41001</td>
<td>Residential buildings(2)</td>
<td></td>
<td>45201</td>
</tr>
<tr>
<td>41002</td>
<td>Non-residential buildings</td>
<td></td>
<td>45202</td>
</tr>
<tr>
<td>41003</td>
<td>Assembly and erection of prefabricated constructions on the site</td>
<td></td>
<td>45209p</td>
</tr>
<tr>
<td>41009</td>
<td>Construction of buildings n.e.c.</td>
<td></td>
<td>45209p</td>
</tr>
<tr>
<td>DIVISION 42: CIVIL ENGINEERING</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4210</td>
<td>Construction of roads and railways</td>
<td></td>
<td></td>
</tr>
<tr>
<td>42101</td>
<td>Construction of motorways, streets, roads, other vehicular and pedestrian ways</td>
<td></td>
<td>45203p</td>
</tr>
<tr>
<td>42102</td>
<td>Surface work on streets, roads, highways, bridges or tunnels</td>
<td></td>
<td>45203p</td>
</tr>
<tr>
<td>42103</td>
<td>Construction of bridges, including those for elevated highways</td>
<td></td>
<td>45203p</td>
</tr>
</tbody>
</table>
2.3 Industry macro-economic performance

2.3.1 Construction GDP growth

Construction sector’s contribution to Malaysian economy is relatively small as compared to other sectors of economy like services, manufacturing, and agriculture.
For instance the average contribution of services, manufacturing and agriculture sector in gross domestic product (GDP) during the last 20 years from 1990 to 2010 is 48.3, 28.2, and 9.3 percent respectively, while the average contribution of construction sector in the same period was 4.1 percent only but it is significant part of the services sector. Its contribution to GDP is 12 times smaller than services sector, 7 times smaller than manufacturing sector and 2.2 times smaller than agriculture sector (Raza Ali Khan et al).

In 2013, construction sector’s share of GDP remains low at 3.8% if compared to services, manufacturing, mining and agriculture. Its average share of GDP for 2014 and 2015 is expected to remain constant at 4.1% as shown in Table 2.2. Despite its smaller contribution, the construction sector continues to play a key role in aggregate economy of the country by producing wealth and providing a better quality of life to the nation that is essential for development of the nation.

*Table 2.2: GDP by Sector 2013-2015 (at constant 2005 prices)*

<table>
<thead>
<tr>
<th>Sector</th>
<th>Change (%)</th>
<th>Share to GDP (%)</th>
<th>Contribution to GDP Growth (% Point)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture</td>
<td>2.1 3.8</td>
<td>3.1 7.1 7.0 6.9</td>
<td>0.1 0.3 0.2</td>
</tr>
<tr>
<td>Mining</td>
<td>0.7 0.7</td>
<td>2.8 8.1 7.5 7.7</td>
<td>0.1 0.1 0.2</td>
</tr>
<tr>
<td>Manufacturing</td>
<td>3.5 6.4</td>
<td>5.5 24.5 24.7 24.8</td>
<td>0.9 1.5 1.4</td>
</tr>
<tr>
<td>Construction</td>
<td>10.9 12.7</td>
<td>10.7 3.8 4.0 4.2</td>
<td>0.4 0.5 0.4</td>
</tr>
<tr>
<td>Services</td>
<td>5.9 5.9</td>
<td>5.6 55.2 55.3 55.4</td>
<td>3.2 3.3 3.1</td>
</tr>
<tr>
<td>Add: Import Duties</td>
<td>5.8 7.3</td>
<td>-4.2 1.3 1.4 1.2</td>
<td>0.1 0.1 -0.1</td>
</tr>
<tr>
<td>GDP</td>
<td>4.7 5.5-6.0</td>
<td>6.0 100.0 100.0</td>
<td>4.7 5.5-6.0 5.0-6.0</td>
</tr>
</tbody>
</table>

Source: Department of Statistics and Ministry of Finance Malaysia

* Estimate  ** Forecast
There is a strong correlation between the contributions of the construction industry with the economic growth in Malaysia. Its share to GDP has been consistently on the rise since 2005 as shown in Table 2.3. There is also positive correlation between the growth in GDP and the growth in construction industry as shown in Chart 2.1. There is a direct relationship between construction output and national output where the construction output grows more rapidly than national output when economy grows and vice versa (Hua, 1995; Turin, 1969; Wells, 1986).

Table 2.3: Construction Sector Share of GDP against Malaysia’s GDP (2005-2015)

<table>
<thead>
<tr>
<th>Year</th>
<th>GDP</th>
<th>Construction</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Change (%)</td>
<td>Change (%)</td>
</tr>
<tr>
<td>2015 (F)</td>
<td>5.0-6.0</td>
<td>10.7</td>
</tr>
<tr>
<td>2014 (E)</td>
<td>5.5-6.0</td>
<td>12.7</td>
</tr>
<tr>
<td>2013</td>
<td>4.7</td>
<td>10.9</td>
</tr>
<tr>
<td>2012</td>
<td>5.6</td>
<td>18.1</td>
</tr>
<tr>
<td>2011</td>
<td>5.1</td>
<td>4.6</td>
</tr>
<tr>
<td>2010</td>
<td>7.2</td>
<td>5.1</td>
</tr>
<tr>
<td>2009</td>
<td>-1.7</td>
<td>5.8</td>
</tr>
<tr>
<td>2008</td>
<td>4.6</td>
<td>2.1</td>
</tr>
<tr>
<td>2007</td>
<td>5.9</td>
<td>4.6</td>
</tr>
<tr>
<td>2006</td>
<td>5.9</td>
<td>-0.5</td>
</tr>
<tr>
<td>2005</td>
<td>5.2</td>
<td>-1.6</td>
</tr>
</tbody>
</table>

Source: Economic Report, Ministry of Finance

E: Estimate  F: Forecast

Source: Economic Report, Ministry of Finance

Table 2.4: GDP at constant 2005 prices (RM billion)

<table>
<thead>
<tr>
<th>Year</th>
<th>2005 (est)</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
<th>2013</th>
<th>2014 (estimate)</th>
<th>2015 (forecast)</th>
</tr>
</thead>
<tbody>
<tr>
<td>RM bil</td>
<td>RM bil</td>
<td>RM bil</td>
<td>RM bil</td>
<td>RM bil</td>
<td>RM bil</td>
<td>RM bil</td>
<td>RM bil</td>
<td>RM bil</td>
<td>RM bil</td>
<td>RM bil</td>
<td>RM bil</td>
</tr>
<tr>
<td>Total GDP</td>
<td>543.6</td>
<td>573.9</td>
<td>610.1</td>
<td>639.6</td>
<td>629.9</td>
<td>676.7</td>
<td>711.8</td>
<td>751.9</td>
<td>787.6</td>
<td>832.8</td>
<td>876.4</td>
</tr>
<tr>
<td>Construction</td>
<td>16.1</td>
<td>16.0</td>
<td>17.4</td>
<td>18.2</td>
<td>19.3</td>
<td>21.5</td>
<td>22.5</td>
<td>26.6</td>
<td>29.6</td>
<td>33.3</td>
<td>36.9</td>
</tr>
<tr>
<td>Share of GDP</td>
<td>3.0</td>
<td>2.8</td>
<td>2.9</td>
<td>2.8</td>
<td>3.1</td>
<td>3.2</td>
<td>3.2</td>
<td>3.5</td>
<td>3.8</td>
<td>4.0</td>
<td>4.21</td>
</tr>
</tbody>
</table>

Source: Department of Statistics and Ministry of Finance

In February 1990, the former Prime Minister Tun Dr. Mahathir Mohammad introduced a vision for the strong industrialized economy and modernized Malaysia, known as Vision 2020. The main objective of this vision is to transform Malaysia into prosperous, competitive, dynamic, robust and resilient country by the year 2020. In this regard the construction sector plays a significant and effective role because of its dynamic nature and extends backward and forward links with other sectors of economy. Table 2.5 shows the increasing trend of construction GDP by kind of economic activities from 2005 to 2014 while Table 2.6 shows the number and projects values awarded by economic activities from 2010 to 2014.
The construction sector is positively related to the success of any economy, whether developing or developed. Furthermore, it generates employment. *(Raza Ali Khan et al. - - 2014)*

<table>
<thead>
<tr>
<th>Year</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
<th>2013</th>
<th>2014</th>
</tr>
</thead>
<tbody>
<tr>
<td>RM bil</td>
<td>RM bil</td>
<td>RM bil</td>
<td>RM bil</td>
<td>RM bil</td>
<td>RM bil</td>
<td>RM bil</td>
<td>RM bil</td>
<td>RM bil</td>
<td>RM bil</td>
<td>RM bil</td>
</tr>
<tr>
<td>Total GDP</td>
<td>16.1</td>
<td>16.0</td>
<td>17.4</td>
<td>18.2</td>
<td>19.3</td>
<td>21.5</td>
<td>22.5</td>
<td>26.6</td>
<td>29.6</td>
<td></td>
</tr>
<tr>
<td>Residential Buildings</td>
<td>4.3</td>
<td>4.3</td>
<td>4.6</td>
<td>4.7</td>
<td>4.9</td>
<td>5.0</td>
<td>5.5</td>
<td>6.7</td>
<td>7.9</td>
<td>8.1</td>
</tr>
<tr>
<td>Non-residential Buildings</td>
<td>3.2</td>
<td>3.2</td>
<td>3.6</td>
<td>4.0</td>
<td>4.4</td>
<td>5.9</td>
<td>6.0</td>
<td>6.7</td>
<td>7.1</td>
<td>9.4</td>
</tr>
<tr>
<td>Civil Engineering</td>
<td>5.7</td>
<td>5.7</td>
<td>5.9</td>
<td>5.9</td>
<td>6.2</td>
<td>6.6</td>
<td>6.6</td>
<td>8.5</td>
<td>9.5</td>
<td>8.3</td>
</tr>
<tr>
<td>Special Trade</td>
<td>2.9</td>
<td>2.8</td>
<td>3.4</td>
<td>3.4</td>
<td>3.9</td>
<td>4.1</td>
<td>4.3</td>
<td>4.7</td>
<td>5.1</td>
<td>1.4</td>
</tr>
</tbody>
</table>

Table 2.5: GDP by Kind of Economic Activity at Constant 2005 Prices RM Million

<table>
<thead>
<tr>
<th>Work Specialisation</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
<th>2013</th>
<th>2014</th>
</tr>
</thead>
<tbody>
<tr>
<td>Building</td>
<td>Numbe r of projects</td>
<td>Total Project Value (RM m)</td>
<td>Numbe r of projects</td>
<td>Total Project Value (RM m)</td>
<td>Numbe r of projects</td>
</tr>
<tr>
<td>4,679</td>
<td>61,105.3</td>
<td>4,797</td>
<td>60,621.3</td>
<td>4,985</td>
<td>72,168.6</td>
</tr>
<tr>
<td>Civil Engineering</td>
<td>1,926</td>
<td>16,652.1</td>
<td>2,162</td>
<td>24,224.9</td>
<td>2,164</td>
</tr>
<tr>
<td>Electrical</td>
<td>335</td>
<td>6,971.15</td>
<td>314</td>
<td>8,522.79</td>
<td>342</td>
</tr>
<tr>
<td>Mechanical</td>
<td>362</td>
<td>6,279.84</td>
<td>332</td>
<td>6,092.53</td>
<td>290</td>
</tr>
</tbody>
</table>

Source: CIDB Construction Statistics Quarterly Bulletin

Both developing and developed nations have realized and understood the significance of the construction sector to socio-economic and development. Construction activities are closely linked with the various phases of economic development of a country. This has been discussed for several years at macroeconomic level *(Raza Ali Khan et al. (2014)).*

Historically construction activities have been associated with the process of industrial and urban development since the dawn of the Industrial Revolution *(Rostow, 1963).*
The key role of construction has been widely highlighted in the literature. A number of studies have confirmed that approximately half of the investment in gross fixed capital formation is arranged by the construction sector in most developing countries. It plays a significant role in creating employment opportunities and generating new income sources for both skilled and unskilled people of the society. Therefore the variation in construction sector and its activities have great impact on all aspects of human life (Jorge, 2008; Khan, 2008; Rameezdeen, 2008; Chen, 1998; Ofori, 1988; Hillebrandt, 1985; Wells, 1985; World Bank, 1984; Turin, 1978;). This implies that the construction sector is highly integrated with other sectors of the economy through both backward and forward linkages and strongly linked with many economic activities (Bon, 1988; Bon, 1990; Geadah, 2003; Lean, 2001; Rameezdeen, 2006). These linkages are stems for the sector through which it generate higher multiplier effect in the economy (Park, 1989). So that any change in the construction sector must affect other sectors of the economy and finally impact the national income (Ofori, 1988). Hence the construction industry is often considered as an engine of economic growth specifically in developing economies like India, Pakistan, Vietnam, Indonesia, Malaysia etc.

**Employment**

The construction sector has been playing a significant role in aggregating the economy of the country in term of its contribution to revenue generation, capital formation and employment creation which ultimately support the growth of gross domestic product (GDP) and the socio-economic development of Malaysia. The industry can enhance the consumption of locally produced material and the employment in the construction and maintenance of buildings and infrastructures. The sector helps to accelerate social and economic development and fight against poverty and unemployment.

In 2010, 1.02 million people were engaged in the construction sector 9.2 % of the total available workforce. Chart 2.2 depicts the increasing trend in employment contribution of the construction sector. In first decade (1991-2000) of Vision 2020 the average annual employment rate was 8.07% of available work force, while in second decade (2001-2010) it was reached to 9.15 % per year, reflecting that the sector is playing an effective role in socioeconomic development of society by providing job opportunities, increasing income sources and reducing unemployment from the society.
2.4 Growth of Construction Industry

There is a positive correlation between construction output and GDP. The industry’s annual growth rates generally follow the growth trend of the economy. The country's transformation from an agriculture-based economy to industrialization has created the environment for the development of the construction industry.
Chart 2.3 shows that construction output grew from RM16.1 billion in 2005 to a forecast RM39.6 billion in 2015, while GDP grew from RM543.6 billion in 2005 to a forecast RM876.4 billion in 2015. The expansion of the Malaysian construction industry has been catalysed by major capital expenditure projects, with the sector growth even outpacing GDP expansion in recent years. A key factor has been the government’s Economic Transformation Programme (ETP), the 10th Malaysia Plan and public-private partnership (PPP) projects, which have had a domino effect across the industry between 2010 and 2014. Under the 10th Malaysia Plan, 52 projects worth RM62.7 billion were privatized via the PPP approach. In ETP, Government has outlays 149 Entry Point Projects involving investment commitment of RM 211.24 billion in Malaysian construction industry (10th Malaysia Plan).

The overall building construction market improved after the introduction of the 10th Malaysia Plan (2011–2015). The Government aimed to achieve an average annual gross domestic product growth (GDP) of 5.5% in the 10th Malaysia Plan (10MP) with a total estimated development expenditure of RM230 billion from 2011 to 2015 and another 138 billion for physical infrastructure as it pursues the goal of a high-income economy (source:Economic Planning Unit). The participation of the private sector and
investors, particularly for public projects such as construction and management of schools, hospitals, and other community infrastructure, spurs the growth in construction sector.

Some of the more prominent infrastructural facilities - under the 10th Plan were:

- RM 2.7 billion for roads and rail networks leading to key ports and airports.
- Completion of the double-track rail project between Johor Bharu and Padang Besar (RM 16.5 billion).
- MRT to cover a 20km radius from the Kuala Lumpur city centre that is expected to carry 2 million passenger-trips per day when completed.
- RM1 billion for capital dredging of port channels to cater for bigger vessels for Westport Port Klang and PTP Johor, and RM 6 billion upgrading works to these ports and Penang Port.
- Expansion of airport capacity at a cost of RM 3.3 billion (to cater for 62 million passengers in 2015: 47 million in 2008), a new low cost carrier terminal at KLIA and upgrading of the Penang International Airport.

Other government initiatives include the five development corridors of Malaysia as well as the Greater Kuala Lumpur development, are spearheaded by the government delivery unit.

Further assistance to the construction industry include government support for firms to export professional services overseas especially within ASEAN, India, China and the OIC countries, establishing a consolidated presence and brand of Malaysian construction professional services overseas via the CIDB and PSDC (Penang Skills Development Centre), creating and promoting demand in green technology, etc.

Meanwhile, the Construction Industry Master Plan (CIMP) 2006 – 2015, was a comprehensive plan charting the strategic position and future direction of the Malaysian construction industry over the next 10 years i.e. from 2006 – 2015. The focus is to make this sector more productive, more effective, more technologically pervasive, less labour intensive and more confident to venture beyond the local shores and thus become more resilient.
Quarterly Construction Statistics, First Quarter 2015 issued by Department of statistics shows that the total value of construction work done in the first quarter 2015 recorded a growth of 15.1 per cent year-on-year to RM28.7 billion. The quarter-on-quarter percentage change showed an increase of 6.1 per cent as compared to the previous quarter as shown in Table 2.7.

Table 2.7: Performance of the Construction Sector

<table>
<thead>
<tr>
<th>Quarter</th>
<th>No of Projects</th>
<th>Value of Construction Work Done (RM Million)</th>
<th>Percentage Change</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>(QoQ)</td>
<td>(YoY)</td>
</tr>
<tr>
<td>Q1/2015</td>
<td>9,982</td>
<td>28,741</td>
<td>6.1</td>
</tr>
<tr>
<td>Q4/2014</td>
<td>10,000</td>
<td>27,099</td>
<td>7.1</td>
</tr>
<tr>
<td>Q1/2013</td>
<td>9,774</td>
<td>24,973</td>
<td>1.1</td>
</tr>
</tbody>
</table>

Source: CIDB Construction Statistics Quarterly Bulletin, CIDB

As illustrated in Chart 2.4 the construction sector continued to record a positive growth since the first quarter of 2012 due to the expansion of the Malaysian economy.
According to a statement by CIDB’s Chief Executive (Malay Mail, 27 Dec 2014), growth is expected to come from non-residential projects such as commercial buildings, industrial and office space. As for residential projects, affordable housing undertaken by government agencies in the like of Syarikat Perumahan Negara Bhd (SPNB) and the 1Malaysia People’s Housing Programme Corp (PRIMA Corp) are expected to contribute the most to development. The construction of mega projects - namely Klang Valley mass rail transit (MRT) project, Greater KL and the River of Life project by local contractors - also spurred the construction industry in 2014.

In the first quarter of 2015, the highest percentage share was contributed by non-residential buildings sub-sector which recorded 34.8 per cent. This was followed by civil engineering sub-sector (30.5%), residential buildings (29.9%), and special trades (4.8%) as shown in Table 2.8
Chart 2.5 shows the construction activities from 2005 to 2013 where activities of various segments of the construction were on the uptrend from 2010 in tandem with the growth in GDP. Most notable increase in activities were in, residential (RM4.3 bil (2005) – 7.9bil (2013), non-residential (RM3.2 bil (2005) - RM7.1 bil (2013) and civil engineering.(RM5.7 bil (2005) – RM9.5 bil (2013).

**Chart 2.5: GDP by Kind of Economic Activity at Constant 2005 Prices RM Billion**

<table>
<thead>
<tr>
<th>Quarter</th>
<th>Value of construction work done (RM Million)</th>
<th>%</th>
<th>Value of construction work done (RM Million)</th>
<th>%</th>
<th>Value of construction work done (RM Million)</th>
<th>%</th>
<th>Value of construction work done (RM Million)</th>
<th>%</th>
<th>Value of construction work done (RM Million)</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Q1/15</td>
<td>28,741</td>
<td>100</td>
<td>8,606</td>
<td>29.9</td>
<td>10,006</td>
<td>34.8</td>
<td>8,753</td>
<td>30.5</td>
<td>1,376</td>
<td>4.8</td>
</tr>
<tr>
<td>Q4/14</td>
<td>27,099</td>
<td>100</td>
<td>8,059</td>
<td>29.7</td>
<td>9,382</td>
<td>34.6</td>
<td>8,285</td>
<td>30.6</td>
<td>1,373</td>
<td>5.1</td>
</tr>
<tr>
<td>Q3/14</td>
<td>25,301</td>
<td>100</td>
<td>7,598</td>
<td>30.0</td>
<td>8,724</td>
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<td>7,838</td>
<td>31.0</td>
<td>1,141</td>
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<tr>
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<td>7,657</td>
<td>30.4</td>
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<td>32.4</td>
<td>8,167</td>
<td>32.4</td>
<td>1,192</td>
<td>4.7</td>
</tr>
<tr>
<td>Q1/14</td>
<td>24,973</td>
<td>100</td>
<td>7,202</td>
<td>28.8</td>
<td>8,052</td>
<td>32.2</td>
<td>8,399</td>
<td>33.6</td>
<td>1,320</td>
<td>5.3</td>
</tr>
</tbody>
</table>

Source: CDB Construction Statistics Quarterly Bulletin

The number of construction projects and the value of work done declined from 2008 to 2012 due to the completion of several mega projects but has since picked up from early 2013 to 2014 with the implementation of ETP and the 10th Malaysia Plan. This is shown in Chart 2.6.
It was reported in Productivity Report 2012/2013 published by MPC, that the construction sector has experienced high productivity growth at the rate of 15.5% in 2012. Despite the declining productivity rate from 15.5% to 13% in 2013, the construction industry continued to grow because it was supported by construction activities in oil and gas, transport and utilities (Productivity Report 2012-2013, MPC, 2013). Civil engineering is the key sub-sector of construction that contributes to growth at 32.1% while specialised construction activities contribute the least to the growth at merely 2.5%.

The construction sector is projected to increase to 10.7% in 2015 (2014: 12.7%) supported by commencement of some Oil & Gas related projects such as RAPID as well as on-going transportation related infrastructure projects. Meanwhile, the residential subsector is expected to remain strong in view of the increase in demand for housing particularly from middle income group. Demand for affordable housing will remain favourable amid several Government initiatives such as PRIMA, RIR and RMR (Rumah Mesra Rakyat). The non-residential subsector is also expected to remain stable supported by encouraging demand for industrial and commercial buildings. Major commercial building projects such as the 118-storey Menara Warisan and Bukit
Bintang City Centre are expected to contribute to the growth of the sector (*Economic Report 2014/2015*).
CHAPTER THREE

3 Best Practice Regulations and Regulatory Burdens

This chapter discusses the concepts of regulation, the costs associated with regulations and how to identify necessary and unnecessary regulatory burdens. It complements the broad purpose of the review which is to identify unnecessary regulatory burdens affecting businesses in Malaysia and suggest ways to reduce them.

3.1 What Is Regulation?

Economists and lawyers define regulation in different ways. Traditionally the legal definition refers narrowly to a subset of delegated regulatory instruments. In contrast, economists have adopted a broad generic definition which embodies all written legal and quasi-legal instruments ranging over primary legislation, secondary instruments, guidelines, circulars, codes, standards and others. The broader definition is adopted by MPC for this review.

As well as the content of written regulations, the way they are implemented, administered and enforce can also significantly impact on compliance burdens for businesses and the effective of regulations. This is also under review. Hence for this review, MPC is assessing both written regulation, and the administration and enforcement of regulations

3.1.1 Written regulation

- Primary and secondary legislative instruments
- Quasi or tertiary instruments such as guidelines standards, circulars, etc.

Regulatory rules can usually be considered as a spectrum ranging from industry self-regulation (where there is no government involvement), through quasi-regulations (with increasing degrees of government involvement) explicit government regulation Figure 3.1).
Quasi-regulation refers to the range of rules, instruments and standards where government influences business to comply but which does not form part of explicit government regulation. Quasi-regulation can take many forms such as codes of practice, advisory notes, guidelines and rules of conduct, issued by either non-government or government bodies.

*Figure 3.1: A simplified spectrum of regulation*

3.1.2 Regulatory Administration and Enforcement

How written regulation is administered and enforced can significantly impact on the costs of regulation. There are many aspects to administration and enforcement of regulations, including:

- communication
- training
- advice
- creating a culture of compliance
- inspection
- penalties for non-compliance ranging over fees, improvement and prohibition notices, licence suspension or cancellation, enforceable undertakings, prosecution.
3.2 What Are Regulatory Burdens?

Regulatory burdens arise from the costs imposed by regulation and enforcement that would otherwise not arise for businesses. Where requirements from regulation create a change in business behaviour and practices, a regulatory burden can be said to exist. Regulations can adversely impact on business in various ways. Most fall under the following four categories of cost impacts:

- administrative and operational requirements, such as:
  - reporting, record keeping
  - getting legal advice, training
- requirements on the way goods are produced or services applied, such as:
  - prescription on production methods
  - occupational registration requirements, requiring professionals to use particular techniques
- 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.

To be examined in the review, regulatory burdens need to satisfy the following four criteria:

- there are compliance costs imposed by the regulation or the conduct of the regulator that appear to be unnecessary in order to meet the objectives of the regulation;
- the regulation mainly affects the business and consumer services sector either directly or indirectly
- the regulatory burdens are the consequence of regulation by the Malaysian Government, which includes areas where state and local government regulations overlap with Federal regulation or involve the Malaysian Government in policy participation;
- the regulation has been implemented for a long enough time period for its impact to be properly assessed and investigated. Prospective regulation, or
regulation that has only been implemented very recently, is generally beyond the scope of this review.

3.3 What are unnecessary regulatory burdens?
Regulations create unnecessary burdens on business when they are:
- poorly designed and written
- poorly administered and enforced.

3.3.1 Sources of potential unnecessary regulatory burdens
The potential for unnecessary regulatory burdens arises from a number of sources. However, they can typically be categorised under three broad headings:
- a) problems with regulations themselves,
- b) poor enforcement and administration, and
- c) unnecessary duplication and inconsistency.

Problems with regulations themselves
Regulations can unnecessarily increase regulatory burdens in several ways:
- **Unclear or questionable objectives**: a lack of clarity provides uncertainty about what is expected of both those being regulated and those regulating. Moreover, it 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 acts as a disincentive to invest, as well as potentially increasing compliance costs.
- **Conflicting objectives**: sometimes regulations (possibly enforced by different regulators) can have objectives that are conflicting. Examples might include safety considerations, that suggest generous spacing, and environmental regulations that seek to minimise a facility’s ‘footprint’ and hence its environmental impact.
- **Overly complex regulation**: complex laws are likely to require legal interpretation and therefore compliance is more costly and more time consuming. They also make it harder to determine the expectations of regulators.
- **Excessively prescriptive regulation**: prescriptive regulation is typically more complex and onerous than objective- or performance-based regulation, is less
flexible, can stifle innovation, and may not allow businesses to deliver the policy outcome at least cost.

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

- **Regulatory creep**: regulations that influence more areas and activities than were originally intended or warranted. This can stem from the use of subordinate legislation, and regulatory guidelines.

**Poor enforcement and administration**

Poor enforcement and administration of regulation can arise from a number of 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)**: can delay the time taken for 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 (where such limits exist).

- **Overzealous regulation**: can increase compliance costs and represents a disincentive to investment. Inadequate resourcing of regulators can lead to problems, but over-resourcing can also, if it results in imposing excessive regulation or micro-management of regulated businesses.

- **Regulatory bias or capture**: regulators may be ‘captured’ by particular interests that they deal with on a regular basis, 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.
Unnecessary duplication and inconsistency

Regulatory duplication and inconsistency between jurisdictions is not inherently bad. It 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 some costs:

- **Duplication of regulation**: 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 in which they are most likely to obtain a favourable outcome. Further, it can create uncertainties regarding the boundaries of responsibility for each regulator.

- **Inconsistency of regulation**: regulatory inconsistencies can occur within or across jurisdictions, and increase regulatory burdens. Inconsistency is likely to present particular 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.

Best Practice Regulations and Regulatory Burdens

3.4 Rationale for Government Regulations

There is a case for governments to regulate construction because:

- consumers of buildings often do not have all the necessary information or knowledge to assess the safety and quality of a building they purchase — especially for residential property which is typically an infrequent purchase

- important aspects of the safety of a building — including structural soundness, protection against fire and the safety of materials, are difficult to observe once a building is completed
there are split incentives and the principal-agent problem in the building process — where those making the decisions about building construction do not reap the rewards nor bear the costs of these decisions (energy efficiency being a good example). Split incentives can limit investment in quality or innovation (*Sources*— *The Allen Consultant Group 2009 and Australia Productivity Commission—Reform of building regulation 2004*)

### 3.5 What is best practice regulation?

Best practice regulation imposes the least burden necessary to achieve the underlying policy goals, bringing the greatest possible net benefit to the community.

The MPC has published a set of principles that may help to assess the quality of regulations and identify the unnecessary burdens on business. The principles are listed in Box 3.2.
Box 3.1: Six Core Principles for Assessing Regulation and its Administration

Regulations that conform to best practice design standards are characterized by the following six principles and features.

**Principle 1**
Have a proportionate and targeted response to the risk being addressed.

**Principle 2**
Minimize adverse side-effects to only those necessary to achieve regulatory objectives at least cost.

**Principle 3**
Have a responsive approach to incentivize compliance with regulation.

**Principle 4**
Ensure all written regulations are consistent and that 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 interested parties are regularly consulted, it is clear to businesses what their legal obligations are, and all regulations are easily accessed by everyone.

**Principle 6**
Accountability so that businesses can seek explanations of decisions made by regulators, as well as appeal them and there are probity provisions in order to reduce corruption.


These principles guided the MPC’s identification of various key indicators of well written regulations (Box 3-2).
Box 3.2: Well-Written Regulations

According to the MPC, well-written regulations are unlikely to impose unnecessary burdens on business. Indicators of this include:

- the requirements placed on business are proportionate to the risk being regulated, in particular low risks are not addressed by imposing onerous requirements
- the regulations make appropriate use of prescriptive, performance, in-principle and process-based requirements
- the regulatory requirements are the minimum necessary to effectively achieve the objective(s) of the regulation
- in line with responsive regulation, the regulations provide an adequate range of enforcement instruments to allow regulators some flexibility in addressing noncompliance
- the regulations are consistent with other regulations and do not create conflict or duplication
- the regulations are transparent, communicated effectively and readily accessible by everyone
- the regulation place accountability requirements on the regulator such as reporting, appeal and review provisions including some that address probity.


Regulations that have been formulated through Regulatory Impact Assessment (RIA) are likely to reflect the indicators listed above. However, much of the current stock of regulation was not subject to RIA. This makes it important to have ex-post regulatory reviews of unnecessary burdens on businesses to assess the practicality of the regulations, help to improve them and most importantly reduce the burdens on business.

Regulatory Administration and Enforcement

Enforcing regulations, however, with established principles of good practices can enhance regulatory practices to achieve policy objectives. Box 3.3 indicates the
indicators of good quality implementation of regulation. These indicators also reflect the Principles for Assessing Regulation and its Administration (Box 3-1).

Box 3.3: Key Indicators of Good Performances by Regulators

| 1. uses risk analysis to identify areas of intrinsically potentially high adverse impacts and/or possible low compliance |
| 2. maximizes the potential for voluntary compliance |
| 3. uses a range of enforcement instruments flexibly in order to respond to different types of non-compliance – responsive regulation |
| 4. applies regulations consistently across businesses and industry sectors |
| 5. has no duplication and overlap of its responsibilities with those of other regulators |
| 6. has sufficient transparency to enable business to know the requirements of the law |
| 7. maintains an ongoing dialogue between government and the business community |
| 8. has sufficient accountability to enable business to question and appeal decisions and to address possible cases of corruption |
| 9. monitors compliance in order to assess the effectiveness of enforcement activities |
| 10. is adequately resourced and has the skills to be able to fulfil its responsibilities |

Source: Based on Parker (in OECD 2000)

The overarching objective of regulation should be to achieve desired outcomes more efficiently than would be achieved by alternatives, including no regulation (Australian Productivity Commission 2002). In promoting government objectives, most regulation will also impose costs. The focus of this review is on unnecessary burdens. Best practice regulation imposes the least burden necessary to achieve the underlying policy goals, bringing the greatest possible net benefit to the community.

### 3.6 Cost of regulations

Cost of regulations can be categorised as:

- compliance costs (including the administrative costs to government);
- lobbying or ‘gaming’ costs;
- the costs of price distortions leading to consumption and production losses; and
• the related costs associated with potentially ‘lost’, delayed or suboptimal investment.

3.6.1 Compliance costs
The costs of complying with (and administering) regulation are potentially significant. The compliance costs of regulation to businesses potentially include:
• management and staff time (including diversion of management attention from core business, and hiring of additional staff);
• payments to regulators;
• purchase and maintenance of specially modified IT systems;
• hiring of external expertise (such as consultants and lawyers), and
• training costs.

The burden of these compliance costs falls initially on businesses, potentially reducing returns on investment and, therefore, possibly investment levels (in turn generating lower tax revenue). To the extent that higher costs are passed on to consumers in the form of higher prices or restricted consumer choice, the burden of increased compliance costs falls on consumers. Governments also incur significant costs in designing and enforcing regulation. Compliance costs are minimised when good regulatory practices are followed.

3.6.2 Lobbying costs
A further potential inefficiency stemming from regulation — particularly when regulatory outcomes are uncertain — is the diversion of resources into lobbying activity, both by businesses seeking to invest and other interested parties. The greater the discretion given to regulators, the greater the potential for lobbying activity to be employed in an effort to influence regulatory outcomes (Australian Productivity Commission, 2004d).
3.6.3 Production and consumption losses

Regulation can potentially lead to price distortions resulting in production or consumption levels deviating from those that would occur in the absence of regulation. If unnecessary regulatory burdens result in increases in the prices of goods, fewer will be produced or purchased, leading to efficiency losses.

3.6.4 Delays and the potential for ‘lost’ investment

The compliance costs and regulatory uncertainty associated with prospective projects can reduce investor returns and increase risk, lowering the attractiveness of
investments and potentially threatening their commercial viability. Costs associated with delays manifest themselves in many ways. Delays result in out-of-pocket expenses and implicit costs associated with deferred or cancelled projects, such as forgone earnings, lost market opportunities, the costs of standby financing facilities, and the costs of the funds already invested. These losses are compounded if capital costs are rapidly increasing (as has typically been the case in recent years). Further, project delays limit the availability of cash flows to finance new expansion and development projects.

The opportunity cost of projects that are delayed, reconfigured in a suboptimal way, or do not take place, represents one of the key potential costs associated with regulation. Regulatory delays, or unnecessarily onerous regulatory requirements, reduce the incentive to undertake investment, especially if regulatory requirements are seen as less onerous elsewhere.

Unnecessary regulatory delays can also impose fiscal costs on governments in two ways. First, production delays lead to reduced tax receipts and royalties. Second, and perhaps more importantly, the tax base could be reduced by under-investment in development and commercialisation (as projects that could otherwise have proceeded might not be developed).

Unnecessary compliance costs and delays can act as a deterrent to the entry of small-to medium-sized businesses, which already face high barriers to entry, as well as potentially dissuading foreign investment (by making Malaysia a less attractive country in which to invest).
CHAPTER FOUR
Construction Regulation in Malaysia

4 Regulatory Overview

Malaysia has a parliamentary democracy with a constitutional monarchy. Malaysia has a three tiers of government: Federal, State and Local. The Federal and State governments are elected but the local government are appointed officials. There are numerous legislative and regulatory instruments imposed on business by all three types of government.

Figure 4.1: Overview of Federal and State Legislative Powers

Source: Malaysia Federal and State Legislative Powers, Wikimedia Commons (https://commons.wikimedia.org/wiki/File:Malaysia_Federal_and_State_Legislative_Powers.png)

Malaysia’s building regulatory system stipulates the role of the local authority as the sole planning authority. There are 151 local authorities both in the Peninsular and East
Malaysia and by the adoption of the *Town and Country Planning Act 1976* (Act 172), 98 local authorities in the Peninsular Malaysia are planning authorities. Local authorities in the states of Sabah and Sarawak are governed by their Ordinances that mandate the state governments as the planning authority, hence, they do not fall under the purview of Ministry of Urban Wellbeing Housing and Local Government of Malaysia. For the purpose of streamlining and standardization, Federal Government proposes and draft policies, regulatory requirements, standards and guidelines to be adopted and gazetted by the state governments so as to be enforceable by the local authorities. Malaysia has an established building code namely the *Uniform Building By Laws 1984*, in short, UBBL 1984 which is enforced by the local authorities and applicable to all building types constructed in the local authorities’ areas.

The Federal Government administers all building regulations whilst local authorities enforce them through their internal technical departments namely planning, building and engineering. Review and revision of the regulations are the responsibility of the ministry and agencies that administer them. For example, Malaysia Standards are usually revised every 3 to 5 years while regulatory requirements under Public Works Department do not have a mandatory time period for review and revision.

Malaysia’s building regulatory system stipulates that lead agencies and local authorities conduct building inspections and issue permits and clearances to denote compliances to agencies’ requirements and the building code respectively.

**Building regulations**

Malaysia’s building regulations are based on the *Street, Drainage and Building Act 1974* (Act 133) and its subsidiary, the *Uniform Building By Laws 1984* (UBBL 1984). These legal instruments stipulate the procedures for building plans approval and other means of development and construction control. Other lead agencies prescribe their requirements through legislations under their control, take for example, the Fire Services Department prescribes requirements for fire-fighting services through Part VII and Part VIII of the UBBL 1984 and *Fire Services Act 1988*. Some Malaysian Standards are already made mandatory under specific legislation. To date UBBL 1984 has mandated 23 Malaysian Standards.
**Enforcement Procedures**

Local authorities adopt and enforce *Uniform Building By-Laws 1984*. Laws are formulated by the Federal Government and passed down to State Government to be gazetted. These laws will be sent to Local Authorities for adoption and enforcement.

One of the main functions of a local authority is development control in concurrence with its statutory role as a planning authority. These roles are governed by the relevant laws, by-laws and standards. Local authorities have jurisdiction over all buildings including buildings owned by the federal government and UBBL legal is applicable to all buildings in Peninsular Malaysia.

Local Government Department streamlines and formulates of model by-laws. The by-laws are not yet legally binding and cannot be enforced until the states adopt and gazette the by-laws.

*Figure 4.2: Legislative Enforcement Procedures*

Guidelines can be part of best practice (if well written) but they are not legally binding unless they are embodied into regulation. Guidelines that need to be adopted by the local authority produced by any agency must be presented and approved by the National Council for Local Government (MNKT) before adoption by the local authorities. Planning guidelines if adopted and gazetted will become the planning rules enforced by the local authority.
Compliance procedures
UBBL 1984 is a building code which provides the minimum requirements for the control and construction of street, drainage and building in local authorities’ areas. There are 9 parts to the building code which include preliminary, submission of plans for approval, space light and ventilation, temporary works, structural requirements, fire requirements, fire alarms, fire detection, fire extinguishment and firefighting access and miscellaneous. UBBL 1984 is gazetted by each state to be adopted and enforced by the local authorities in a state. For Kuala Lumpur, Labuan and Putrajaya the state authority is the Ministry of Federal Territory.

Law administration and revision
Federal laws that have been adopted and gazetted by the state governments are enforceable by the local authorities. Such laws are applicable to all type of developments including Federal Government’s projects on federal or non-federal lands. In addition to the guidelines proposed and drafted by the Federal Government and the State Government, local authorities too can formulate and enforced their own guidelines.

Construction laws and other related legislation are revisited and updated as per requirement from the industry with no specific time period for review. However Malaysia Standards are normally revisited and reviewed every 5 years.

Code adoption and evolution
Malaysia’s building code, the Uniform Building By Laws 1984 (UBBL 1984) is a subsidiary law under the Street Drainage and Building Act 1974 (Act 133). Even though Act 133 is a federal law and gazetted by the Federal Government, UBBL 1984 is gazetted by each State Government. Amendments to Act 133 must be passed by the Parliament whereas amendments to the UBBL 1984 need only to be approved by the Minister in charge of local governments and later agreed by all State governments before being adopted and enforced by the local authorities. As an example, developments in Kuala Lumpur are being governed by UBBL 1984 gazetted by the Ministry of Federal territory which plays the role as a State Government in comparison to Majlis Bandaraya Shah Alam which enforces UBBL 1984 gazetted by the state of Selangor.
Malaysian Standards (MS)
The Department of Standards Malaysia (STANDARDS MALAYSIA) under the Ministry of Science, Technology and Innovation (MOSTI), is the National Standards and Accreditation Body. In performing its duties and functions, STANDARDS MALAYSIA is governed by Standards of Malaysia Act 1996 (Act 549). As the National Standards Body, STANDARDS MALAYSIA through the Industry Standards Committee (ISC) develops Malaysian Standards (MSs) in 24 sectors including for building, construction and civil engineering. The ISC consists of local industry experts, academics, government officials, and international experts. STANDARDS MALAYSIA recommends reviewing the MS every 5 years or earlier as necessary.

Types of buildings
UBBL 1984 is a uniform building code applicable to all developments and all building types in local authorities’ areas of jurisdiction.

4.1 Current legislative arrangement
The main Acts governing the construction industry are:

- The Federal Roads Act 1959;
- The Quantity Surveyors Act;
- The Registration of Engineers Act;
- The Architects Act;
- The Malaysian Highway Authority Act;
- The Construction Industry Development Board Act;
- The Federal Roads Act 1984 (private management);
- The Road Transport Act; and
- The Town Planners Act 1995
- The Street Drainage and Building Act 1974 (Act 133)

4.1.1 Federal Roads Act 1959
An Act to provide for the declaration of federal roads, bridges, ferries and other means of communication. This Act shall apply throughout Malaysia. The Minister may after consultation with the Government of the State concerned, by order declare any road, bridge, ferry or other means of communication in any State to be Federal.
4.1.2 The Quantity Surveyors Act 1967

An Act to provide for the establishment of the Board of Quantity Surveyors, for the registration of Quantity Surveyors and approval to practise of firms or bodies corporate practising as consulting Quantity Surveyors, for the regulation of the practice of quantity surveying and for matters connected therewith.

4.1.3 The Registration of Engineers Act 1967

An Act to provide for the registration of engineers, and sole proprietorships, partnerships and bodies corporate providing professional engineering services and for purposes connected therewith.

4.1.4 The Architects Act 1967

An Act to provide for the registration of architects, sole proprietorships, partnerships and bodies corporate providing architectural consultancy services, and building draughtsmen and matters connected therewith.

4.1.5 The Malaysian Highway Authority Act 1980

An Act to establish the Highway Authority Malaysia to supervise and execute the design, construction, regulation, operation and maintenance of inter-urban highways, to impose and collect tolls, to enter into contracts and to provide for matters connected therewith.

4.1.6 The Construction Industry Development Board Act (Act 520) 1994

An Act to establish the Lembaga Pembangunan Industri Pembinaan Malaysia (Construction Industry Development Board) and to provide for its function relating to the construction industry and for matters connected therewith.
4.1.7 The Federal Roads Act 1984 (private management)
An Act to provide for a person to demand, collect and retain tolls in respect of a Federal road, bridge or ferry, and for matters connected therewith.

4.1.8 The Road Transport Act 1987
An Act to make provision for the regulation of motor vehicles and of traffic on roads and other matters with respect to roads and vehicles thereon; to make provision for the protection of third parties against risks arising out of the use of motor vehicles; to make provision for the coordination and control of means of and facilities for transport; to make provision for the coordination and control of means of and facilities for construction and adaptation of motor vehicles; and to make provision for connected purposes.

4.1.9 The Town Planners Act 1995 (Act 538)
An Act to provide for the registration of Town Planners and for purposes connected therewith.

4.1.10 The Street Drainage and Building Act 1974 (Act 133)
An Act to amend and consolidate the laws relating to street, drainage and building in local authority areas in West Malaysia, and for purposes connected therewith.

4.2 The Regulatory Agencies and Related Associations
4.2.1 The Ministry of Works Malaysia
Ministry of Works (MOW) was formed in 1956 and was originally named the Ministry of Works, Post and Telecom. In 1957, the Ministry was reorganized and renamed as the Ministry of Works and Transportation.

The rapid progress made in the country's development and socio economy during the 1970s had resulted in the increase of the Ministry’s functions and roles. With the addition of the new roles, the Ministry was renamed once more as the Ministry of Works and Public Amenities in 1978. However, in line with the specialization of
responsibilities, the Government decided to rename the Ministry as the Ministry of Works Malaysia in the 1980s. The name stays until this day.

**Functions of the Ministry of Works**

The functions of the Ministry of Works are:

- To plan the development of the Federal road networks nationwide;
- To coordinate and monitor the implementation of the Federal road projects and other projects under the supervision of MOW;
- To regulate the privatised maintenance work of Federal roads and;
- The development of Bumiputera entrepreneurs in the construction sector;
- To monitor the construction, operation, toll handling and maintenance of the tolled express-ways;
- To plan and coordinate human resource and financial (administration and development) of MOW and Public Works Department (PWD);
- To monitor departments and agencies under its purview;
- To monitor the implementation of the development projects of the Client Ministries carried out by PWD;
- To give advice and support services to CIDB in the development of the country's construction industry and skilled workforce; and
- To give advice and support services to PSDC, MHA (Ministry of Home Affairs), BEM (Board of Engineers Malaysia), BAM (Board of Architects Malaysia) and BQSM (Board of Quantity Surveyors Malaysia) in the development of the professional services programs for the domestic and international market.

**Ministry of Works Core Services**

Ministry of Works core services can be categorised into three components:

- The implementation of infrastructural development projects especially Federal Roads;
- The privatised maintenance of Federal roads and Federal Common Users Buildings, and
- The participation of Bumiputera entrepreneurs in the construction industry
4.2.2 Construction Industry Development Board of Malaysia

The Construction Industry Development Board (CIDB) is a body corporate established under the Act 520 – Construction Industry Development Board Act 1994, revised 2011. It is a statutory body under the Ministry of Works, Malaysia and is tasked with promoting the construction services sector, as well as take on the role of coordinating and monitoring the overall progress of the implementation process of the CIMP (Construction Industry Master Plan). It began operation in 1995. Its main income is from levy on construction contracts worth more than RM500,000.00 (around RM90 million annually- source CIDB).

CIDB’s mission is to develop Malaysian construction industry while its vision is to be a distinguished organization in developing a world class construction industry.

CIDB’s Functions

CIDB’s functions under subsection 4(1) Act 520 is illustrated in Figure 4.3.

Figure 4.3: Functions of CIDB

Source: CIDB
i. Development and Facilitative
   - Promote and stimulate research
   - Promote, stimulate and assist in the export construction related services
   - Promote Quality Assurance
   - Initiate and maintain the construction industry information systems
   - Promote, review and coordinate training programmes
   - Encourage standardisation and improvement of construction techniques and materials

ii. Advisory
   - Advice and make recommendations to Federal and State Governments
   - Promote and stimulate the development of construction industry
   - Provide consultancy and advisory services

iii. Regulatory
   - Accredit and Register contractors
   - Accredit and Certify construction workers and site supervisors

All construction companies must be registered with the CIDB and they regulate and register contractors from 7 grades (G1 – G7).

4.2.3 Other Related Regulatory Agencies and Associations

Other related regulatory agencies and associations are:
   - The Board of Architects;
   - The Board of Engineers Malaysia (BEM);
   - The Board of Quantity Surveyors Malaysia (LJBM);
   - The Institution of Engineers Malaysia (IEM);
   - The Malaysian Institute of Architects (PAM);
   - The Institution of Surveyors Malaysia (ISM);
   - The Master Builders Association Malaysia (MBAM); and
   - The Association of Consulting Engineers Malaysia (ACEM).
Other regulations

The construction industry is also bound by other Acts at the Federal, State and Local Government levels as per Table 4.1.

Table 4.1: Acts and Regulations and its value chain effect

<table>
<thead>
<tr>
<th>Key Federal Government Regulations</th>
<th>Key Cycle Stages</th>
<th>Key State/Local government involvement/regulations</th>
</tr>
</thead>
<tbody>
<tr>
<td>National Development Planning</td>
<td></td>
<td>− State Planning Committee (SPC)</td>
</tr>
<tr>
<td>National Land Code (NL) 1955 (NL, 2003)</td>
<td></td>
<td>− local council</td>
</tr>
<tr>
<td>Federal Territory Planning (Planning) Act 1982 (Amended 2006)</td>
<td></td>
<td>− Local Authority planning department</td>
</tr>
<tr>
<td>Federal Housing Act 1980 (Act 189)</td>
<td></td>
<td>− Local Authority Engineering department (for road and drainage—Section 70) Act 188 and Earthworks Plan Section 70A Act 223) (RMs 2008)</td>
</tr>
<tr>
<td>Uniform Building By Law 1984 (UBBL)</td>
<td></td>
<td>− Department of Town and Country Planning Guidelines</td>
</tr>
<tr>
<td>Free Zone Act 1950 (Act 140)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>The Street, Drainage and Building Act 1974 (Act 133)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Environmental Quality Act 1969</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Regulations of Business Act 1956 (Act 197)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Housing Development Act 1988</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Building Code</td>
<td>Building Plan/Permit</td>
<td>− Local Licensing by-law</td>
</tr>
<tr>
<td>− health, safety, fire protection, accessibility and resource conservation</td>
<td></td>
<td>− Local Government Act 1976</td>
</tr>
<tr>
<td>− Building Control Act</td>
<td></td>
<td>− Local Authority Building Department</td>
</tr>
<tr>
<td>Environmental Quality Act 1994 (Amended 2003)</td>
<td></td>
<td>− Local Authority Engineering Department</td>
</tr>
<tr>
<td>Government Contract Act 1919 (Act 120)</td>
<td></td>
<td>− Technical Department:</td>
</tr>
<tr>
<td>Contract Act 1950 (Act 136)</td>
<td></td>
<td>− JPS</td>
</tr>
<tr>
<td>Drainage Works Act 1954</td>
<td></td>
<td>− FTDC</td>
</tr>
<tr>
<td>Federal Roads Act 1969 (Act 270)</td>
<td></td>
<td>− TNB</td>
</tr>
<tr>
<td>Water Services Industry Act 2006</td>
<td></td>
<td>− JPP</td>
</tr>
<tr>
<td>Uniform Building By Law 1984 (UBBL)</td>
<td></td>
<td>− FBA</td>
</tr>
<tr>
<td>− Industries Act 1938</td>
<td></td>
<td>− JMB</td>
</tr>
<tr>
<td>− Industries Act 1952 (Act 138)</td>
<td></td>
<td>− JPJM</td>
</tr>
<tr>
<td>− Industries Act 1970 (Act 255)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>− Industries Act 1981 Act 273</td>
<td></td>
<td></td>
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<td>− Industries Act 1981</td>
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<td></td>
</tr>
<tr>
<td>− Construction Phase</td>
<td>Construction Phase</td>
<td>− OIDS Act 1993</td>
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<tr>
<td>− National Development Planning Framework:</td>
<td></td>
<td>− contractor's licence</td>
</tr>
<tr>
<td>− National Development Planning</td>
<td></td>
<td>− certification of construction/building materials</td>
</tr>
<tr>
<td>− National Land Code (NL) 1955</td>
<td></td>
<td>− OIDS-Driven Card &amp; Suspension of contractors activities</td>
</tr>
<tr>
<td>− Land Conservation Act 1966</td>
<td></td>
<td>− MHHS—Housing development license</td>
</tr>
<tr>
<td>− Land Development Act 1959</td>
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<td>− Local Government Act 1976</td>
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<tr>
<td>− Land Acquisition Act 1960</td>
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<td>− Federal Territory Planning (Planning) Act 1982 (Amended 2006)</td>
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<td>− Technical Department:</td>
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<tr>
<td>− Free Zone Act 1950 (Act 140)</td>
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</tr>
<tr>
<td>− The Street, Drainage and Building Act 1974 (Act 133)</td>
<td></td>
<td>− FTDC</td>
</tr>
<tr>
<td>− Environmental Quality Act 1969</td>
<td></td>
<td>− TNB</td>
</tr>
<tr>
<td>− Regulations of Business Act 1956 (Act 197)</td>
<td></td>
<td>− JPP</td>
</tr>
<tr>
<td>− Housing Development Act 1988</td>
<td></td>
<td>− FBA</td>
</tr>
<tr>
<td>− Building Code</td>
<td></td>
<td>− JMB</td>
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<tr>
<td>− Building Plan/Permit</td>
<td></td>
<td>− JPJM</td>
</tr>
<tr>
<td>− Local Licensing by-law</td>
<td></td>
<td>− PEOs for Public Safety and Health at Construction Sites, 2007</td>
</tr>
<tr>
<td>− Local Authority Engineering Department</td>
<td></td>
<td>− Guidelines for Occupational Safety and Health in Tunnel Construction, 1988</td>
</tr>
<tr>
<td>− Technical Department:</td>
<td></td>
<td>− Guidelines for Occupational Health Services, 2005</td>
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<tr>
<td>− MHHS—Housing development license</td>
<td></td>
<td>− Environmental regulations</td>
</tr>
<tr>
<td>− Local Authority Engineering Department</td>
<td></td>
<td></td>
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<tr>
<td>− Technical Department:</td>
<td></td>
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<tr>
<td>− JPS</td>
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<tr>
<td>− FTDC</td>
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<td>− TNB</td>
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<td>− FBA</td>
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<td>− JMB</td>
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<td>− JPJM</td>
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<td></td>
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<tr>
<td>− OIDS Act 1993</td>
<td></td>
<td></td>
</tr>
<tr>
<td>− OIDS-Driven Card &amp; Suspension of contractors activities</td>
<td></td>
<td></td>
</tr>
<tr>
<td>− MHHS—Housing development license</td>
<td></td>
<td></td>
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<tr>
<td>− Local Government Act 1976</td>
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<tr>
<td>− Local Authority Engineering Department</td>
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<td>− Technical Department:</td>
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<td>− JPS</td>
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<td>− FTDC</td>
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<td>− JPP</td>
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<td>− JMB</td>
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<tr>
<td>− JPJM</td>
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<tr>
<td>− PEOs for Public Safety and Health at Construction Sites, 2007</td>
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</tr>
<tr>
<td>− Guidelines for the Prevention of Fall at Workplaces, 2007</td>
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<tr>
<td>− Guidelines for Occupational Safety and Health in Tunnel Construction, 1988</td>
<td></td>
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<tr>
<td>− Guidelines for Occupational Health Services, 2005</td>
<td></td>
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<tr>
<td>− Environmental regulations</td>
<td></td>
<td></td>
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<tr>
<td>− Uniform Building By Law</td>
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</tr>
<tr>
<td>− OIDS Construction Industry Standard (OQASSIC):</td>
<td></td>
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</tr>
<tr>
<td>− CIS 7: 2005 Quality Assessment System For Building Construction Work</td>
<td></td>
<td></td>
</tr>
<tr>
<td>− CIS 10: 2005 Safety and Health Assessment System In Construction</td>
<td></td>
<td></td>
</tr>
<tr>
<td>− CIS 19: 2011 Quality Assessment System For Completed Road Works</td>
<td></td>
<td></td>
</tr>
<tr>
<td>− Customs (Prohibition of Imports)(Amendment)(No.3) Order 2013</td>
<td></td>
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<tr>
<td>− Customs Directive (Prohibited Imports) 1998</td>
<td></td>
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<tr>
<td>− Customs Directive (Prohibited Imports) 2003 (RMs)</td>
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<td></td>
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<tr>
<td>− The Customs Directive (Prohibited Imports) 1998 (Amendment) 2003</td>
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<td></td>
</tr>
<tr>
<td>− The Customs Directive (Prohibited Imports) 1998 (Amendment) 2004</td>
<td></td>
<td></td>
</tr>
<tr>
<td>− Finance Procedure Act 1967 (Revised 1972)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>− Treasury Circular Letters</td>
<td></td>
<td></td>
</tr>
<tr>
<td>− SPP 5/2010 Regularization of Tenanted Kuchai</td>
<td></td>
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<tr>
<td>− SPP 7/2003 Barangan Tampin</td>
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<tr>
<td>− SPP 5/2012 Enforcement of Penang Country Project, Section Raja Biru</td>
<td></td>
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<tr>
<td>− SPP 11/2000 Barangan Tampin – Pencamiran</td>
<td></td>
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<tr>
<td>− SPP 7/2003 Industrial Building System (IBS)</td>
<td></td>
<td></td>
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<tr>
<td>− SPP 9/1999 intanini Barat</td>
<td></td>
<td></td>
</tr>
<tr>
<td>− Compilation</td>
<td></td>
<td></td>
</tr>
<tr>
<td>− Principal Submitting Person (PSP)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>− Local Authority</td>
<td></td>
<td></td>
</tr>
<tr>
<td>− TNB</td>
<td></td>
<td></td>
</tr>
<tr>
<td>− Water Authorities</td>
<td></td>
<td></td>
</tr>
<tr>
<td>− JPP</td>
<td></td>
<td></td>
</tr>
<tr>
<td>− Fire &amp; Rescue Services Department</td>
<td></td>
<td></td>
</tr>
<tr>
<td>− Road &amp; Drainage Department</td>
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<td></td>
</tr>
</tbody>
</table>
Meanwhile, the housing industry in Malaysia which is regarded as one of the major industries contributing to the economic and social development of the country, is regulated by stringent rules and regulations in the form of; the Housing Development (Control and Licensing) Act, 1966 (“HDA”), the Street, Drainage and Building Act 1976 (“SDBA”) and the Town and Country Planning Act 1974. On the other hand as far as construction of houses under the category of low-cost is concerned, it is subjected to the standard guidelines i.e. Construction Industry Standard (“CIS 1”) and Construction Industry Standard 2 (“CIS 2”). The imposition of regulations, guidelines and standards is to ensure that all categories of houses, inclusive of houses for the lower income group will be constructed according to the acceptable standard. The Ministry of Housing and Local Government (“MHLG”) and the Construction Industry Development Board (“CIDB”) which are expected to carry out the task of ensuring that houses constructed by developers are free from defects.

4.3 Value Chains and the Impact of Regulations
A value chain table illustrating the main regulations of the federal and local government corresponding to the key stages of the construction is shown in Table 4.1. These value chains indicate the key regulatory requirements at each stage of the activity. The construction value chain commences with the regulatory compliance surrounding the development plan then to the building plan/permit, the construction phase and the completion stage.

Regulations on occupational health & safety (OHS), registration of contractors and import levies are included in the value chain because they are a potential source of burden to business. There are also certain regulations, such as those relating to employment and foreign labour that are being considered in other reviews. Where appropriate, MPC has ascertained whether this review can complement these other reviews. For example, other reviews may focus on high level strategy and policy, rather than practical improvements in response to specific concerns, which is the focus of this review.


Meanwhile, some of the Acts and Regulations that regulate the manufacturers and suppliers are Factories and Machinery Act 1991, Factories and Machinery Regulation, Custom Act, CIDB Act 1993, etc.

Related to the value chain is the Real Estate services in which the Real Estate Profession comes under the purview of the Ministry of Finance and is regulated by The Board of Valuers, Appraisers & Estate Agents, Malaysia and governed by the Valuers, Appraisers & Estate Agents Act 1981, the Rules 1986 and The Standards.

*Figure 4.4: Construction Business Life Cycle*

<table>
<thead>
<tr>
<th>BUSINESS LIFE CYCLE</th>
<th>Initiative</th>
<th>Development Order</th>
<th>Building Plan</th>
<th>Construction</th>
<th>Completion</th>
</tr>
</thead>
<tbody>
<tr>
<td>REGULATORY REGIME</td>
<td>Planning</td>
<td>Design</td>
<td>Design</td>
<td>Construct</td>
<td>Handover</td>
</tr>
<tr>
<td>Approval:</td>
<td>Approval to develop</td>
<td>Approval to construct</td>
<td>Licenses to operate &amp; Enforcement</td>
<td>Certificate of Compliance &amp; Completion</td>
<td></td>
</tr>
<tr>
<td>land conversion, zoning</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Source: MPC

The study has focused on the construction and completion phase of the total construction value chain. The construction activities involved many businesses from main contractor to sub-contractors, employment agencies, materials and machineries/equipment suppliers and manufacturers, the importers, and many others. All these
businesses are highly regulated under various Acts. The regulatory regime of the construction business takes place throughout the lifecycle of the construction project, from the initiation stage to the Development Order to the Building Plan throughout actual construction and ending with the completion of a project as shown in Figure 4.4.
CHAPTER FIVE : Unnecessary Regulatory Burdens - Pre construction

5 Contractors Registration

5.1 Too many registration requirements for a local contractor and duplication of documents required for registration

5.1.1 The issues

To be a contractor and undertake a contracting job, a person or company is required to register and obtain the following certificates:

1. Construction Industry Development Board (CIDB) – to allow the contractor to undertake construction jobs based on registered Class/Grade. The certificate is issued by CIDB.
2. SPKK (Sijil Perolehan Kerja Kerajaan) or Government Procurement Working Certificate – allow contractors to participate in government projects that they are qualified for. The certificate is issued by CIDB.
3. STB (Sijil Taraf Bumiputera) or Bumiputera Status Certificate – allow contractors to participate in government projects which are allocated for Bumiputera contractors only. The certificate is issued by Bahagian Pembangunan Kontraktor & Usahawan (BPKU)
4. Registration with other agencies/corporation e.g. TNB, Telekom, JKR, UTM, Petronas, SPAN – allows local contractors/suppliers to participate in procurement activities of the respective agencies. The certificate is issued by the relevant agencies.

Effective 20 July 1995, it is mandatory for all contractors, both local and foreign, to register with the Construction Industry Development Board of Malaysia (CIDB) or Lembaga Pembangunan Industri Pembinaan Malaysia (LPIP) before undertaking or completing any construction work in Malaysia except those who have been given exemption under Section 40(1) of the Construction Industry Development Board Act 1994. Anyone who undertakes to carry out or carry out and complete any construction work without registering as a registered contractor with the CIDB commits an offence under the Act and if convicted may be fined up to fifty thousand ringgit.
Contractor means a person who undertakes to carry out and complete any construction works. Local contractor means a company incorporated in Malaysia which has a local equity holding of not less than seventy per cent (70%). Foreign equity from citizens of ASEAN countries are permitted but shall not exceed fifty-one per cent (51%) of the total paid up capital or accumulated capital.

The fees that a contractor required to pay CIDB for the registration and renewal are as per Table 5.1.

**Table 5.1: Registration and Renewal Fee - CIDB**

<table>
<thead>
<tr>
<th>Type</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1. Processing Fee</strong></td>
<td></td>
</tr>
<tr>
<td>a. New Registration</td>
<td>RM50.00</td>
</tr>
<tr>
<td>b. Renewal</td>
<td>RM30.00</td>
</tr>
<tr>
<td><strong>2. Registration Fee For One Year</strong></td>
<td></td>
</tr>
<tr>
<td>a. Registration Certificate</td>
<td></td>
</tr>
<tr>
<td>Grade G7</td>
<td>RM1400.00</td>
</tr>
<tr>
<td>Grade G6</td>
<td>RM1000.00</td>
</tr>
<tr>
<td>Grade G5</td>
<td>RM700.00</td>
</tr>
<tr>
<td>Grade G4</td>
<td>RM350.00</td>
</tr>
<tr>
<td>Grade G3</td>
<td>RM150.00</td>
</tr>
<tr>
<td>Grade G2</td>
<td>RM80.00</td>
</tr>
<tr>
<td>Grade G1</td>
<td>RM20.00</td>
</tr>
<tr>
<td><strong>3. Fine</strong></td>
<td></td>
</tr>
<tr>
<td>Late Renewal</td>
<td>RM200.00</td>
</tr>
<tr>
<td><strong>4. Issue</strong></td>
<td></td>
</tr>
<tr>
<td>New Certificate</td>
<td>RM100.00</td>
</tr>
<tr>
<td><strong>5. Issue of Duplicate Copy</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td>RM20.00</td>
</tr>
</tbody>
</table>

*Source: CIDB*
Contractor in Malaysia is also required to apply for SPKK to participate in government projects. The SPKK is a certificate issued by CIDB to the contractor to certify that the holder has met the requirements and guidelines of the Ministry of Finance and eligible to participate in any government procurement in construction in accordance with the prescribed qualifications. There are 6 classes to determine which project range a contractor is qualified for. Normally contractor will aim for the class A to get an unlimited project tenders. Table 5.2 shows the class and the project tender limitation. Table 5.3 shows the registration and renewal fees that contractor need to pay.

Table 5.2: Class and Project Tender Limitation

<table>
<thead>
<tr>
<th>Class</th>
<th>Financial Limit (RM)</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>&gt; RM10,000,000</td>
</tr>
<tr>
<td>B</td>
<td>RM5,000,001 - RM10,000,000</td>
</tr>
<tr>
<td>C</td>
<td>RM2,000,001 - RM 5,000,000</td>
</tr>
<tr>
<td>D</td>
<td>RM500,001 - RM2,000,000</td>
</tr>
<tr>
<td>E</td>
<td>RM200,001 - RM500,000</td>
</tr>
<tr>
<td>F</td>
<td>Up to RM200,000</td>
</tr>
</tbody>
</table>

Source: CIDB

Table 5.3: Registration and Renewal Fee - PKK

<table>
<thead>
<tr>
<th>Class</th>
<th>Processing Fee (RM)</th>
<th>Registration Fee (RM)</th>
<th>Renewal Fee Every 2 Years (RM)</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>100</td>
<td>5000</td>
<td>2500</td>
</tr>
<tr>
<td>B</td>
<td>100</td>
<td>3000</td>
<td>1500</td>
</tr>
<tr>
<td>C</td>
<td>100</td>
<td>500</td>
<td>250</td>
</tr>
<tr>
<td>D</td>
<td>50</td>
<td>250</td>
<td>125</td>
</tr>
<tr>
<td>E</td>
<td>50</td>
<td>150</td>
<td>75</td>
</tr>
<tr>
<td>F</td>
<td>50</td>
<td>75</td>
<td>38 (3 Years)</td>
</tr>
</tbody>
</table>

Source: CIDB

A contractor who wants to participate in projects/procurements for agencies/corporations like Tenaga Nasional (TNB), Telekom, Petronas, Jabatan Kerja Raya (JKR), Suruhanjaya Perkhidmatan Air Negara (SPAN), Universiti Teknologi Malaysia (UTM) etc. is also required to register with them. The fees for registration vary from one corporation to another as per Table 5.4.
Meanwhile, in Sarawak, contractors must register with CIDB, Unit Pendaftaran Kontraktor & Juruperunding (UPKJ) for state projects and PKK (for Bumiputera status).

Currently, the process for new applications with UPKJ and PKK takes a long time. Responding to applications can take up to 3 months while approval can stretch to almost one year. Validity of UPKJ licence is 2 years and the renewal process is long and not consistent.

**Table 5.4: Registration and Renewal Fee Charged by Agencies/Corporation**

<table>
<thead>
<tr>
<th>Agency/Corporation</th>
<th>Fee Type</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tenaga Nasional Berhad</td>
<td>Processing Fee</td>
<td>RM50.00</td>
</tr>
<tr>
<td></td>
<td>- New Registration</td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Renewal</td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Amendment to Info</td>
<td></td>
</tr>
<tr>
<td>Telekom Malaysia Berhad</td>
<td>New Registration + Processing Fee (RM50)</td>
<td>RM150.00</td>
</tr>
<tr>
<td>Petronas</td>
<td>Processing Fee</td>
<td>RM50.00 per SWEC</td>
</tr>
<tr>
<td></td>
<td>New Registration &amp; Renewal</td>
<td>SWEC—Standardized Work and Equipment Categories</td>
</tr>
<tr>
<td>SPAN—National Water Services Commission</td>
<td>Processing &amp; Registration</td>
<td>None</td>
</tr>
</tbody>
</table>

_Source: TNB, TM, Petronas, SPAN_

Applicants must have registered their business with the relevant authority in Malaysia before they can be considered for registration by CIDB. The registration requirements are as follows:

- Companies Commission of Malaysia (Business Registration/Company Registration)
- Registrar of Cooperatives/Societies
- Commercial Licence – Form 1 (Sarawak)
- Business Licence – Form B (Sabah)

Activities or operations of firms/companies/cooperatives/societies must include construction works as stated in:
- Company Registry (Memorandum & Articles of Association)
- Business Registry (Form A)
- Cooperative/Society Bye-Laws
- Form 1 (Sarawak)
- Form B (Sabah)

In addition, the following category of specialisation are also required for registration (Source: Buku Pendaftaran Kontraktor 2015 Malay Language Version):

a. M16 Tower Crane – Registration with DOSH – for individual
b. B20 (Indoor gas pipeline installation) – Registration with Energy Commission – for company
c. CE09 (Oil and gas pipeline) – Registration with DOSH/Energy Commission – for company
d. M08 (Heat restoration system) – Registration with DOSH – for company
e. M03 (Lift and Escalator) – Registration with DOSH – for company
f. E04 (Low voltage installation) – Registered as electrical contractor with Energy Commission (EC) – for company
g. E12 (Electric signboards) – Registered as electric signage contractor with Energy Commission (EC) – for company

To register as a contractor with CIDB, SPKK and other agencies, a company is required to provide various documents pertaining to the company. Some of these documents are the same and requires certification by (i) the agency which issued the document, or (ii) an authorised person (company director, business proprietor, company secretary).
5.1.2 The objective

The objective of the registration is to determine that an organization is qualified and capable to be registered as a contractor to meet the needs of the construction industry.

The purpose of providing the required documents is to ensure that contractors have the necessary skills, experience and integrity to thoroughly complete the projects they are hired for.

5.1.3 Impact of these regulatory arrangements

1. Cost

Tables 5.1, 5.2 and 5.4 above show the amount of processing, registration and renewal fees that a contractor is required to pay to be a contractor and to undertake a contracting job both for government and private projects. Even though the amount is not huge, the requirement to register with various bodies and agencies before they can bid for a project creates unnecessary burdens to a contractor to do his business.

The validity of the registration is between one to three years depending on the issuing agencies. The registration need to be renewed once its validity period has expired and each renewal involves processing and renewal fees.

In addition, it is costly for contractors to provide same or similar documents for all types of registration and to certify a number of these documents as true copies.

After the objective has been established once, by providing the required documents, additional requirements are redundant and impose an unnecessary cost on contractors in doing their business.

2. Lengthy registration process- lost opportunities for jobs

The industry study reveals that processing and registration approval is lengthy. For example the SPKK licence/registration can take about three months to approve. In addition, the requirement for several registrations is time consuming to contractors. Similarly, new applications with UPKJ and PKK for Sarawak contractors take a long time.
The delays in getting registered has resulted in contractors losing opportunities to bid for and secure for projects with loss of potential income.

3. Restrictions new players from entering the industry
The numerous registrations required, tedious registration process and the fees involved, are likely to prevent or discourage new players from entering the industry or at least slow their entry without any public benefit.

4. Time consuming
Additional time required to gather all documentations as well as getting them certified and ensuring that these documents are in order to prevent rejection.

5.4 Options to resolve the issues
1. Maintain status quo
2. Have only one Ministry or Agency to issue one licence that allows contractors to do jobs that they are qualified for.
Government could consider authorising one Ministry or Agency to issue one overarching licence for a contractor. The Ministry or Agency would set criteria for a contractor to be eligible for different types of contracting jobs. The licence issued would spell out the category of contracting jobs a contractor is eligible to undertake based on the criteria met.

The blanket approval would eliminate the requirements for a contractor to obtain multiple registrations as per current practice. Contractors would only need to provide one set of supporting documents, thus would save cost and time.

This would also help improve industry productivity as contractors would no longer have to wait for approval from various agencies before they can participate in any project. On the part of issuing agencies, the present processing officers could be deployed to productive jobs, and hence improve the organisations’ productivity.
Such an approach has been implemented for the Malaysian Capital Market industry whereby the Malaysian Securities Commission (SC) is the issuer of a licence for investment banks, stockbroker, asset management and unit trust companies to undertake capital market related activities as authorised in the licence issued. The SC is also the issuer of a licence for the representatives of the banks and companies to conduct their activities.

3. **Have a clear time frame to improve the time taken for registration**

Process time frame or service level agreement (SLA) should be made clear and adhered to. The employees of the registration agency would also adopt a policy of continuous improvement in improving timelines and streamlining the registration process. This would reduce backlogs and enable contractors to proceed with project bidding or commencement of work. It would result in higher productivity both for the registration agency and the construction industry.

If the proposed single licence is implemented, processing time can be much improved. This can be seen from the current service provided by the SC.

4. **The personnel of registration agencies should at least provide information to contractors on the status and progress of their application.**

It would help if those personnel involved in processing and approving the application were made aware of the importance of providing feedback to the applicant on the status of the application. The workflow or flowchart should clearly specify when the feedback should be given. This requirement should be included as one of the Key Performance Indicators (KPIs) of the employees Balance Score Card (BSC). By having this, the SLA and productivity can be improved which will benefit the organisation and the construction industry.

Establish a clear and improved time frame for the registration process.
5. As for the renewal process, UPKJ could have a checklist and standardized documents. If the application is rejected, UPKJ would be required to provide reasons and inform applicants.

Checklist and workflow with time frame should be documented and followed for all process. This is important for all organisations to ensure work is done in timely manner. In the case of UPKJ, the KPIs of processing personnel should include the turnaround time in reverting to applicants on the status of their applications. It would be assessed at the end of the year. This could improve their performance thus improved renewal processing time. It will have a positive impact to the construction industry productivity.

5.1.5 Recommendation

Option 2 is recommended because by having one/single license the contractors do not have to do multiple registrations and would only need to provide one set of supporting documents, hence save cost and time. Processing time can be improved thus increased productivity for the industry as well as the registration agency.

5.1.6 Initiative undertaken by CIDB (source: CIDB)

One of the initiatives under CIDB’s Construction Industry Transformation Plan 2016-2020 (CITP 2016-2020) is to streamline and enhance contractor registration by establishing a One Stop Centre (OSC) amongst the agencies which require the registration of contractor.

The objective of the OSC is to:

1. Reduce overlapping function and responsibilities;
2. Reduce contactor registration bureaucracy with the online registration and virtual certification;
3. Establish common development policy, accreditation and contractor registration amongst the agencies who require contractor registration; and
4. Centralise contractor’s information in the comprehensive ICT database system.

Amongst the agencies involved in this initiative are:

- SPAN
5.2 Unnecessary barrier on entry of new contractor

5.2.1 The Issue

To be eligible for registration, applicants must satisfy the registration requirements before they can be considered for registration. The registration requirements are as follows:

a. The applicant must be registered with the company registration authority or other authority applicable to its business operation.

b. The applicant must have adequate financial resources and must maintain its financial standing for the duration of its registration. Provide previous three months bank statements.

e. The applicant must have or must employ an adequate number of qualified technical personnel and retain them throughout the duration of the registration.

f. The CEO or his representative must be experienced in the construction industry for at least two (2) years.

g. All new registrations will be given conditional approval for a period of one (1) year only. During this period, contractors are required to attend an Integrity Course for Building Contractors organised by CIDB and must have the minimum CCD points within the approval period. The Registration Certificate will not be renewed if the contractor fails to attend the Integrity Course.

h. Green Card

i. Provide supporting documents

j. Pay fees
5.2.2 Impact of this regulatory arrangement
1. Create unnecessary barrier to new comers to the industry. Applicant without a two-year experience does not have the opportunity to register as contractor.
2. Cost to applicant to provide the supporting documents
3. Longer time for approval as CIDB need to verify all information and documents provided.
4. Storage capacity build up at CIDB to store all the documents provided by the applicants.

5.2.3 Improvement made by CIDB
In promoting self-regulation, developing contractors and promoting compliance, CIDB has recently reviewed the process of registering new contractor which has resulted in shorter approval period for registration. Amongst the improvement made was simplifying the requirements for new registration which include:
1. the 2-year experience requirement is longer be mandatory. Applicant who does not possess the 2-year experience is allowed to register but he must attend CIDB business course within one (1) year prior to renewal.
2. removal of Green Card requirement at the point of registration
3. no supporting documents required. The applicant is only required to self-declare in the registration form. Post registration random audit however, will be conducted by CIDB.

5.3 Application for Registration of joint venture contractors (local and foreign) and registration of foreign contractors
5.3.1 The Issue
Contactors are required to register for every job bid or job awarded. Similar supporting documents are required for every registration (in addition to official letter of job awarded)
Section 25 subsection (1) and section 26 of Act 520 requires that any contractors – local or foreign – doing construction works or projects must register with CIDB. And CIDB is to maintain a master register of contractors Refer to Box 5.1.

**Box 5.1: Section 25 and Section 26 of Act 520**

<table>
<thead>
<tr>
<th>25. (1)</th>
<th>No person shall undertake to carry out and complete any construction works unless he is registered with the Institution (Lembaga) and holds a valid certificate of registration issued by the Institution (Lembaga).</th>
</tr>
</thead>
<tbody>
<tr>
<td>26.</td>
<td>The Institution (Lembaga) shall keep and maintain a Register which shall contain the names, business addresses and other particulars of contractors who are registered as registered contractors.</td>
</tr>
</tbody>
</table>

The procedures and requirements for registration is described in detail in the *Registration of Contractors (Construction Industry) Regulations 1995*. The regulation differentiates between the registration procedures and requirements for local and foreign contractors.

As stated in the “Registration Requirements and Procedure Guidelines” contractors are categorized and defined as follows:

- **Local contractor** – a company incorporated in Malaysia which has a local equity holding of not less than **seventy per cent (70%)**. **Foreign equity** from citizens of **ASEAN countries** are permitted but shall not exceed **fifty-one per cent (51%)** of the total paid up capital or accumulated capital;

- **Foreign contractor** – a company incorporated in Malaysia or in a foreign country which has a foreigners’ equity holding of **thirty-one per cent (31%)** or more;
Table 5.5: Contractor's Fees

<table>
<thead>
<tr>
<th>Registration Term/Frequency Fee</th>
<th>Local</th>
<th>Foreign</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1 – 3 years</td>
<td>Per project basis</td>
</tr>
<tr>
<td>Fee</td>
<td>RM20 – RM1,400/annum</td>
<td>RM5,000/project - Provisional Registration Certificate</td>
</tr>
<tr>
<td></td>
<td>RM4,500.00/project - Provisional Registration Certificate for Foreign Contractor (if Provisional Certificate has been issued)</td>
<td></td>
</tr>
</tbody>
</table>

Levy

<table>
<thead>
<tr>
<th></th>
<th>Local</th>
<th>Foreign</th>
</tr>
</thead>
<tbody>
<tr>
<td>Levy</td>
<td>0.125%</td>
<td>0.125%</td>
</tr>
</tbody>
</table>

Source: CIDB

There are two types of registration for foreign contractors:

1. **The Provisional Registration Certificate** - requires the foreign contractor to seek permission to participate in any construction tender bid. And this registration is only for a specific tender bid.

**Conditions for Application**

The registration conditions to obtain provisional registration for foreign contractors are as follows:

a. Complete Form R2/95
b. Pay a processing fee of RM50.00
c. Tender advertisement/invitation letter from client
d. Details of company track record
e. Company’s financial resources
f. Particulars of company personnel

2. **Registration Certificate for Foreign Contractor** - permission to carry out construction works as stated in the Registration Certificate for Foreign Contractor.

Before a foreign contractor undertakes any construction work which they have been awarded, they are required to apply for a **Registration Certificate for Foreign Contractor**. And this registration is for the specific project only.
Validity period, as indicated in the offer letter of work. Where for some reason, the completion date extended, the contractor must apply to CIDB within 14 days of the expiry date of the Registration of Certificate to extend the validity period.

If foreign contractors are awarded a tender, they have to apply for two registrations: the Provisional Registration Certificate and the Registration Certificate.

**Conditions for Application**
The conditions for obtaining a Registration Certificate for Foreign Contractor are as follows:

a. Complete Form R3/95
b. Official offer letter of work

5.3.2 **Impact of this regulatory arrangement:**

1. **Too many registrations and need to pay fees for each one.**
The requirement to apply for a Provisional Registration Certificate for each project bid and a Registration Certificate for each project awarded results in higher costs of doing business for foreign contractors as they have to pay fees for each of the certificate applied. This puts unnecessary burdens on them.

2. **Time consuming document preparation and registration process**
The preparation of documents for the application of the certificates for every job bid and job awarded is time consuming to contractors. This create unnecessary burden to contractors because of the same documentation required for every application. In addition contractors may lost the opportunity to bid or may delay the commencement of work if the approval for the certificates cannot be obtained on time.

3. **Limits foreign participation and lose transfer of technology and expertise**
The current regulations on foreign companies may result in foreign contractors shying away from participating in Malaysian constructions projects which means Malaysian businesses are deprived of the transfer of technology and expertise from the foreign companies.
5.3.3 Options to resolve the issue:

1. Maintain status quo

2. Remove the requirement for the application of two certificates and change it to one certificate only.

If foreign contractors only had to apply for one certificate, the one certificate would allow foreign contractors both to bid for a project and, if successful, to commence work on the projects.

Having one certificate would reduce unnecessary cost and time burdens on the contractors. Work efficiency of the regulator would also improve as existing manpower could focus on the one type of certificate application.

3. Streamlining the registration requirement for foreign companies with local companies

Similar registration requirements for foreign and local contractors would reduce the cost of doing business for foreign contractors and thus would be likely to attract more foreign contractors to participate and invest in local projects. This would help improve the knowledge and expertise of local contractors and possibly making them more competitive internationally.

4. Remove the requirement to register for every tender bid and for every project awarded

Remove the requirement for foreign companies to register for every job they bid for and are awarded because the regulator already has all the relevant information pertaining to the applicant company when it first registered. Foreign companies would only need to advise of changes to the information provided earlier. This would lower costs for foreign contractors and the regulator, due to fewer applications to be processed and less storage of documents.

5. Enhancement of the current online registration system

Presently, CIDB provides for online registration through its SMB Online Registration System, for the registration and registration renewal of local contractors. The system could be enhanced to include the registration of foreign contractors. This would
provide for seamless registration and ease the administrative burdens for foreign contractors.

5. The following are the initiatives currently undertaken by CIDB. However, its success in resolving the above issues is yet to be determined:
   a. CIDB is in the process of automating the registration of foreign contractors. The system is under testing (due to improvement made on requirements/syarat-syarat) and targeted to be ready by July 2016.
   b. CIDB is also looking into reviewing the requirement on application for the Provisional Registration Certificate whereby only one time registration might be required on condition that the foreign contractors declare the jobs they are bidding for and submit the score rating.

5.3.4 Recommendation
We preferred Option 5 as online registration system of foreign contractors will reduce the administrative burden for foreign contractors and smoother registration process.

5.4 Listed local construction companies having foreign equity/participation – refusal on renewal registration application

5.4.1 The issue
Under the CIDB’s Registration Requirements and Procedure, local contractor means a company incorporated in Malaysia which has a local equity holding of not less than seventy per cent (70%). Foreign equity from citizens of ASEAN countries are permitted but shall not exceed fifty-one per cent (51%) of the total paid up capital or accumulated capital.

Because of the above ruling, CIDB declined renewal registration application made by locally incorporated listed construction company whose foreign equity holding exceeds 30 percent (30%) at the point of applying for renewal registration.
The company is allowed to appeal but it takes about one and a half months to obtain the approval and after making several follow-ups. The approval given is also subject to condition that the registration is valid for one year only (normal local renewal registration is up to 3 years) and the foreign shareholding should be brought down to below 30%. Re-application/appeal need to be made within sixty days from the date of Letter of rejection, failing which the company has to apply for registration as foreign company (i.e. per tender bid and per project awarded).

Being a listed company, the foreign equity shareholding is difficult to control because its shares are floated and subject to purchase by foreign parties. The company have to undergo the same process of appealing if its foreign shareholdings exceed 30% at the time of renewal. The appeal process and the yearly renewal is burdensome to contractors as similar documents need to be submitted for the renewal if the appeal is successful.

5.4.2 Impacts of this regulatory arrangement:
1. Registration valid only for 1 year, and companies find that they cannot renew on time as they have to undergo the appeal process. This results in losing job opportunities and un-productive.
2. Discourages local companies from having foreign participation, thus reducing technology transfer.
3. Discourage foreign investment into the country.
4. Costly and time consuming for contractors due to the preparation of similar documents for the yearly renewal

5.4.3 Options to resolve the issue
1. Maintain status quo.
2. As the company is locally incorporated, allow for renewal of registration as other local companies (i.e. maximum of 3 years) with the condition that the foreign shareholdings to be brought down below 30% within certain period of time e.g. within 6 months.
3. Government and CIDB could consider increase the maximum level of foreign shareholdings in listed local construction companies e.g. up to 49%. This would encourage foreign direct investment into the country, enable the companies to renew registration on time, thus avoid losing job opportunities, save cost and time on documents preparation hence increase productivity level of the industry.

4. CIDB to simplify documents requirement for renewal e.g. request only supporting documents that have changes since the last renewal. Contractors only need to make Self Declaration that everything is in order since the last registration. Unscheduled/random audit by CIDB is recommended to ensure compliance by the company.

5.4.4 Recommendation

Option 3 and 4 is preferred as it will encourage foreign investment into the country as well as improve productivity of the industry. Simplifying the renewal requirements will result in cost and time saving to contractors as well as CIDB in terms of processing time and documents safekeeping.
CHAPTER SIX : Unnecessary Regulatory Burdens: Construction Phase

6 Human Resources and IBS

6.1 Lengthy Application Process for Foreign Workers

6.1.1 The Issues:

The application process to bring in foreign workers to the country takes between 6 to 8 months in Peninsular Malaysia while in Sabah and Sarawak it takes about 3 to 6 months. The Home Ministry, Human Resource and CIDB is responsible for Peninsular Malaysia. For Sabah and Sarawak, the State Government is responsible for approving the employment of foreign workers.

The fastest way to employ foreign workers in the Peninsular is through the Construction Labour Exchange Centre Berhad (CLAB) but it only provides permits to bring in workers and does not provide workers. Contractors have to pay about RM1,500 per worker in Peninsular Malaysia.

In Sabah and Sarawak, there is no CLAB, so a contractor– first need to apply for a licence and employment quota for foreign workers. In Sabah, the employment of non-residents is subject to a provision in Section 118 of the Labour Ordinance (Sabah Cap 67). Every employer in the State who employs non-resident employee is required to obtain a license from the Director of Labour, Sabah. In Sarawak, the employment of non-residents is subject to Section 119, Labour Ordinance (Sarawak, Cap. 76) where an employer who wishes to employ non-residents is required to apply and obtain a licence from the Department of Labour Sarawak (JTKSWK).

Application for a licence and the employment quota is made to the Labour Department, Sarawak. The Immigration Department sets a quota for employers in Sarawak when they want to employ foreign workers. Each company has a certain quota and it has to work according to the numbers approved but on many occasions the quota is just not enough. After the licence and quota have been obtained, the contractors can then proceed to apply to bring in the foreign workers. They have to wait for the Approval in Principle [AP] from Labour Department which can take anywhere from three to six months. Employers have to justify to the Labour Department why they need to recruit
foreign workers. Every approval of the quota is based on the guide and formula. However, MPC has not been able to view the guide. This regulatory requirement is not transparent and businesses are kept in the dark on this. *It seems to be based on value of projects and financial standing of the construction company (as in Peninsular Malaysia)*

In Sabah, the licence application is subject to quota approval from the Employment of Foreign Worker Committee for Sabah and Federal Territory of Labuan. Contractors have to pay RM200/worker/quota every year for a minimum of 5 years.

Another problem faced by the employers is that they cannot decide which nationalities they can hire. The Labour Department decides this.

Effective March 18, 2016 employers in the manufacturing, construction and services sectors (category one) in Peninsular will have to pay a levy of RM1,850 for each foreign worker hired, an increase of RM600 from the previous rate.

In Sabah, the average cost to legalise a foreign worker is about RM3,500 while in Sarawak about RM1,400 per person per year.

In Sabah, about 90% of contractors are small to medium contractors with contract periods ranging from 6 to 12 months. Due to short project duration and due to the long time it takes to get approval for foreign workers, project commencement or construction works will be delayed unless contractors employ illegal workers.

### 6.1.2 Impact on this regulatory arrangement

1. Shortage of workers to do the job.

The long process of applying for foreign worker results in shortage of workers to do the job. As for Sabah and Sarawak, most projects are medium to small in size and the project period is between six months to one year. SME contractors in Peninsular and east Malaysia cannot wait for legal foreign workers to arrive because the job will
already be completed by then. The constraint on workers also causes delay in the construction work and it is costly to contractors.

2. Costs – have to pay agency hefty recruitment fees
3. Encourages employment of illegal workers.
4. Influx of illegal workers creates social problems to the country.

6.1.3 Options to resolve the issue

1. Maintain status quo
2. Reduce the costs to bring in foreign workers
3. Reduce the processing time to legalise a foreign worker.
4. To address the issue of illegal workers such as:
   a. Allow foreign workers to change employers after completion of a project if they have a reference from their former employers
   b. Legalise them after contract expires and keep records of them such as thumbprints, employer’s reference as well as the need to pay tax.
   c. Send them back home instead of putting them in prison, hence reduce cost of feeding and accommodating them
   d. Enforce entry requirements and prosecute those using bribery to bring in illegal foreign workers.
5. Use turnover of a company as a basis to approve its quota for foreign workers so that contractors do not have to apply quota for every project (for Sabah & Sarawak).
6. Re-educate public/locals that jobs in construction industry can be considered as professional and can make a good living out of it and offer higher wages to locals.
7. Construction personnel should be accredited like others (e.g. architects and engineers). Contractors should be accredited by their class of skills. Accreditation can be given in the form of a CIDB certificate.

6.1.4 Recommendation
Option 6 is preferred. Higher wages and better impression on working in construction industry could attract more locals to work in the industry, thus less dependence on foreign workers.
Note:
MBAM claims that the construction industry is currently paying higher wages to locals. However, there is no statistics or data provided by MBAM to MPC to support such claim/ to show the difference in salary/wages between the locals and foreigners for construction workers.

6.2 Shortage of Skilled Workers (local and foreign)

6.2.1 The issues:
- Majority of foreign workers employed in the construction industry are unskilled. They came to the country as general workers. CIDB does not allow local companies to train them in their home countries before they come to Malaysia/ while waiting for their visa approvals.
- Training provided in Malaysia is insufficient.
- Unable to retain existing skilled foreign workers because of government ruling on the maximum number of years any foreign worker is allowed to stay in the country.

6.2.2 Impact on this regulatory arrangement
1. Cannot plan resources, resulting in project delays.
2. Work done not up to the specification/quality required.
3. Higher costs due to project delays and need to re-do as specification not met. Contractors have to pay fines in the events of projects failures.

6.2.3 Options to resolve the issues
1. Maintain status quo
2. Set-up an institution specialized in skill training for locals or school leavers and to focus more on IBS training programme and less conventional training
3. Make it mandatory to use the Integrated Building System (IBS), which is less dependent on labour.
4. Government provides grants for IBS.
6.2.4 Recommendation
Implement option 2 but not options 1, 3 and 4 because those companies which find it more cost effective to not use IBS should be allowed to do so. This would provide more flexibility to contractors.

6.2.5 CITP 2016 - 2020
The Construction Industry Transformation Plan (CITP) 2016-2020 would addressed amongst others the training for skilled workers.

6.3 Health and Safety
6.3.1 The issues:
a. Shortage of Health and Safety Officers and lack of enforcement
b. Lack of safety awareness training for workers

1. Under Regulation 25 (1), of the Factories and Machinery (Building Operations and Works of Engineering Construction) (Safety) Regulations 1986 [BOWEC], the main contractor shall appoint a site safety supervisor for the safety supervision of construction activities within the site. The duties of the site safety supervisor include:
   a) Inspect and rectify any unsafe conditions at the construction site;
   b) Correct any unsafe practices;
   c) Check sub-contractors’ work to ensure compliance with the Act and the Regulations made thereunder, and
   d) Liaise with contractor’s safety supervisors appointed under Regulation 26 with respect to safety of work undertaken by sub-contractors.

2. Site safety supervisor must be a person who has successfully completed a site safety supervisor course carried out by the instructor registered with DOSH, and passed the examination conducted by the National Institute of Occupational Safety and Health (NIOSH) or institution accredited by DOSH. After passing the examination they must have at least three years experienced in occupational safety and health before applying for the green book
3. Authorities involved: DOSH, NIOSH, Local Authority, and CIDB.
4. Lack of enforcement at construction site. Authority will come in only when there is accident at the site.
5. Training on safety awareness for workers is insufficient.
6. Industry shortage of qualified health and safety officers and to train them is costly
7. Currently, there is inadequate site supervision and there are not enough site safety supervisors in Sarawak

6.3.2 The objective
Under Section 29(3), Act 514 Occupation Safety and Health Act 1994, the safety and health officer shall be employed exclusively for the purpose of ensuring compliance at the place of work with the provisions of this Act and any regulation made thereunder and the promotion of a safe conduct of work at the place of work.

The Occupational Safety and Health (Safety and Health Officer) Regulations 1997 came into force on August 22, 1997. They are intended to ensure that the employers under the class or type of industry specified in the Occupational Safety and Health (Safety and Health Officer) Regulations 1997 employ a safety and health officer for the purpose of managing matters relating to workplace safety and health

6.3.3 Impact on this regulatory arrangement
1. Higher costs due to delay in construction works in the event of an accident at construction site and contractors have to pay for the cost of safety training for its workers.
2. Deaths not only to workers at construction sites but also passersby and people living nearby the site.

6.3.4 Options to resolve the issues
1. Maintain status quo
2. Safety Officers could conduct safety awareness courses/ training for workers at construction sites
3. Improve on enforcement by conducting scheduled and unscheduled checks at construction sites.
4. CIDB and DOSH should train more site supervisors and provide site safety officers.
5. Levies collected by CIDB should be used to train more of these professionals.

6.3.5 Recommendation
Options 3 and 5 is recommended because improve enforcement will reduce or minimise accidents and casualties at the site and the industry will be benefited from the levy paid to CIDB if CIDB could produce more site supervisors and site safety officers

6.4 CIDB Green Card and Overlapping/Redundancy of Insurance Coverage Requirement for Workers

6.4.1 The issues
1. The CIDB Green Card was initiated by CIDB in August 1997. This is an integrated program that involves the registration and accreditation of Construction Personnel (all personnel working in construction site.) to enhance safety on Construction Sites. This Program entails a one day Safety and Health Induction Course for construction workers (enforced by DOSH) and provision of personal protective equipment consisting of a safety booklet and helmet. Those construction personnel who have been registered with CIDB and issued the Green Card are automatically covered by a special Insurance Scheme that insures the construction personnel against death and accidents. The insurance is free of charge and is not compulsory. The contractor or Green Card holder can opt whether to take the insurance or not. The insurance coverage is 24 hours and it is worldwide. CIDB will pay the insured in the event of an accident provided it is specified under the insurance coverage.

2. In Sarawak, some of the projects are far from town or in rural areas and some of these projects are small and require fewer workers
3. The requirement for registration and training/induction courses to obtain Green Cards for these workers is seen as burdensome to the contractors as they are located far from town.

4. The multiple insurances required for the workers both in Peninsular and East Malaysia are redundant. Currently, there are 3 types of insurance coverage required for foreign and local workers and each type is paid by the employer:
   a. Insurance required at the time of applying for working permit by a foreign worker
   b. Workmen compensation (required by local authorities for foreign workers)
   c. SOCSO (for local workers)
   d. CIDB Green Card (for local and foreign workers)

In the event of an accident, local workers can only make claims to SOCSO and foreign workers can only claim from Workmen Compensation.

6.4.2 The objective

CIDB Green Card
The objectives of the Green Card Program are:
1. To ensure that the construction worker is aware of the importance a safe and healthy working place.
2. To provide a basic knowledge on safety and health at the construction work site
3. To inform construction workers of the legal requirement in relation to safety and health (source: Green Card Program, 1997)

Purpose of Insurance coverage:
1. Workmen’s Compensation
The Workmen’s Compensation Act 1952 provides for the payment of compensation to workmen for injury suffered in the course of their employment.

2. SOCSO
The Social Security Organization (SOCSO) or Pertubuhan Keselamatan Sosial (PERKESO) is an organization established in 1971 to provide insurance coverage
against job-related injuries and disabilities, workplace accidents, occupational diseases and death.

3. Insurance under CIDB Green Card
A special Insurance Scheme that insures the Construction Personnel against death and accidents.

4. Foreign Workers Compensation Scheme (FWCS)
The FWCS was created to protect the interest and welfare of all foreign workers in Malaysia. This scheme provides for the payment of compensation benefits to a foreign worker who possesses a valid employment document for injuries sustained due to accident which arises out of or in the course of employment or if the death results from the accident.

The Workmen's Compensation Act 1952 was amended in August 1996. Section 26(2) of the amended Act deems it mandatory for each employer to insures all the foreign workers employed by him in respect of any liability he may incur under the Workmen's Compensation Act 1952.

6.4.3 Impact of this regulatory arrangement
1. Costly for contractors in Sarawak to send workers for training and registration of their workers to town especially for small projects and projects located in rural areas.
2. If workers are not registered, contractors will be fined and construction works will be suspended.
3. Higher costs incurred by contractors to insure their workers.
4. Duplication of insurance requirements with no clear purpose/objectives.
6.4.4 Options to resolve the issues

1. Maintain status quo.
2. For projects located far from town, the site supervisor could ensure safety at construction site and train other workers.
3. Reduce the number of insurance covers required
4. Clearly state the objective/purpose of the insurance requirements
5. Have only one agency to issue one insurance cover for all workers (foreign or local)

6.4.5 Recommendation

Option 5 is preferred. It is cost and time saving to contractors because they have to pay only one type of insurance for their workers and have to deal with one agency only.

6.5 Implementation of Industrialized Building System (IBS)

6.5.1 The issue

The Industrialized Building Systems (IBS) is a construction process that utilizes techniques, products, components, or building systems that involve prefabricated components and on-site installation. This country uses five IBS groups from the structural classification, and these are:

**Pre-cast Concrete Framing, Panel and Box Systems**
Pre-cast columns, beams, slabs, 3-D components (balconies, staircases, toilets, lift chambers), permanent concrete formwork, etc.;

**Steel Formwork Systems**
Tunnel forms, beams and columns moulding forms, permanent steel formworks (metal decks, etc.;)

**Steel Framing Systems**
Steel beams and columns, portal frames, roof trusses, etc.;
**Prefabricated Timber Framing Systems**

Timber frames, roof trusses, etc.;

**Block Work Systems**

Interlocking concrete masonry units (CMU), lightweight concrete blocks, etc.

The IBS, which enables on-site prefabricated or pre-cast building components manufactured at factories, will enable cost saving, improved quality, - the reduction of labour intensive work and construction standardisation. Apart from this, it offers minimal wastage, less site materials, cleaner and neater environment, controlled quality, and lower total construction costs. Recognising the vast benefits and potential of the IBS, the Ministry of Works through its agencies such as the CIDB and the Public Works Department promotes the use of IBS throughout the construction industry based on the IBS Roadmap 2003 - 2010.

The roadmap is a comprehensive document that divided the IBS programme into the five main focus areas that reflect the inputs needed to drive the programme - Manpower, Materials, Management, Monetary, and Marketing (IBS Roadmap, 2003). The circular from the Treasury Department, Ministry of Finance Head Secretary - on 31st October 2008 has emphasized on the full utilization of IBS for all Government's projects in Malaysia. The used of IBS components in government projects must not be less than 70% and the inclusion of IBS component as part of contract documents for all building works (A Kamar, K. A. M.1, Alshawi, M. 1 and Hamid, Z. (2009)).

As reported in the news Strait Times on May 11, 2015, the Malaysian Investment Development Authority (MIDA) deputy chief executive officer said that the adoption of IBS in the construction sector is still low and represents only about 15-20 per cent of the overall projects in Malaysia despite being in the industry for almost 50 years. The fragmented and disconnected construction supply chains were the leading causes of the limited uptake.

IBS is a construction method. The current building code does not address construction methods. To have IBS incorporated into the building code, a statutory enabler is
required in a main Act. Moreover, Treasury Instruction on the use of 70% IBS in
government projects is purely administrative and cannot be enforced by the authority.

Unlike Malaysia, IBS implementation in Singapore is regulated by legislation on
buildability. The legislation on Buildability was introduced by the Building and
Construction Authority (BCA) in 2001 under the Building Control Act. This Act
promotes the use of prefabrication in construction. BCA controls the quality of
buildable design using the Buildable Design Score. Under the legislation, building
designs are required to comply with a minimum buildable design score. Good buildable
designs require the adoption of labour-efficient technologies and methods to improve
productivity at the construction stage. The use of Prefabrication is mandatory for both
private and public businesses.

To ensure compliance to the buildability requirements, BCA currently checks the B-
score submitted by designers and C-score by builders for new projects. BCA also
conducts site inspections to ensure that all the productivity proposals identified and
committed by the designers and the builders are implemented on site. Currently, it is
an offence not to comply with the Buildability Regulations and this offence may attract
a fine of up to $10,000. However, BCA may also withhold the Temporary Occupation
Permit (TOP) of the affected projects should there be any non-compliance to the
Buildability Regulations.

To ensure that developers take greater ownership in implementing buildable design
and use of labour-efficient construction methods, BCA will take stronger enforcement
measures such as issuing stop work orders if the declared buildable systems or
technologies are not implemented at site.

Through engagement with the industry players, among of the issues raised are:
1. Lack of enforcement to use IBS in Malaysia unlike Singapore
2. Contractors have to pay upfront 30% of a project value to implement IBS in their
   construction project.
3. Absence of IBS catalogue to assist consultants and contractors in design stage.
   This IBS catalogue could also help in approval process (i.e.: approval from
   BOMBA).
4. The initial cost of IBS in a project is high and can be used for one project only. Contractors who undertake private projects hesitate to use IBS because they will have to pay for all the cost, compared to government contractors in which the costs will be paid by the government.

5. No clear definition of IBS and normal construction. For example, the difference between pre-cast, pre-fabrication on site or off site, which one of them is considered as IBS.

6. Implementation of IBS in construction projects promotes safety and clean construction sites, and projects can be completed earlier. However, there is a need to see its practicability and it may more costly to implement.

7. Places like Sarawak encounter logistic problems if using IBS because some of the construction works are in rural areas.

8. The use of IBS is much more feasible for large construction projects and those in urban areas. IBS is less suitable for smaller projects due to the high cost involved.

6.5.2 The Objective

To increase efficiency, quality and productivity.

6.5.3 Impacts of current regulatory arrangement

1. Costly to contractors especially those who do private projects and projects located in rural areas.
2. IBS may not be appropriate for Sabah and Sarawak due to smaller projects and their location.
3. Some projects underutilise IBS.
4. Some private projects are not IBS friendly compared to government projects.

6.5.4 Options to resolve the issues

1. Maintain status quo
2. The Government should look into the enforcement of using IBS component if it wants it to be successfully implemented. Government could look at how Singapore is handling the implementation of IBS to ensure its success. Cost of using IBS could be reduced if it is widely used by the industry which in turn will result in
increase in the number of IBS manufacturers, hence allows for price competitiveness. Issues on shortage of labour and foreign workers could be resolved and casualties/accidents and wastage at the work site could be reduced.

3. Government or CIDB could develop/establish a master plan to implement IBS. As an example, implement it in stages like 50% in the first 2 years and then increase it gradually. Proper monitoring and stricter enforcement should be imposed during the master plan period.

4. Construction project located in rural area should not require the use of IBS.

5. Government could provide more incentives or grant for IBS factory and also to contractors to encourage contractors to use IBS.

6. CIDB could consider giving incentives to contractors who use IBS, for example reduce or no levy charge.

7. The Government or a construction association could assess the cost effectiveness of IBS for rural and/or small and medium sized projects especially in Sabah and Sarawak before requiring all contractors to use the system.

6.5.5 Recommendation

Option 5 is preferred. If more contractors using IBS, demand for IBS product will increase. With the increase in demand and with the availability of incentives more companies will venture into manufacturing of IBS products hence allows for price competitiveness thus reduce costs of using IBS. Issues on shortage of labour and foreign workers could be resolved, casualties/accidents and wastage at the work site could be reduced.
CHAPTER SEVEN

7 Importing Machinery

7.1 Machinery for Construction

7.1.1 The issues

In Malaysia, all goods dutiable on import go through Customs according to Customs Duties Order, 1996. The tariff protection usually is lower on raw materials and increases for those goods that have value added content. In addition to import duties, a Goods and Services Tax (GST) of 6% is levied on goods imported into Malaysia. The Excise import duties varies according to the category of goods imported as indicated in column (4) of the first schedule to the Customs Duties Order 1996.

There are instances where the imported goods are zero rated GST as well as exempted from import excise duties. Importation of zero rated GST good may still be subjected to excise import duties.

All duties/custom taxes imposed on imported goods will need to be paid in advance before the goods can be released.

CEPT Duty Rates

An agreement on the creation of a Common Effective Preferential Tariff (CEPT) Scheme for the ASEAN Free Trade Area (AFTA) was setup for ASEAN countries. Following the existence of the scheme, a CEPT order called Customs Duties (Goods of ASEAN Countries Origin) (ASEAN Harmonised Tariff Nomenclature and Common Effective Preferential Tariff) Order 2004 was issued effective 1 January 2004. Under the CEPT Order, column 2 of the Second Schedule contains a list of goods that falls under the CEPT scheme. CEPT duties are also listed as described in column 3 of the same table.

Importers importing goods within ASEAN countries qualify under the CEPT duties rates as long as they comply to the following:

- Claim on CEPT ASEAN duties will need to be endorsed in the Import Declaration Forms (Custom Forms No. 1)
- Display the origin of goods certificates (FORM D) issued by ASEAN exporting countries

Assessment on Prices of Goods

The value of customs duties on goods imported or exported goods are assessed under Section 2 of the *Customs Act 1967*. The Act specifies the selling price of the goods in the open market by sellers to buyers whom are not connected business wise. Amended prices (or price increases) have to take into account relationships between seller and buyer and terms and rules of sales. Power to value or assess goods is allotted under Section 13 of the *Customs Act 1967*.

Current import duties for heavy construction equipment range from 10% to 35% which is high if compared to other ASEAN countries (refer to Appendix B). The high import duty rates create unnecessary burdens to importers of the construction heavy machinery given that it is unclear what purpose these duties are serving. The high cost has a domino effect on overall construction costs and usually will be absorbed by end users/buyers.

*Table 7.1: Import duty rates for selected construction equipment/machinery*

<table>
<thead>
<tr>
<th>Equipment/Machinery</th>
<th>Import Duty Rates</th>
</tr>
</thead>
<tbody>
<tr>
<td>Backhoe Loaders</td>
<td>10%</td>
</tr>
<tr>
<td>Excavator</td>
<td>5%</td>
</tr>
<tr>
<td>Motor Roller</td>
<td>25%</td>
</tr>
<tr>
<td>Wheel Loader</td>
<td>10%</td>
</tr>
<tr>
<td>Bull Dozer</td>
<td>20%</td>
</tr>
<tr>
<td>Rough Terrain Crane</td>
<td>5%</td>
</tr>
<tr>
<td>All Terrain Crane</td>
<td>35%</td>
</tr>
<tr>
<td>Sky Lift</td>
<td>35%</td>
</tr>
<tr>
<td>Vibrating Compactor</td>
<td>25%</td>
</tr>
<tr>
<td>Tender Roller</td>
<td>10%</td>
</tr>
<tr>
<td>Macdem Roller (non vibrating)</td>
<td>10%</td>
</tr>
<tr>
<td>Vibrating Roller</td>
<td>25%</td>
</tr>
</tbody>
</table>

*Source: Malaysia Heavy Construction Equipment Owners Association*
MBAM have been putting appeals to government since 2006 to reduce import duties on construction heavy machinery. Effective 11th June 2015, the government had cut import taxes on three out of 10 tariff codes submitted by MBAM. The government had reduced the 10 per cent import duties to 5 per cent on machinery categorised under HS 8429.51.000, HS 8430.41.000 and HS 8431.43.000 (MBAM, 2015).

The remaining machinery under the seven tariff codes that are still slapped with import tax ranging between 20 and 30 per cent are HS 8704.10.211 for new dumpers designed for off-highway not exceeding 38 tonnes; HS 8705.10.000 for crane lorries; HS8705.90.000 for special purpose motor vehicles; HS 8429.11.000 for self-propelled bulldozers and track-laying; HS 8429.40.110 for vibratory road rollers; HS 8429.59.000 for excavators, shovel loaders, tamping machines; and HS 8430.69.000 for other moving, grading and boring machinery (MBAM, 2015).

Meanwhile Customs informed that government had reduced import duties rates from year to year.

Sources from MITI informed that the import duty rates is determined by Ministry of Finance while MITI’s role is to propose/recommend for a review in import duty rates. Customs on the other hand is the body to enforce it.

7.1.2 The Objective

Customs duty is a tax levied on imports by the customs authorities of a country to raise state revenue, and/or to protect domestic industries from more overseas competitors. The Malaysian government uses tariffs as a main strategy to regulate the import of goods in Malaysia. It is not clear why duties are imposed on exports.

7.1.3 Impact on current regulatory arrangement

1. Higher cost to contractors
2. Limits new entrants to the industry
7.1.4 Option to resolve the issue

1. Maintain status quo
2. Consider reducing import duties

7.1.5 Recommendation

Option 2 is recommended that government to consider reducing import duties on machinery for constructions so that less cost incurred by contractors which in turn would reduce the cost of construction, thus benefit the end user. More new players could enter the industry, hence allow for price competition.

Reduction in import duties would lead to high productivity and encourage industry players to invest in high-capacity machineries. The use of newer machinery would improve efficiency and also for safety purposes, as older ones, may have a higher safety risk due to metal fatigue.

As majority of the construction machinery in Malaysia is quite old, there would be huge opportunities for construction machinery companies to explore, penetrate and expand their businesses, to support the implementation of projects in the country.

7.2 No clear guidelines on the Approved Permit (AP) to import machinery and lengthy process to get the AP

7.2.1 The issue

Import Permit Licence or Approved Permit (AP) is a permit that allows an importer to bring in a specified quantity of certain goods during a specified period. At present as per the Malaysian import trade policy, most imports can be admitted under an open general licensing regime. However, specific import licences are required for certain controlled items which are intended for import into the country. These items are explosives and firearms, motor vehicles, plants, certain pharmaceuticals, tin ore, soil samples and various foodstuffs. A restrictive import licensing regime is also applied to heavy construction equipment, electrical household appliances, and iron and steel products.
For heavy construction equipment, the AP only extends to machinery or equipment that is less than five years old and is not available locally. The importation of any machinery or equipment that is more than 5 years old is prohibited. The importation of machinery that is less than 5 years old is restricted under Schedule Two of the Customs (Prohibition of Imports) Order 1998 as goods that may not be imported into Malaysia except under an Import Licence. Hence Approved Permits are required for the importation of certain items of heavy machinery.

Box 7.1: List of construction related products and machinery under the Act That Require Import licence by MITI

1. Motor Vehicles for the transport of goods (i.e.: Dump Truck & Crawler Carrier).

2. Special purpose motor vehicles, other than those principally designed for the transport of persons or goods excluding fire fighting vehicles (for example breakdown lorries, crane lorries, concrete-mixer lorries, road sweeper lorries, spraying lorries, mobile workshops, mobile radiological units).

3. Ships' derricks; cranes, including cable cranes; mobile lifting frames, straddle carriers and works trucks fitted with a crane.

4. Road Tractors for semi-trailers, completely built-up, old (i.e.: Prime Mover).

5. Safety helmets require APs include motorcycle helmet.

6. Flat-Rolled Products of Iron or Non-Alloy Steel, of a width of 600mm or more, Hot Rolled, Not Clad, Plated or Coated.

7. Flat-Rolled Products of Iron or Non-Alloy, of a width of 600mm or more Cold-Rolled. (Cold-Reduced), Not Clad, Plated or Coated.

8. Flat-Rolled Products of Iron or Non-Alloy Steel, of a width of 600mm or more, Clad, Plated or Coated.

9. Flat-Rolled Products of Iron or Non-Alloy, of a width of 600mm or more Cold-Rolled (Cold-Reduced), Not Clad, Plated or Coated not further worked than Hot Rolled.
10. Flat-Rolled Products of Iron or Non-Alloy Steel, of a width of less 600mm or more, Not Clad or Coated.


12. Tubes, Pipes and Hollow Profiles, Seamless, of Iron (other than Cast Iron) or Steel - Line Pipe of kind used for Oil or Gas Pipelines.

13. Other Tubes and Pipes (ex: Welded, Riveted or Similarly Closed) having Circular Cross-Sections, the external diameter of which exceeds 406.4mm of Iron and Steel.

14. Other Tubes, Pipes and Hollow Profiles (e.g: Open Seam or Welded, Riveted or Similarly loosed) of Iron or Steel.

15. Iron & steel products which has been exempted from Import License but require Certificate of Approval from CIDB (Construction) or SIRIM (Other than Construction).

17. Cable.

Source: MITI

The authority for granting import licences rests with Royal Customs Malaysia while MITI, along with other specified authorities, is responsible for the day to day administration of import licensing throughout Malaysia.

The conditions and procedures for application of an Approved Permit for heavy construction equipment are as per Box 7.2

Box 7.2: The conditions and procedures for application of an Approved Permit for heavy construction equipment

7.2.2
- Companies that are eligible to apply need to be register with the Companies Commission of Malaysia.
How to apply

Companies need to submit the Application Form together with:

1. Customs Form JK69.
2. Memorandum and Article of Association (M & A).
3. Form 24: Information of Shareholders.
4. Form 49: Information of directors, managers and secretary of company
5. M&A, Forms 24 and 49 are required for the first time application.

Supporting Documents

Other documents that need to be enclosed with the Application Form are:

7.2.3

Heavy Machinery and Spare Parts

Heavy Machinery.

- Certificate of Origin from exporting country (heavy machinery must not exceed 5 years old).
- Catalogues and photographs.
- Record of importation.
- Purchase Invoice.

7.2.4

Spare Parts of Heavy Machinery

1. Catalogues and photographs.
2. Record of importation.
3. Purchase Invoice.

7.2.5

Prime Mover

- Certificate of Origin from exporting country. (Prime Mover must not exceed 5 years old).
- Approval letter from SPAD.
- Purchase Invoice.

Source: MITI & Jasonngp in Construction Law, 2013
Some of the issues highlighted by the industry players are:

1. **Approval process of Approved Permit (AP).**
   According to industry players approval for AP by MITI takes about 2 months. In construction, timely availability of machinery and equipment is crucial to ensure work progress is not halted.

2. **Restriction on status of companies that can apply for APs**
   Currently, the AP can only be applied for by companies registered as Sendirian Berhad (Sdn Bhd) or Berhad (Bhd). Previously, company registered as proprietorship can also apply for an AP. However, currently this is not yet specified in the procedures for application of AP by MITI.

3. **Documents required are tedious**
   Though it is not mentioned in the conditions and procedures for applying for an AP, MITI requests applicants to provide the following documents:
   a. Certificate of Cancellation of Registration from the importing country to import cranes.
   b. Letter of consent from Favelle Favco (a local manufacturer for cranes) or from other local manufacturers.

   Industry sources say that whenever a company applies for an AP to import cranes, the company is required to provide a Letter of Consent from Favelle Favco or other local manufacturers stating the type of cranes that these manufacturers manufactured before MITI can consider the application. This means that the importer has to personally request from Favelle Favco or other local manufacturers the Letter of Consent every time he wants to apply for an AP to import crane.

**7.2.2 The objective**
Import Licences or Approved Permits are employed as a mean to protect strategic and infant industries from import competition, quality assurance and to avoid from becoming a dumping ground.
7.2.3 Impact of current regulatory arrangements

Delays in getting APs delay importing machinery, which thereby delays construction work and higher cost for contractors.

7.2.4 Consultation with MITI

Further to consultation with MITI, it informed that:

- All applications will be processed within 5 working days (online) and 7 working days (manual/1st timer, subject to the condition that all presented documents comply with the requirement). It is available in website [http://www.miti.gov.my/index.php/pages/view/contentbab1.html](http://www.miti.gov.my/index.php/pages/view/contentbab1.html).

- Proprietorship entity can apply for AP if meet the minimum requirement in particular its financial strength because importation of construction machinery requires huge amount of capital.

- The objective of the Approve Permit (AP) imposition on the selected category/product is to ensure that the local industry’s interest is protected. This requirement is implemented through the needs for the importer to produce the Conformation of Local Availability (CLA) letter from the local manufacturers should the intended machinery falls under 8426 11 000, 8426 12 000, 8426 19, 8426 30 000 or 8426 49 000 tariff codes.


There is no certificate of cancellation of registration required to be attached with the application, which presumed to be confused with Certificate of Origin (to determine the origin of the cranes).

- MITI claimed that project delay is caused by various reasons, in which AP application is not one of them.
MITI currently in view to abolish 8426 tariff code:

- **842611** Overhead Travelling Cranes On Fixed Support
- **842612** Mobil Lifting Frames On Tyres and Straddle Carriers
- **842619** Transporter Cranes, Gantry Cranes and Bridge Cranes
- **842620** Tower Cranes
- **842630** Portal or Pedestal Jib Cranes
- **842641** Cranes, Self-propelled, On Tyres
- **842649** Other Cranes, Self-propelled
- **842691** Cranes Designed for Mounting On Road Vehicles
- **842699** Derrick and Works Trucks Fitted With a Crane.

### 7.2.5 Options to resolve the issues

1. Maintain status quo
2. MITI to establish a list of machinery manufactured in Malaysia to expedite AP application. Favelle Favco and other local manufacturers share the list of the machinery they produce with MITI so that an importer does not have to request a Letter of Consent from Favelle Favco or other local manufacturers each time he wants to import cranes.
3. Remove requirement to get an AP for importing construction machinery.

### 7.2.6 Recommendation

Option 3 is preferred. Despite the processing time for AP takes only 7 days (1st time application) and 5 days (subsequent application) as confirmed by MITI and the procedures for application and documentation required is clearly stated in MITI's website, it is however recommended that the requirement for AP for importing construction machinery be removed. By removing the requirement for AP, it will expedite the importing of the machinery required hence the machinery can be deployed to construction site on timely manner and project delays can be avoided. It is a cost and time saving for importers in terms preparation of documents. Overall construction cost could be reduced thus improved productivity. On the other hand, the application processing offices can be deployed to a more productive jobs.
7.3 Uplifting of value of imported machinery by customs when charging the import duty

7.3.1 The issue
All goods need to be declared within one month from the date of import by the owner or his agent in the prescribed form. Imported goods can only be released from customs control after the duty and/or tax paid in full except as otherwise allowed by the Director General. In the case of goods imported by road, such declaration shall be made on arrival of such goods at the place of import.

Box 7.3: Section 13 Customs Act 1967: Classification and valuation by proper officer of customs

(1) The proper officer of customs may, in respect of any dutiable or uncustomed goods—
   (a) determine the class of goods to which such dutiable or uncustomed goods belong; and
   (b) value, weigh, measure or otherwise examine, or cause to be valued, weighed, measured or otherwise examined such dutiable or uncustomed goods, for the purpose of ascertaining the customs duty leviable thereon.
(2) When a valuation of any goods has been made by the proper officer of customs, such valuation shall be presumed to be correct until the contrary is proved.
Box 7.4: Section 13A. Customs Act 1967: Payment of customs duty under protest

Any person who is dissatisfied with a decision of a proper officer of customs under subsection 13(1) as to whether any particular goods are or are not included in a class of goods appearing in an order made under subsection 11(1) or with the valuation, weighing, measuring or examining of any goods may pay the customs duty levied under protest.

7.3.2
Director General to determine questions on classification and valuation

7.3.3
S13B: Where customs duty has been paid under protest, the proper officer of customs shall, within thirty days of such payment being made, refer any question as to classification or valuation of goods to the Director General for his decision.

Industry players complain that, since 2014, there have been frequent cases where the Customs officer, at the time of valuing the imported machinery to be levied, increased the value of the machinery between 10% to 100% of the purchase price and at times even higher than the selling price to the importer’s customer. This is despite having produced supporting documents pertaining to the amount purchased, the age and condition of the machine and other relevant documents. Such increasing of value occurs at the North Port and West Port of Port Klang.

There were no reasons given by the customs officers for increasing the value to be levied. If the forwarder and importer are not satisfied with the valuation, they can pay the import duty by “Payment Under Protest” as specified under Section 13A of Customs Act 1967. By paying under this method, if successful, the importer will be reimbursed for the excess payment. However, in reality, the reimbursement will take long.
7.3.2 Impact of this regulatory arrangement

1. Higher cost incurred by the importer
2. The importer unable to determine the sales price to his customer due to the unpredictable upward valuation of the dutiable value of machinery.
3. Has domino effect to the overall cost of construction.

7.3.3 Consultation with Customs

Following the consultation with Customs, the following are their feedback:

- Customs agreed/confirmed on this issue raised.
- This is to avoid the dumping of old machinery in Malaysia.
- Customs determines the value of machinery to be levied using current Malaysian market price for the same machinery and not the purchase price paid by the importer. There were occasions where similar machinery (with same model and year of manufactured) being valued differently by Customs. The reason being the said machinery has been modified or added new fixtures that increased its value
- If no similar machinery in Malaysia available for reference, Customs will refer to the value of new machinery from the country of origin and determine the depreciation value of the machinery according to schedule of depreciation value (as stipulated in the Customs Duties Order). Once the depreciation value is obtained, that value will be used to determine the amount of levy to be paid by the importers
- Customs also claimed that all information on how the value of machinery to be levied is obtained, is disclosed to the importers during the valuation process and the valuation table is made available to importers for reference.
- If the importer unsatisfied with the valuation, he can pay under protest. Customs will review the protest and will refer to appropriate agencies e.g. JPJ, PUSPAKOM. The whole process takes about a maximum of 90 days and the importer will be informed of the results.
- Every valuation is based on merit case and values given to imported goods are deducted from Jabatan Kastam Diraja Malaysia valuation SOP (Perintah Tetap Kastam).
- The valuation is consistent with World Customs Organization.
7.3.4 Options to resolve the issue

1. Maintain status quo.

2. Customs need to prove that the importer undervalues the machinery purchased before increasing the value.

3. Customs must constantly communicate with businesses to ensure that businesses have a clear understanding on valuation guidelines, method and criteria of valuation. Customs must improve communication through website to ensure business understanding about process, guidelines and valuation criteria.

4. An independent body be created to receive complaints about valuations with a requirement that the issue be resolved within three months.

7.3.5 Recommendation

Options 3 is recommended. By having better and improved communication, importers will be well informed on the process, guidelines and valuation criteria hence enable the importers to determine the amount of duties to be paid and price it accordingly to its customers, thus avoid any losses. Contractors on the other hand would be able to manage their construction cost accordingly.
7.4 Tedious inspection process on imported new machinery by PUSPAKOM and other relevant agencies

7.4.1 The issues

Box 7.5: Act 139 Factories and Machinery Act 1967

| Machinery manufactured or repaired must comply with regulations |
| 18(1) No person shall manufacture, repair or install machinery in such a manner that it does not comply with the provisions of this Act and any regulations made thereunder applicable to such machinery. |
| (2) No person shall import any machinery other than transmission machinery which does not comply with any regulations made under this Act applicable to such machinery. |

| Certificate of fitness |
| 19. (1) No person shall operate or cause or permit to be operated any machinery in respect of which a certificate of fitness is prescribed, unless there is in force in relation to the operation of the machinery a valid certificate of fitness issued under this Act. |
| (2) In the case of any contravention of subsection (1) an Inspector shall forthwith serve upon the person aforesaid a notice in writing prohibiting the operation of the machinery or may render the machinery inoperative until such time as a valid certificate of fitness is issued. |
| (3) Certificates of fitness issued under this Act shall be in the forms respectively prescribed, and shall be valid subject to this Act, for such period as may be prescribed. |

New imported machinery must be inspected to obtain certificate of registration.

Agencies involved in inspection process include:

- **Customs** - clearance and custom duty
- **Professional Engineer (PE)** - issue and endorse Pelan Teknikal
- **PUSPAKOM** – check on physical machinery and approve Pelan Teknikal
- **DOSH** – check on functionality and safety, issue Certificate of Fitness
- **Road Transport Department (JPJ)** – issue Sijil Timbang Berat, approve Pelan Teknikal, issue Registration Certificate
- **Malaysian Public Works Department (JKR)** – Weightage restriction order
- **SPAD** – issue Permit Kendaraan Perdagangan
Businesses claims that:

- Each agency requires different types of documents and the approval waiting time varies. However, there are also similar documents required by the agencies, for example, the design drawing of the machinery and sometimes the material used to manufacture the equipment. Such paperwork costs money and time.

- The approval processing time takes between 4 to 7 months depending on the type of machinery. Seven months to get the approval from the various agencies and get registered is considered long for businesses and contractors.

- Although PUSPAKOM’s scope of work is to check chassis number to issue registration certificate, instead they check design drawings of imported machinery. Given overseas machinery manufacturers have already complied with international standards, further checking is viewed as redundant/unnecessary.

- Requirements by PUSPAKOM for inspection of the machinery differs from state to state. As an example, PUSPAKOM in Ipoh requires the machinery to be painted before being inspected or importers must install a side mirror. This increases costs to the importer. Painting can cost up to RM3000 (depending on the size of the machine).

- PUSPAKOM supposedly inspect the road worthiness or approve machinery for use instead of checking insignificant features of the machinery.

7.4.2 The Objective

The purpose of an inspection is to identify whether work equipment can be operated, adjusted and maintained safely – with any deterioration detected and remedied before it results in a health and safety risk.

Section 14 of Factories and Machinery Act 1967 states that:

Construction of machinery

All machinery and every part thereof including all fittings and attachments shall be of sound construction and sound material free from defect and suitable for the purpose and shall be properly maintained.
7.4.3 Impact of such regulatory arrangements

- Longer process to get certification causes unnecessary delay in construction works
- Similar documents required by agencies add cost to businesses
- Higher cost to importer in the form of servicing bank loan interest while the machine cannot be sold or rent while awaiting certification.

7.4.4 Consultation with JPJ

- MPC was informed that imported construction machinery (on the road machinery) have to go various inspection process before it can be registered because these machinery are governed by the following Acts and regulation:

  o Factory and Machinery Act 1969 (Act 139)- DOSH
  o Akta Pengangkutan Jalan 1987
  o Perintah Sekatan Berat (Jalan Persekutuan) (Pindaan) 2003
  o Suruhanjaya Pengangkutan Awam Darat Act 2010
  o Commercial Vehicle Licensing Board Act 1987

- In addition, Malaysia became a contracting party of United Nation Economic Commission for Europe (UNECE) WP29 Regulation:

  1. 1958 Agreement (UNECE Vehicle Regulations) on 04 April 2006
  2. 1998 Agreement (Global Technical Regulations) on 04 April 2006

- Malaysia is also a member of the World Forum for Harmonization of Vehicle Regulations (WP29). Member of the organization is responsible for adapting the regulations of the United Nations (UN) as a benchmark for the level of quality of automotive products that are marketed. In Malaysia, the UN regulations gazetted in stages into Methods of Road Transport and also to other related Rules. This regulation is carried out through the Vehicle Type Approval (VTA) process by the Automotive Engineering Division, Road Transport Department Headquarters. VTA process is a process that is carried out on all new model vehicles before
registration is allowed. The process is introduced to control identity, dimensions, weight, features and specifications of the construction of a vehicle that meets all the specifications stipulated under the Road Transport Act 1987 and the Rules of the Road Transport.

- Before importing the machinery, the importer must obtain “Sijil Timbang Berat” from Road Transport Department (JPJ). The importer must also obtained the endorsed “Pelan Teknikal” (Technical Plan) of the machinery from the JPJ’s accredited Professional Engineer (PE) after the imported machinery brought in into the country. The Technical Plan to be submitted to PUSPAKOM for approval and subsequently to JPJ for approval and issuance of certificate of registration. JPJ's approval is based on Technical Plan and “Sijil Timbang Berat” submitted by the importer.

- Despite PUSPAKOM has approved the Technical Plan, JPJ will re-review it to ensure it meets the specification/requirements as per governing Acts, hence resulted in overlapping of function. In the event the machinery exceed the weight requirement, JPJ will refer the case to JKR before it can issue the certificate of registration. The approval and issuance of registration certificate by JPJ takes between 1 day to 2 weeks.

- Meanwhile, the importer must also obtain Certificate of Fitness from DOSH whereby the design of every hoisting machine must be appraised by Design Section of the Department of Occupational Safety and Health before the machine is been fabricated, installed and used. Under DOSH’s client charter, all applications submitted online will be processed within 30 days from the date of submission.

7.4.5 Options to resolve the issues
1. Maintain status quo.
2. Conduct inspections by agencies involved at entry point, i.e.: inspection at port of entry to improve processing time and expedite certification.
3. Standardize duration of inspection for every agencies involved in inspection process
4. Establish One-Stop Centre for inspection
5. Expand mySIKAP to include inspection process of imported construction machinery
6. Establish comprehensive guidelines with timelines to obtain registration certificates for imported construction machinery
7. The design drawing should be based on machinery model instead of chassis number to reduce resubmission in every stage of application
8. Authorities should request for permit-to-use rather than design drawing
9. Though industry players have reported that PUSPAKOM is no longer checking insignificant features of the machinery, it is however suggested that a government body be nominated to monitor that the improvement is maintained
10. Outsource the inspection functions to the same body like PUSPAKOM

### 7.4.6 Recommendation

For short term solution, options 5 and 6 are recommended. By having comprehensive guidelines and automating the inspection process, the timeline for inspection can be expedite/improved and rejection can be minimise as new players in particular and the existing players would know the right documents that they have to provide and submit to the respective agencies. Re-submission can be avoided that help save cost and time. The industry players can plan the deployment of the machine to the site/ to their clients. Project delays can be avoided.

As for medium term Option 4 is preferred. Due to the various agencies involved and to complement the various Acts in the inspection process the One Stop Centre (OSC) is viewed as better solution in the medium term. The OSC will enable to reduce the processing time as the importer does not have to go from one agency to another to obtain the approvals. Duplications of documents could be eliminated, hence reduce cost. Machinery could be deployed to construction site on a timely manner, thus avoiding construction delay. Industry productivity would be improved accordingly.
CHAPTER EIGHT

8 Other Issues - Sabah and Sarawak

8.1 Restriction on Registration of Contractors in Sabah

8.1.1 The issues
In Sabah, if a person has registered his name in a construction company e.g. Class F company, he is not allowed to register his name in another construction company of a different Class e.g. Class G

8.1.2 The impact of this regulatory arrangement
Limitation of doing business

8.1.3 Options to resolve the issue
1. Maintain status quo
2. Remove the limitation to allow contractors to flexibility of growth in the industry

8.1.4 Recommendation
Option 2 is recommended that the limitation be removed to allow contractors to have flexibility of growth in the industry

8.2 Courses Offered by CIDB for Renewal of a Contractor’s Licence in Sabah

8.2.1 The issues
For the purpose of renewal in registration, contractors must have Contractor Continuous Development (CCD) points according to their grades as shown in Box 5.2. CCD was imposed on August 2008 under CIDB Circular No. 2/2008.
### Box 8.1: CCD Points According to Contractor’s Grade

<table>
<thead>
<tr>
<th>GRADE</th>
<th>CCD POINTS &amp; REGISTRATION DURATION</th>
</tr>
</thead>
</table>
| G1 & G2 | 10 (1 YEAR)  
|        | 20 (2 YEARS)  
|        | 30 (3 YEARS)  |
| G3 & G4 | 20 (1 YEAR)  
|        | 40 (2 YEARS)  
|        | 60 (3 YEARS)  |
| G5 & G6 | 30 (1 YEAR)  
|        | 60 (2 YEARS)  
|        | 90 (3 YEARS)  |
| G7     | 40 (1 YEAR)  
|        | 80 (2 YEARS)  
|        | 120 (3 YEARS) |

*Source: CIDB*

CCD points can be accumulated through the following:

- increased knowledge programs such as forums, seminars, courses
- involvement in the association
- contribution to knowledge programs such as speakers, panellists and others
- contributions in printed materials
- social and community contributions

Certificate for courses attended is only valid for one period of renewal. In Sabah, there is no variety of syllabuses offered. Most of the courses are targeted for G1 contractors. Most contractors attend the same course to renew their licence and hence they do not learn anything new for the yearly licence renewal. The fee for every course is RM350 or depends on type and duration of courses. Contractors are willing to pay higher cost if CIDB can offer new knowledge or new syllabus.

#### 8.2.2 The objective

The training is aimed at:

- increasing knowledge to enhance the expertise and professionalism of the contractors and the construction industry in general;
improving the knowledge and competency of contractors in various aspects of construction project management;

- improving interaction and networking among contractors through sharing information and experiences through organized activities;
- diversifying the contractor's involvement in construction activities;
- increasing public confidence in the local construction services.

8.2.3 Impact on the regulatory arrangement
1. No new knowledge is acquired by contractors from the courses attended.
2. Waste of time attending the same course.

8.2.4 Recommendation
CIDB provide a variety of courses/syllabuses that can enhance the knowledge and skills of contractors and the courses should keep up-to-date with new developments.

Currently, CIDB gives freedom to the accredited training providers to conduct courses outside CIDB centres (e.g: on-site training). Accredited training providers can customize their training based on CIDB modules. Hence, CIDB could further assist the accredited training providers in facilitating the courses, choice of modules and conducting the courses at places convenient to the participants. Furthermore CIDB could enhance awareness on different ways available for contractors to accumulate CCD points.

8.3 Limitation on which countries that employers can source foreign workers
8.3.1 The Issue
Foreign workers can only be sourced from countries approved by government. Unlike in the Peninsular, where contractors can source foreign workers from various countries approved by Government, in Sabah, contractors can only source workers from the Philippines and Indonesia. If they want to employ workers from China, they must apply through Peninsular Malaysia.
In Sarawak, there are fewer immigration rules for foreign workers. These workers are free to work in Malaysia and go back to Indonesia after three months of working, because Indonesia is close to Malaysia. In addition there are two kinds of passports for Indonesians; one is a border passport and the other an international passport. A border passport is used by Indonesians who stay along the borders between Indonesia and Sarawak. Workers who stay in Kalimantan Barat will use the border passports to go to town to work and when they expire they return to Indonesia. The border passport is very popular among the workers because it is cheaper and easier to obtain. It is endorsed by both the Immigration Departments of Indonesia and Sarawak.

8.3.2 Impact on this regulatory arrangement

1. Shortage of workers to do the job.
   Contractors face shortage of workers due to limitation placed on source countries and short stay of workers in the states as these workers can easily go back to their countries because of the close proximity. This caused disruption in work progress and delays completion, hence are costly to contractors.

2. Affect on quality of finished products because one particular job being done by several workers due to frequent turnover.

8.3.3 Options to resolve the issues

1. Maintain status quo

2. Allow workers from countries like India or Bangladesh to work in Sarawak because they do not easily abscond due the distance of their country from Malaysia.

3. Expand number of source countries.

8.3.4 Recommendation

Option 3 is preferred. It is recommended that government to expand the number of source countries so that Sabah and Sarawak contractors have options to employ their workers and is able to ensure that these workers would serve the full period specified in their working permits. Work disruption could be reduced.
8.4 Monopoly of cement producer in Sabah

8.4.1 The issue

Currently, there is only one cement producer and supplier in Sabah which is state-owned company, Cement Industries (Sabah) Sdn Bhd. In 2011, Sabah experienced shortage of cement and it could not be delivered on time to construction site. This situation had affected construction work progress.

There is however, no specific regulation or policy in Sabah with regard to setting up cement factory in that state. The problem is that no company is interested in investing in the cement industry in Sabah due to the small market and low demand. Cement Industry (Sabah) has established itself in terms of processing, innovation and marketing of cement in Sabah that can sustain itself in the industry.

8.4.2 Impact of current regulatory arrangement

Due to monopoly there is no competition in price and efficiency and consistent supplies cannot be assured at all times.

8.4.3 Options to resolve the issues

1. Maintain status quo.
2. Allow contractors to buy cement from any source, including from overseas
3. Government may provide incentives to encourage or attract investors to invest in cement in Sabah so that it can create competition and provide alternative sources of cement in that state.

8.4.4 Recommendation

Adopt options 2 and 3 in order to increase competition and facilitate the purchase of cheaper cement. For example, cement imported from Thailand is more competitively priced. Both options would address the issue of shortage of cement supply that leads to project delays.
8.5 **Lack of Transfer of Knowledge – Sabah and Sarawak**

8.5.1 **The Issue**
Currently, major projects and contractors are centered in Peninsular Malaysia, while in Sabah and Sarawak projects are mainly small to medium size. However, whenever bigger projects take place in Sabah and Sarawak, the local contractors are not given the opportunity to participate directly in the development of that project given the small size of the contractors. These projects are mainly carried out either by joint ventures between the big contractors from Peninsular and foreign contractors or the established Peninsular’s contractors. The local contractors only manage to get minor subcontract work like drainage.

8.5.2 **The objective**
Bigger projects usually awarded to bigger, qualified and experienced contractors to ensure financial capability, efficiency as technologically advance method employed, better management of costs and risk, timely completion and quality and safe end products.

8.5.3 **Impact of current regulatory arrangement**
Lack of knowledge transfer means the local (Sabah & Sarawak) contractors are unable to learn new technologies or enhance their skills.

8.5.4 **Options to resolve the issue**
1. Maintain status quo.
2. Government to consider having a policy to give the opportunity to local contractors to involve directly in major project held in Sabah or Sarawak as well as in peninsular. They also must be given the opportunity to be main contractor for bigger project to enable them to develop their skill so that they can improve their ranking to G7 contractors.

3. Local contractors to consider forming a consortium to enable them to participate in bigger projects.
8.5.5 Recommendation
Option 3 is preferred. As majority of contractors in Sabah and Sarawak are small to medium size, forming a consortium is the best option. Their combined expertise and financially strong would enable them to have a better opportunity to bid and participate in bigger projects.

8.6 No One-Stop Center (OSC) in Sabah

8.6.1 The issue
One-Stop Center (OSC) is a unit under the Local Authority or Local Government. In general the roles of OSC are:

- To coordinate and monitor development proposals and other applications;
- To inform the decision on approval of development proposals to the applicant;
- To make recommendations on the land development application to the Land Office; and
- To prepare periodic report.

Currently, there is no OSC in Sabah, thus applications have to go through various units or agencies to obtain approvals resulting in longer approval processes. There is an overlapping of roles between these agencies. For example application for approval on land matters from local government where approval must be obtain from Central Board which can takes years to approve. Fast approval is crucial especially for bank loan application.

The decision to establish an OSC in Sabah depends on the Sabah State Authority. Sabah is not governed by the same law as Peninsular Malaysia. In addition to that, Sabah and Sarawak did not adopt and gazette Act 133.

8.6.2 The objective
The OSC is to coordinate, facilitate and expedite the process of approving applications for land developments, planning permits applications, building plans,
earthworks plans, roads and drains plans and other plans related to development proposals.

8.6.3 Impact of current regulatory arrangement
1. Time consuming to get approvals for the proposals
2. Might lose projects opportunities due to late approvals obtained.
3. Materials price/ labour costs might have increased before approval is obtained.
4. Cannot plan for labour requirements

8.6.4 Options to resolve the issue
1. Maintain Status quo.
2. Establish One Stop Center

8.6.5 Recommendation
Establish a One-Stop Center in Sabah to expedite approval processes.

8.7 Thickness of Party (Separation) Wall
8.7.1 The issue
A party wall (occasionally parti-wall or parting wall) is a dividing partition between two adjoining buildings (or units) that is shared by the tenants of each residence or business. When built for this purpose, the builder will lay the wall along a property line dividing two terraced flats or row houses, so that one half of the wall's thickness lies on each property. This type of wall is usually structural. Party walls can also be formed by two abutting walls built at different times. The term can be also used to describe a division between separate units within a multi-unit apartment complex. Very often the wall in this case is non-structural but designed to meet established criteria for sound and/or fire protection between residential units.

Party walls are typically made of non-combustible material. Where required by code, the party wall could be a fire wall. The wall starts at the foundation and continues up
to a parapet, creating two separate and structurally independent buildings on either side.

The issue raised is that in Sabah, Bomba continues to follow the specification under UBBL 1994 in reference to the thickness of party walls even though this specification has been revised.

**8.7.2 The objective**

To meet established criteria for sound and/or fire protection between residential units.

**8.7.3 Impact of current regulatory arrangement**

1. Creates confusion for contractors as to which requirement to follow.
2. Higher cost to contractors if they have to re-do the party wall

**8.7.4 Recommendation**

In Sabah, Bomba to update themselves on the current specification for the thickness of the party wall to avoid confusion amongst contractors.

**8.8 Construction Materials**

*Higher costs are incurred by Sabah contractors for importing construction materials*

**8.8.1 The issues**

1. Because of the current Cabotage policy that prevents international shipping from calling at Sabah ports, any import of construction materials, like steel, must go through Peninsular Malaysia which is then shipped to Sabah and on to the construction site.
2. Small to medium construction companies are particularly disadvantaged by the many stages to get the materials.
8.8.2 Impact of current regulatory arrangement
Higher cost incurred by Sabah’s contractors because of double handling costs and higher transportation costs.

Options to resolve the issue:
1. Maintain status quo
2. Government could relook at the Cabotage policy in particular the trade between ASEAN countries.

8.8.3 Recommendation
Option2 is preferred. Government could relook at the Cabotage policy in particular the trade between ASEAN countries.
Appendices

Appendix A: Addition of Category or Specialization (Source: Buku Pendaftaran Kontraktor 1995)

1. REQUIREMENTS (ADDITIONAL) FOR SPECIALISATION

<table>
<thead>
<tr>
<th>SPECIALISATION</th>
<th>COMPETENT</th>
<th>PERMIT/CERTIFICATE/LICENCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>B10 (INDOOR WATER PIPE INSTALLATION)</td>
<td>E04 (Low voltage installation)</td>
<td>PERMIT A (A1 OR A2) SPAN EXCEPT FOR SABAH AND SARAWAK</td>
</tr>
<tr>
<td></td>
<td>E05 (High voltage installation)</td>
<td>Registration of electrical contractors, Sarawak</td>
</tr>
<tr>
<td>B21, CE29 (Scaffolding installation)</td>
<td>CE40 (Excavation)</td>
<td>Registration with the Energy Commission (Categories B, B0 … B4) Registration of electrical engineer with Energy Commission</td>
</tr>
<tr>
<td></td>
<td>B25 (Connecting pipe to drainage pipe)</td>
<td>Certificate of scaffolding installation from DOSH</td>
</tr>
<tr>
<td></td>
<td>E07 (Internal telecommunications system)</td>
<td>Registration with DOSH</td>
</tr>
<tr>
<td></td>
<td>E08 (External telecommunications system)</td>
<td>Permit B from SPAN except Sabah and Sarawak</td>
</tr>
<tr>
<td></td>
<td>CE25 (Rock blasting works)</td>
<td>Certificate of Competency issued by Telecoms</td>
</tr>
<tr>
<td></td>
<td>B10 (Indoor water pipe installation)</td>
<td>Certificate of Competency issued by Telecoms</td>
</tr>
<tr>
<td></td>
<td>CE19 (Sewerage System)</td>
<td>Permit from Ministry of Home Affairs</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Fitter’s Certificate from local authority (for Sabah &amp; Sarawak)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Permit for SPAN C1 (project exceeding RM10 million), C2 (project between RM2 million and RM10 million), C3 (project exceeding RM200 thousand but below RM2 million) OR C4 (project not exceeding RM200 thousand) except for Sabah and Sarawak</td>
</tr>
<tr>
<td>Code</td>
<td>Description</td>
<td>Requirements</td>
</tr>
<tr>
<td>-------</td>
<td>-----------------------------------------------------------------------------</td>
<td>------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>CE20</td>
<td>(Water supply system)</td>
<td>Permit for SPAN C1 (project worth more than RM10 million), C2 (project worth RM2 million but less than RM10 million), C3 (project of more than RM200 thousand but less than RM2 million) OR C4 (project worth not more than RM200 thousand) except for Sabah and Sarawak</td>
</tr>
<tr>
<td>CE09</td>
<td>(Oil and gas pipeline)</td>
<td>Registration with DOSH</td>
</tr>
<tr>
<td>B27/CE38/CE39</td>
<td>(Water supply system and sewerage system maintenance service)</td>
<td>Permit D from SPAN except for Sabah and Sarawak</td>
</tr>
<tr>
<td>B20</td>
<td>(Indoor gas pipeline installation)</td>
<td>Registration with Energy Commission (EC)</td>
</tr>
<tr>
<td>E04</td>
<td>(Low voltage installation)</td>
<td>Registered as electrical contractor with Energy Commission (EC)</td>
</tr>
<tr>
<td>E12</td>
<td>(Electric signboards)</td>
<td>Registered as electric signage contractor with Energy Commission (EC)</td>
</tr>
<tr>
<td>M03</td>
<td>(Lift and escalator)</td>
<td>Registration with DOSH</td>
</tr>
<tr>
<td>M08</td>
<td>(Heat restoration system)</td>
<td>Registration with DOSH</td>
</tr>
<tr>
<td>M16</td>
<td>(Tower crane)</td>
<td>Registration with DOSH</td>
</tr>
</tbody>
</table>
### Pengkhususan Yang Melibatkan Agensi Kategori B, CE & ME

<table>
<thead>
<tr>
<th>Pengkhususan</th>
<th>Huraian</th>
<th>Kompeten</th>
<th>Permit/Sijil/Lesen</th>
</tr>
</thead>
<tbody>
<tr>
<td>B10</td>
<td>Pemasangan paip air dalaman</td>
<td>Permit A (A1 ATAU A2) SPAN <em>(Semenanjung Malaysia)</em></td>
<td></td>
</tr>
<tr>
<td>B10</td>
<td>Pemasangan paip air dalaman</td>
<td>Sijil Jurugegas dari JKR Sarawak <em>(untuk Sarawak)</em></td>
<td></td>
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<tr>
<td>B10</td>
<td>Pemasangan paip air dalaman</td>
<td>Lesen Tukang Paip dari Jabatan Air Negeri Sabah <em>(Untuk Sabah)</em></td>
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<tr>
<td>B21</td>
<td>Pemasangan perancah</td>
<td>Sijil pemasangan Perancah dengan JKKP</td>
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<tr>
<td>B25</td>
<td>Penyambungan paip ke paip kumbahan</td>
<td>Permit B dengan SPAN <em>(Semenanjung Malaysia)</em></td>
<td></td>
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<tr>
<td>CE20</td>
<td>Sistem bekalan air</td>
<td>Lesen penyambungan dan pemasangan paip daripada JKR Sarawak</td>
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<tr>
<td>CE20</td>
<td>Sistem Bekalan Air &amp; Pemasangan paip air dalaman</td>
<td>Lesen Tukang Pasang Sesalur (Untuk Sabah)</td>
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<tr>
<td>CE29</td>
<td>Pemasangan perancah</td>
<td>Sijil pemasangan Perancah dengan JKKP</td>
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<tr>
<td>M16</td>
<td>Kren menara (Tower Crane)</td>
<td>Pendaftaran dengan JKKP (registration with DOSH)</td>
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<tr>
<td>B20</td>
<td>Pemasangan paip gas dalam bangunan</td>
<td>Pendaftaran dengan Suruhanjaya Tenaga (ST) Kelas A/B/C borang H</td>
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<tr>
<td>B25</td>
<td>Penyambungan Paip Persendirian ke Pebentongan</td>
<td>Permit B dari SPAN kecuali Sabah &amp; Sarawak</td>
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<tr>
<td>B27</td>
<td>Kerja-kerja penyenggaraan dan pembaikan sistem bekalan air atau sistem pembetungan</td>
<td>Permit D dari SPAN (Syarikat) kecuali Sabah &amp; Sarawak</td>
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<tr>
<td>CE09</td>
<td>Saluran paip minyak atau gas</td>
<td>Pendaftaran dengan Jabatan Kesihatan Keselamatan Pekerjaan (JKKP)/ Suruhanjaya Tenaga kelas A/B/C Borang H</td>
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<td>CE19</td>
<td>Sistem Pembetungan</td>
<td>Permit SPAN C1, C2, C3 ATAU C4 <em>(Semenanjung Malaysia)</em></td>
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<td>Sistem bekalan air</td>
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<td>CE25</td>
<td>Kerja-kerja meletup batu</td>
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<td>CE38</td>
<td>Penyenggaraan sistem pembetungan</td>
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### Pengkhususan Yang Melibatkan Agensi Kategori ME

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<td>E03</td>
<td>Sistem Automasi Bangunan</td>
<td>Mempunyai Penjaga jentera AO dan ke atas</td>
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<td>E04</td>
<td>Pemasangan voltan rendah</td>
<td>Sijil EIC (Kontraktor Pemasangan Elektrik Sarawak)</td>
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<td>E05</td>
<td>Pemasangan Voltan Tinggi Sehingga 11KV</td>
<td>Mempunyai Penjaga jentera BO-2 11KV dan ke atas</td>
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<td>E06</td>
<td>Sistem Pencahayaan Khas</td>
<td>Mempunyai Penjaga jentera AO dan ke atas</td>
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<td>E07</td>
<td>Sistem telekomunikasi dalaman</td>
<td>Sijil kecekapan yang dikeluarkan oleh Telekom</td>
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<td>E08</td>
<td>Sistem telekomunikasi luaran</td>
<td>Sijil kecekapan yang dikeluarkan oleh Telekom</td>
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<td>E10</td>
<td>Sistem Bekalan Kuasa Tanpa Gangguan</td>
<td>Mempunyai penjaga jentera AO dan ke atas.</td>
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<td>E11</td>
<td>Kerja Am Elektrik</td>
<td>Mempunyai penjaga jentera AO dan ke atas.</td>
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<td>E15</td>
<td>Lampu Landasan Lapangan Terbang</td>
<td>Mempunyai penjaga jentera B0-2 dan ke atas</td>
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<td>E16</td>
<td>Lampu Jalan &amp; Lampu Isyarat</td>
<td>Mempunyai penjaga jentera A0 dan ke atas</td>
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<td>E17</td>
<td>Kabel Bawah Tanah Voltan Rendah</td>
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<td>E18</td>
<td>Kabel Bawah Tanah Voltan Tinggi seingga 11KV</td>
<td>Mempunyai penjaga jentera sekanat B0 11KV ke atas</td>
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<td>E19</td>
<td>Kabel Bawah Tanah Voltan Tinggi Melebihi 11KV seingga 33KV</td>
<td>Mempunyai penjaga jentera sekanat B0 33KV atau Jurutera Elektrik Kompeten 33kV ke atas</td>
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<tr>
<td>E20</td>
<td>Kabel Bawah Tanah Voltan Tinggi Melebihi 33KV</td>
<td>Mempunyai Jurutera Elektrik Kompeten 33 kV ke atas</td>
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<td>E21</td>
<td>Talian Atas Voltan Rendah</td>
<td>Mempunyai penjaga jentera A1 ke atas</td>
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<td>E22</td>
<td>Kabel Talian Atas voltan tinggi Sehingga 33KV</td>
<td>Mempunyai penjaga jentera sekanat B1 dan ke atas</td>
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</tbody>
</table>
Kabel Talian Atas voltan tinggi Melebihi 33KV
Pemasangan Voltan Tinggi melebihi 11KV Sehingga 33KV
Pemasangan Voltan Tinggi Melebihi 33KV
Kerja-kerja mencantum Kabel voltan rendah 1KV
Kerja-Kerja Mencantum Kabel Sehingga 11KV
Kerja-Kerja Mencantum Kabel melebihi 11KV Sehingga 33KV
Kerja-Kerja Mencantum Kabel melebihi 11KV Sehingga 33KV

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<tr>
<td>E23</td>
<td>Kabel Talian Atas voltan tinggi Melebihi 33KV</td>
<td>Mempunyai jurutera Elektrik Kompeten 33 kV ke atas</td>
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<tr>
<td>E24</td>
<td>Pemasangan Voltan Tinggi melebihi 11KV Sehingga 33KV</td>
<td>Mempunyai penjaga jentera BO-2 (33KV) atau Jurutera kompeten Elektrik 33KV ke atas</td>
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<td>E25</td>
<td>Pemasangan Voltan Tinggi Melebihi 33KV</td>
<td>Mempunyai Jurutera Elektrik Kompeten 33KV ke atas</td>
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<td>E26</td>
<td>Kerja-kerja mencantum Kabel voltan rendah 1KV</td>
<td>Mempunyai kompeten orang pencantum kabel (PK-1KV) ke atas</td>
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<td>E27</td>
<td>Kerja-Kerja Mencantum Kabel Sehingga 11KV</td>
<td>Mempunyai Kompeten Orang Pencantum Kabel (PK2 - 11KV) ke atas</td>
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<td>E28</td>
<td>Kerja-Kerja Mencantum Kabel melebihi 11KV Sehingga 33KV</td>
<td>Mempunyai Kompeten Orang Pencantum Kabel (PK3 - 33KV) ke atas</td>
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Pengkhususan Yang Melibatkan Kategori ME

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<thead>
<tr>
<th>Pengkhususan</th>
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<tr>
<td>E29</td>
<td>Kerja-Kerja Mencantum Kabel 33KV Sehingga 66KV</td>
<td>Mempunyai Kompeten Orang Pencantum Kabel (PK4 - 66KV) ke atas</td>
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<tr>
<td>E30</td>
<td>Kerja-Kerja Mencantum Kabel Sehingga 132KV</td>
<td>Mempunyai Kompeten Orang Pencantum Kabel (PK5 - 132KV) ke atas</td>
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<td>E31</td>
<td>Kerja-Kerja Mencantum Kabel Tiada Sekatan Melebihi 132KV</td>
<td>Mempunyai Kompeten Orang Pencantum Kabel (PK6 – Tiada Sekatan)</td>
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<tr>
<td>E32</td>
<td>Janakuasa voltan rendah</td>
<td>Mempunyai penjaga jentera sekaian A4-2 dan Ke atas</td>
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<td>E33</td>
<td>Janakuasa Voltan Tinggi Sehingga 33KV</td>
<td>Mempunyai penjaga jentera sekaian B4 atau Jurutera Elektrik Kompeten 33kV ke atas</td>
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<tr>
<td>E04</td>
<td>Pemasangan voltan rendah (pendawaian)</td>
<td>SYARIKAT</td>
<td>Pendaftaran kontraktor elektrik dengan Suruhanjaya Tenaga (ST)</td>
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<tr>
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<td>------------------------------------------------------------</td>
</tr>
<tr>
<td>E12</td>
<td>Papan tanda elektrik</td>
<td></td>
<td>Pendaftaran kontraktor papan tanda elektrik dengan Suruhanjaya Tenaga (ST)</td>
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## Appendix B: MSIC Code 2008 – Construction

<table>
<thead>
<tr>
<th>CLASS</th>
<th>ITEM</th>
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<tbody>
<tr>
<td>4100</td>
<td>41001</td>
<td>Residential buildings</td>
<td>45201</td>
</tr>
<tr>
<td></td>
<td></td>
<td>prefabricated constructions on the site</td>
<td></td>
</tr>
<tr>
<td>41002</td>
<td></td>
<td>Non-residential buildings</td>
<td>45202</td>
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<tr>
<td>41003</td>
<td></td>
<td>Assembly and erection of prefabricated</td>
<td>45209p</td>
</tr>
<tr>
<td></td>
<td></td>
<td>construction on the site</td>
<td></td>
</tr>
<tr>
<td>41009</td>
<td></td>
<td>Construction of buildings n.e.c.</td>
<td>45209p</td>
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</table>

### CIVIL ENGINEERING

<table>
<thead>
<tr>
<th>4210</th>
<th>Construction of roads and railways</th>
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</thead>
<tbody>
<tr>
<td>42101</td>
<td>Construction of motorways, streets, roads, other vehicular and pedestrian ways</td>
</tr>
<tr>
<td>42102</td>
<td>Surface work on streets, roads, highways, bridges or tunnels</td>
</tr>
<tr>
<td>42103</td>
<td>Construction of bridges, including those for elevated highways</td>
</tr>
<tr>
<td>42104</td>
<td>Construction of tunnels</td>
</tr>
<tr>
<td>42105</td>
<td>Construction of railways and subways</td>
</tr>
<tr>
<td>42106</td>
<td>Construction of airfield/airports runways</td>
</tr>
<tr>
<td>42109</td>
<td>Construction of roads and railways n.e.c.</td>
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</table>

### Utility Projects

<table>
<thead>
<tr>
<th>4220(1)</th>
<th>Construction of utility projects</th>
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</thead>
<tbody>
<tr>
<td>42201</td>
<td>Long-distance pipelines, communication and power lines</td>
</tr>
<tr>
<td>42202</td>
<td>Urban pipelines, urban communication and power lines; ancillary urban works</td>
</tr>
<tr>
<td>42203</td>
<td>Water main and line construction</td>
</tr>
<tr>
<td>42204</td>
<td>Reservoirs</td>
</tr>
<tr>
<td>42205</td>
<td>Construction of irrigation systems (canals)</td>
</tr>
<tr>
<td>Code</td>
<td>Description</td>
</tr>
<tr>
<td>-------</td>
<td>------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>42206</td>
<td>Construction of sewer systems (including repair) and sewage disposal plants</td>
</tr>
<tr>
<td>42207</td>
<td>Construction of power plants</td>
</tr>
<tr>
<td>42209</td>
<td>Construction of utility projects n.e.c.</td>
</tr>
</tbody>
</table>

**4290(1)** Construction of other civil engineering projects, except building

<table>
<thead>
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<th>Code</th>
<th>Description</th>
<th>Code</th>
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<tbody>
<tr>
<td>42901</td>
<td>Construction of refineries</td>
<td>45209p</td>
</tr>
<tr>
<td>42902</td>
<td>Construction of waterways, harbour and river works, pleasure ports (marinas), locks</td>
<td>45203p</td>
</tr>
<tr>
<td>42903</td>
<td>Construction of dams and dykes</td>
<td>45204p</td>
</tr>
<tr>
<td>42904</td>
<td>Dredging of waterways</td>
<td>45203p</td>
</tr>
<tr>
<td>42905</td>
<td>Outdoor sports facilities</td>
<td>45206</td>
</tr>
<tr>
<td>42906</td>
<td>Land subdivision with land improvement</td>
<td>45209p, 70101p</td>
</tr>
<tr>
<td>42909</td>
<td>Construction of other engineering projects n.e.c.</td>
<td>45209p</td>
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**SPECIALIZED CONSTRUCTION ACTIVITIES**

<table>
<thead>
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<th>Code</th>
<th>Description</th>
<th>Code</th>
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<tr>
<td>4311</td>
<td>Demolition</td>
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<tr>
<td>43121</td>
<td>Clearing of building sites</td>
<td>45101p</td>
</tr>
<tr>
<td>43122</td>
<td>Earth moving</td>
<td>45102p, 45500p</td>
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<tr>
<td>43123</td>
<td>Drilling, boring and core sampling for construction, geophysical, geological or similar purposes</td>
<td>45109p</td>
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<tr>
<td>43124</td>
<td>Site preparation for mining</td>
<td>45103</td>
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<tr>
<td>43125</td>
<td>Drainage of agricultural or forestry land</td>
<td>45109p</td>
</tr>
<tr>
<td>43126</td>
<td>Land reclamation work</td>
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</tr>
<tr>
<td>43129</td>
<td>Other site preparation activities n.e.c.</td>
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**4321(1)** Electrical installation

<table>
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<th>Code</th>
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<tr>
<td>43211</td>
<td>Electrical wiring and fittings</td>
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<tr>
<td>Code</td>
<td>Description</td>
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<tr>
<td>43212</td>
<td>Telecommunications wiring</td>
<td>45306p</td>
</tr>
<tr>
<td>43213</td>
<td>Computer network and cable television wiring (2)</td>
<td>45309p</td>
</tr>
<tr>
<td>43214</td>
<td>Satellite dishes</td>
<td>45309p</td>
</tr>
<tr>
<td>43215</td>
<td>Lighting systems</td>
<td>45309p</td>
</tr>
<tr>
<td>43216</td>
<td>Security systems</td>
<td>45306p</td>
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<tr>
<td>43219</td>
<td>Electrical installation n.e.c.</td>
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<tr>
<td>4322(5)</td>
<td>Plumbing, heat and other construction installation activities</td>
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<tr>
<td>43221</td>
<td>Installation of heating systems (electric, gas and oil)</td>
<td>45307p</td>
</tr>
<tr>
<td>43222</td>
<td>Installation of furnaces, cooling towers</td>
<td>45307p</td>
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<tr>
<td>43223</td>
<td>Installation of non-electric solar energy collectors</td>
<td>45307p</td>
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<tr>
<td>43224</td>
<td>Installation of plumbing and sanitary equipment</td>
<td>45301</td>
</tr>
<tr>
<td>43225</td>
<td>Installation of ventilation, refrigeration or air-conditioning equipment and ducts</td>
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<tr>
<td>43226</td>
<td>Installation of gas fittings</td>
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<td>43227</td>
<td>Installation of fire and lawn sprinkler systems</td>
<td>45306p</td>
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<td>43228</td>
<td>Steam piping i</td>
<td>45309p</td>
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<tr>
<td>43229</td>
<td>Plumbing, heat and air-conditioning installation n.e.c.</td>
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<td>4329(1)</td>
<td>Other construction installation</td>
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<td>43291</td>
<td>Installation of elevators, escalators in buildings or other construction projects</td>
<td>29150p, 45304</td>
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<td>43292</td>
<td>Installation of automated and revolving doors in buildings or other construction projects</td>
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<tr>
<td>43293</td>
<td>Installation of lighting conductors in buildings or other construction projects</td>
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<tr>
<td>Code</td>
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<tr>
<td>43294</td>
<td>Installation vacuum cleaning systems in buildings or other construction projects</td>
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<tr>
<td>43295</td>
<td>Installation thermal, sound or vibration insulation in buildings or other construction projects</td>
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<td>43299</td>
<td>Other construction installation n.e.c.</td>
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<tr>
<td>4330(1)</td>
<td>Building completion and finishing</td>
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<tr>
<td>43301</td>
<td>Installation of doors, windows, door and window frames of wood or other materials, fitted kitchens, staircases, shop fittings and furniture</td>
<td>20220p, 25209p, 28110p, 45209p, 45303p</td>
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<tr>
<td>43302</td>
<td>Laying, tiling, hanging or fitting in buildings or other construction projects of various types of materials</td>
<td>45401p</td>
</tr>
<tr>
<td>43303</td>
<td>Interior and exterior painting of buildings</td>
<td>45402p</td>
</tr>
<tr>
<td>43304</td>
<td>Painting of civil engineering structures</td>
<td>45402p</td>
</tr>
<tr>
<td>43305</td>
<td>Installation of glass, mirrors</td>
<td>45409p</td>
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<tr>
<td>43306</td>
<td>Interior completion</td>
<td>45409p</td>
</tr>
<tr>
<td>43307</td>
<td>Cleaning of new buildings after construction</td>
<td>45403p</td>
</tr>
<tr>
<td>43309</td>
<td>Other building completion and finishing work n.e.c.</td>
<td>45409p</td>
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<td>4390(1)</td>
<td>Other specialized construction activities</td>
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<td>43901</td>
<td>Construction of foundations, including pile driving</td>
<td>45209p</td>
</tr>
<tr>
<td>43902</td>
<td>Erection of non-self-manufactured steel elements</td>
<td>45209p</td>
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<tr>
<td>43903</td>
<td>Scaffolds and work platform erecting and dismantling</td>
<td>45209p</td>
</tr>
<tr>
<td>43904</td>
<td>Bricklaying and stone setting</td>
<td>45209p</td>
</tr>
<tr>
<td>43905</td>
<td>Construction of outdoor swimming pools</td>
<td>45204p</td>
</tr>
<tr>
<td>43906</td>
<td>Steam cleaning, sand blasting and similar activities for building exteriors</td>
<td>45403p</td>
</tr>
<tr>
<td>Code</td>
<td>Description</td>
<td>Amount 1</td>
</tr>
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<tr>
<td>43907</td>
<td>Renting of construction machinery and equipment with operator (e.g. cranes)</td>
<td>45500p</td>
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<tr>
<td>43909</td>
<td>Other specialized construction activities, n.e.c.</td>
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## Appendix C: Comparative ASEAN Import Duties Rate (%) – Construction

### Heavy Machinery

<table>
<thead>
<tr>
<th>Comparative ASEAN Import Duties Rate (%)</th>
<th>Malaysia</th>
<th>Indonesia</th>
<th>Thailand</th>
<th>Vietnam</th>
<th>Philippines</th>
<th>Cambodia</th>
<th>Singapore</th>
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<tbody>
<tr>
<td>1 HS 8429.51.000 for Self-propelled bulldozers, excavators, front end shovel leaders</td>
<td>10</td>
<td>10</td>
<td>5</td>
<td>0</td>
<td>1</td>
<td>15</td>
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<tr>
<td>2 HS 8430.41.000 for other moving, grading, boring machinery-self propelled</td>
<td>10</td>
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<td>3</td>
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<td>15</td>
<td>0</td>
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<tr>
<td>3 HS 8430.41.000 for parts of boring or sinking machinery of boring machinery-self propelled</td>
<td>10</td>
<td>0</td>
<td>3</td>
<td>0</td>
<td>1</td>
<td>15</td>
<td>0</td>
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<tr>
<td>4 HS 8704.10.211 for motor vehicles for transport of goods. Not exceeding 38 tonnes (new)</td>
<td>30</td>
<td>0</td>
<td>40</td>
<td>10</td>
<td>3</td>
<td>15</td>
<td>0</td>
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<tr>
<td>5 HS 8705.90.000 for special purpose motor vehicles-others</td>
<td>30</td>
<td>5</td>
<td>40</td>
<td>10</td>
<td>3</td>
<td>15</td>
<td>0</td>
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<tr>
<td>6 HS 8429.11.000 for self propelled bulldozers, tamping machines and road rollers-track laying</td>
<td>20</td>
<td>10</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>15</td>
<td>0</td>
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<tr>
<td>7 HS 8429.40.110 for self propelled buldozers, scapers, tamping machines and road rollers-vibratory</td>
<td>25</td>
<td>10</td>
<td>5</td>
<td>5</td>
<td>1</td>
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<tr>
<td>8 HS 8705.10.000 for special purpose mother vehicles-crane lories</td>
<td>30</td>
<td>5</td>
<td>40</td>
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<td>3</td>
<td>15</td>
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<tr>
<td>9 HS 8429.59.000 for mechanical shovers, excavators, shovel loaders and road rollers-other</td>
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<td>10</td>
<td>5</td>
<td>0</td>
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<td>0</td>
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<tr>
<td>10 HS 8430.69.000 for other moving, grading, levieing, scaping, compacting, extracting or boring machineries-Other</td>
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<td>5</td>
<td>0</td>
<td>1</td>
<td>15</td>
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References

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