

# CHAPTER 4: WAREHOUSING VALUE CHAIN & REGULATORY MAPPING

*Contents: Purpose, Warehousing Services as logistics and trade facilitation support, Logistics and trade facilitation ecosystem, Warehouse Supply Chain, The World Bank Doing Business: Procedures to Build a Warehouse, Warehousing business cycle, Specific environmental and security conditions and regulations under which each of these products must be kept, Institutional Framework for Warehousing in Malaysia, Warehouse Business Startup, Value Chain and Regulatory Mapping, Trade Associations as Intermediaries and Overview of Government stakeholders (Regulators) and their roles in the value chain.*

## **Key points**

- This chapter describes the legislations governing the activities in the value chain of the warehousing services in Malaysia. It aims to establish the value chain for warehousing which helps to identify the key business players and intermediaries and regulators that enforce existing regulations and guide the regulatory mapping and stakeholder analysis.
- Warehousing is part of a logistics and supply chain management. Although transportation is core component of logistics, logistics cover a wide range of other areas including storage, warehousing, trucking services and equipment maintenance. Transport and logistics involve a complex chain of activities, spread across multiple modes of transportation and infrastructure points.
- The logistics industry as backbone to global supply chain is vital to competitiveness and connectivity as it stimulates trade, facilitates business efficiency and enhances growth. Warehousing and warehouse management are part of a logistics management system, which is itself a component in supply chain management. Although viewed by some as simply a place to store finished goods, inbound functions that prepare items for storage and outbound functions that consolidate, pack and ship orders provide important economic and service benefits to both the business and its customers, there are various value chains or models that have been developed .
- In a supply chain, warehousing function is very critical as it acts as a node in linking the material flows between the supplier and customer. Warehouses have been going through various challenges such as – supply chains are becoming more integrated and shorter, globalised operation, customers are more demanding and technology changes are occurring rapidly. Demand for specialised warehouse services will increase for the foreseeable future as manufacturers intensify their focus on core competencies.
- Today warehousing management systems (WMS) can be standalone or part of an [Enterprise Resource Planning \(ERP\)](#) system and can include complex technology such as Radio Frequency Identification ([RFID](#)) and voice recognition. However, the basic principle of the warehouse system has remained the same, which is to provide information to allow efficient control of the movement of materials within the warehouse. The complexity of a WMS implementation varies with each business.
- The logistics and trade facilitation ecosystem is made up of manufacturers, traders, e-business organisations, logistics service providers involved in the movement of goods and necessary support services, Customs departments (to facilitate the documentation and clearance of moving and stored goods), and approving agencies and local authorities responsible for various processes in the functioning of businesses. Participants in the ecosystem adopt and follow various industry regulations in the form of acts, laws and conventions.
- In general, warehousing services business cycle consists of three main activities which is i) Acquisition of premises, ii) Operational, and iii) Closing a business.
- There are relevant regulations, standards (local and international), code of practices, licences and good manufacturing practices that the establishment must understand and comply with. This is in addition to their customer’s requirements, including product and process standards in particular if the standards are mandatory (such as standards for dangerous goods including hazardous chemical substances and dangerous goods waste) to ensure the quality and integrity of the products stored are maintained at all times such as protecting products from contaminants, unapproved chemicals, excessive temperature fluctuations and physical damage, hygienic condition and pose no risk to products.
- The purpose of value chain analysis in this report aims to review the regulatory framework and identify those aspects which have contributed or stifled the efficiency and growth of the warehousing industry. The focus is on reducing the unnecessary regulatory burdens (RURB) imposed on the business across

the warehousing business cycle chain. The unnecessary burdens and issues will be identified by getting the perspectives of businesses in the warehousing industry.

- This chapter also presents the current legislative arrangements. The main Acts governing the activities in warehousing services sub-sector in Malaysia are the Customs Act 1967 and GST Act 2014. Royal Malaysian Customs Department (JKDM) is the government agency responsible for administrating the nation's indirect tax policy.
- The warehousing services sub-sector is also bound by other acts at the Federal, State and Local Government levels.
- An overview of licenses in various forms, such as registrations, notifications, approvals, licences and permits is also highlighted here as the main characteristic of licensing as a regulatory instrument is that a prior approval from the government is required before any commencement of business or operations of business.
- Trade associations and Chambers of Commerce act as intermediaries to communicate and coordinate between the logistics and warehousing businesses and the regulators. They provide services, information and training to enhance regulatory compliance and issue resolutions between regulators and the businesses. There are regular consultations to deal with issues of concern on government policies and implementation.

## 4.1 Purpose

This chapter describes the legislations governing the activities in the value chain of the warehousing services in Malaysia. It aims to establish the value chain for warehousing which helps to identify the key business players and intermediaries and regulators (and outsourcing partners or intermediaries (if any) that enforce existing regulations and guide the regulatory mapping and stakeholder analysis.

As mentioned in the Eleventh Malaysia Plan (Chapter 14), issues in the institutional and regulatory framework are related to coordination, inefficient and insufficient regulations as well as lack of data management. The facilities provided at warehouses are not monitored. In addition information on the requirements, fees and categorisation differ among the local councils causing difficulties and higher cost of doing business for investors. This includes information pertaining to location, type, space and size and utilisation rate and operators, which are important for logistics planning and decision-making. Until today, there is still no specific act or regulation for warehouse.

## 4.2 Warehousing Services as logistics and trade facilitation support

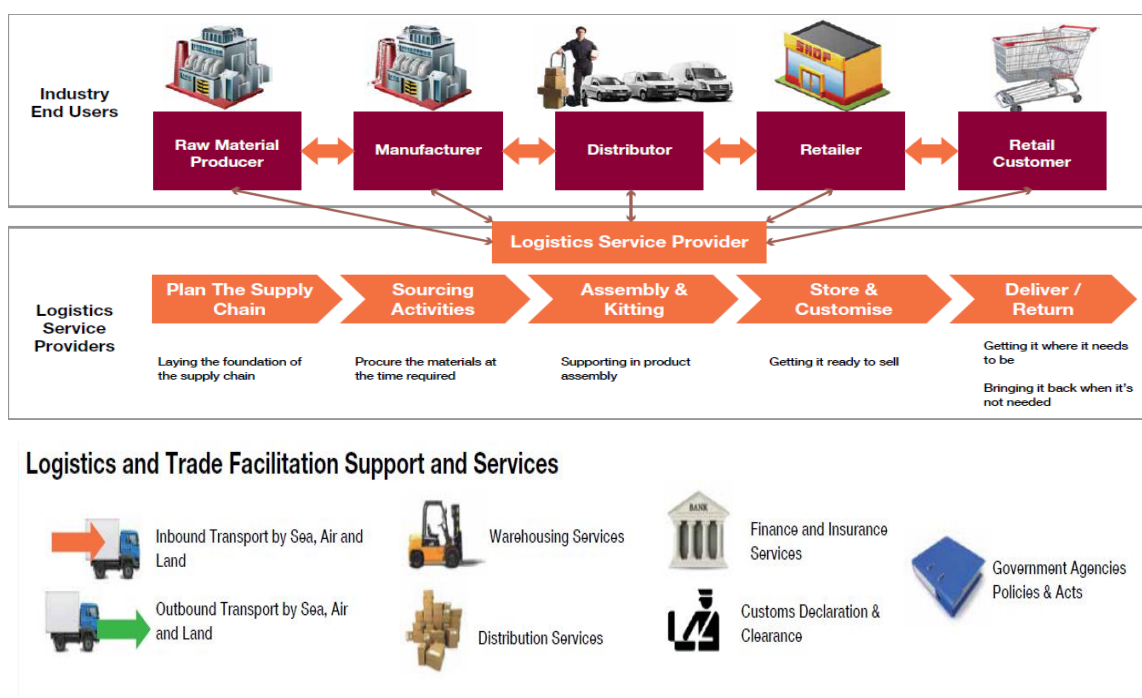
According to the Council of Supply Chain Management Professionals (CSCMP), logistics management can be defined as, "that part of supply chain management that plans, implements, and controls the efficient, effective forward and reverse flow and storage of goods, services and related information between the point of origin and the point of consumption in order to meet customers' requirements."

The supply chain is "a system of resources, organisations, people, technologies, activities and information involved in the act of transporting goods from producer to consumer. In the context of globalisation it is a network of supply chains that form today's global commerce" (Transport

Research Support by the World Bank: Supply Chain Security Guide, 2009). Raw material and component producers, product assemblers, wholesalers, retail merchants, and transportation companies are all members of a supply chain. Throughout the chain, logistics service providers facilitate the movement of goods and information to end users by providing transportation, **warehousing**, distribution, cargo clearance and other value-added services.

The Logistics and Trade Facilitation Masterplan (2015-2020) provides the strategic framework to resolve bottlenecks in the logistics sector and elevate Malaysia to become a regional player in the medium term. The logistics industry as backbone to global supply chain is vital to competitiveness and connectivity as it stimulates trade, facilitates business efficiency and enhances growth. Figure 4.1 presents the logistics and value added services along the supply chain as indicated in the Masterplan.

**Figure 4.1: Logistics and Value Added Services Along Supply Chain**



In a supply chain, **warehousing** function is very critical as it acts as a node in linking the material flows between the supplier and customer. Warehouses have been going through various challenges such as – supply chains are becoming more integrated and shorter, globalised operation, customers are more demanding and technology changes are occurring rapidly. Demand for specialised warehouse services will increase for the foreseeable future as manufacturers intensify their focus on core competencies.

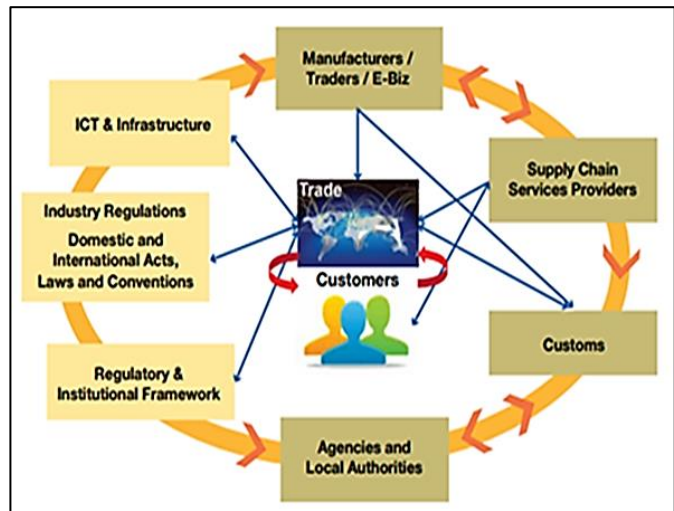
Today warehousing management systems (WMS) can be standalone or part of an [Enterprise Resource Planning \(ERP\)](#) system and can include complex technology such as Radio Frequency Identification ([RFID](#)) and voice recognition. However, the basic principle of the warehouse system has remained the same, which is to provide information to allow efficient control of the movement of materials within the warehouse. The complexity of a WMS implementation varies with each business.

### 4.3 Logistics and trade facilitation ecosystem

The logistics and trade facilitation ecosystem (Figure 4.2) is made up of manufacturers, traders, e-business organisations, logistics service providers involved in the movement of goods and necessary support services, Customs departments (to facilitate the documentation and clearance of moving and stored goods), and approving agencies and local authorities responsible for various processes in the functioning of businesses. Participants in the ecosystem adopt and follow various industry regulations in the form of acts, laws and conventions. They also leverage ICT and infrastructure to deliver relevant business solutions and products.

**Figure 4.2: Logistics and Trade Facilitation Ecosystem**

A regulatory and institutional framework is a system of regulations and procedures, and includes the functions of implementing agencies (i.e., those with the authority and means to enforce regulations and procedures). This is usually established by the government to regulate specific activities stipulated by law. The interaction between various industry participants helps to drive trade and is ultimately responsible for customer purchases. In short, an efficient logistics and trade facilitation ecosystem is necessary to boost trade and consumption.

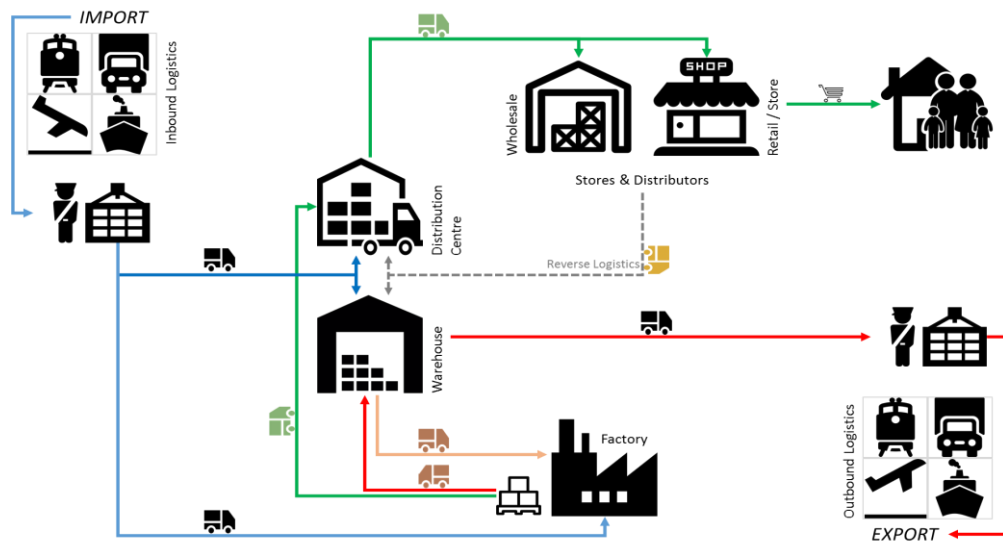


### 4.4 Warehouse Supply Chain

In a macroeconomic sense, warehousing creates time utility for raw materials, industrial goods and finished products. It also increases the utility of goods by broadening their time availability to prospective customers. In essence, the primary aim for warehouses and distribution centre is to facilitate the movement of goods from suppliers to customers while meeting the customers' demand in a timely and cost-effective manner. Figure 4.3 presents a typical warehouse supply chain.

**Figure 4.3: Warehouse Supply Chain**

### WAREHOUSE SUPPLY CHAIN



The inbound warehousing process begins with the arrival of incoming transportation. Inbound logistics refers to the transport, storage and delivery of goods coming into a business (from for all modes of transport- air, rail, sea, road) while outbound logistics refers to the same for goods going out. The storage of goods has been the primary function for warehouses; to receive customer orders, retrieve required items, and finally prepare and ship those items. Once the goods have been received from the manufacturer and/or shipper, they are compactly stored to maximise space within the warehouses. While the distribution center as a facility from which wholesale and retail orders are filled; distribution involves getting the product from the manufacturer to the ultimate consumer.

The warehousing and transporting of goods to the end customer does not necessarily mark the end of the supply chain process. Reverse logistics is another type of warehousing activity - referring to items that are going from the end user back to the distributor or manufacturer (some as defective returns or for environmental reason). Warehouses are becoming to larger extent flow-through facilities that perform certain value adding functions or customer specific activities before products continue their movement through the supply chain.

Due to increased competitiveness and challenges occurring in such areas as reverse logistics, environmental sustainability, greener operations, information technology, and overall supply chain integration are further evolving the strategies, roles, and responsibilities for warehouses.

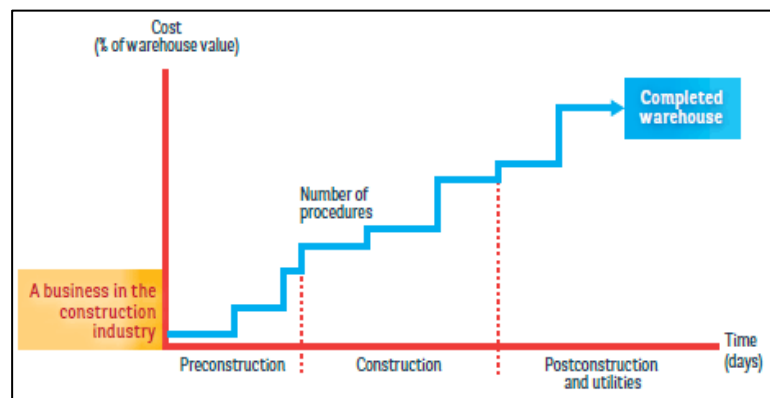
## **4.5 The World Bank Doing Business: Procedures to Build a Warehouse**

Another area of concern that may hinder the development of warehousing business in Malaysia is the number of procedures needed prior to building a warehouse. Data from the World Bank's Doing Business project suggested that although performance improvements are evident in many

areas of the transport and logistics value chain, red tape still remains a serious issue facing importers and exporters in many developing countries. Reductions in documentary formalities have been minimal in recent years, and costs have actually increased in many countries. Many countries have scope to further reduce delays and improve supply chain performance by rationalising red tape burdens.

*World Bank Doing Business* records all procedures required for a business in the construction industry to build a warehouse along with the time and cost to complete each procedure (Figure 4.4). In addition, *Doing Business* has introduced a new measure, the building quality control index, evaluating the quality of building regulations, the strength of quality control and safety mechanisms, liability and insurance regimes, and professional certification requirements. Information is collected through a questionnaire administered to experts in construction licensing, including architects, civil engineers, construction lawyers, construction firms, utility service providers and public officials who deal with building regulations, including approvals, permit issuance and inspections.

**Figure 4.4: Time, Cost and Number of Procedures to comply with formalities to build a warehouse**



*Doing Business* divides the process of building a warehouse into distinct procedures in the questionnaire and solicits data for calculating the time and cost to complete each procedure (Figure 4.4). These procedures include obtaining and submitting all relevant project-specific documents (for example, building plans, site maps and certificates of urbanism) to the authorities; hiring external third-party supervisors, engineers or inspectors (if necessary); obtaining all necessary clearances, licenses, permits and certificates; submitting all required notifications; and requesting and receiving all necessary inspections (unless completed by a private, third-party inspector). Interactions between company employees, such as development of the warehouse plans and inspections conducted by employees, are not counted as procedures. However, interactions with external parties that are required for the architect to prepare the plans and drawings (such as obtaining topographic or geological surveys), or to have such documents approved or stamped by external parties, are counted as procedures. *Doing Business* also records procedures for obtaining connections for water and sewerage. Procedures necessary to register the warehouse so that it can be used as collateral or transferred to another entity are also counted.

*Doing Business 2016 report* continues to measure efficiency in construction permitting while also adding a measure of quality. The building quality control index assesses both quality control and safety mechanisms across 189 economies in six main areas: transparency and quality of building regulations; quality control before, during and after construction; liability and insurance regimes; and professional certifications. To make the data comparable across economies, several assumptions about the construction company, the warehouse project and the utility connections

are used. The ranking of economies on the ease of dealing with construction permits is determined by sorting their distance to frontier scores for dealing with construction permits. These scores are the simple average of the distance to frontier scores for each of the component indicators (Figure 4.5).

**Figure 4.5: Dealing with Construction Permits: Efficiency and Quality of Building Regulation**

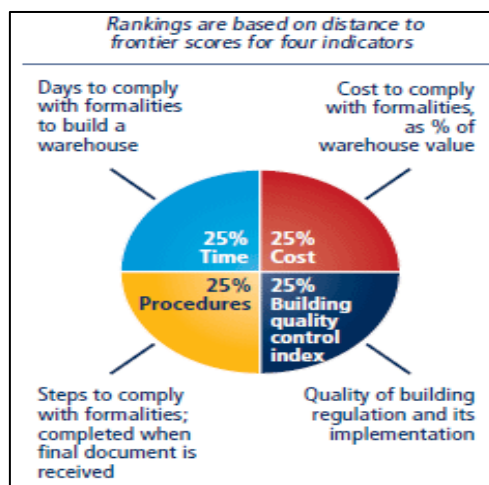


Table 4.1 shows Malaysia’s performance in Dealing with Construction Permits for the last 3 years (2014-2016).

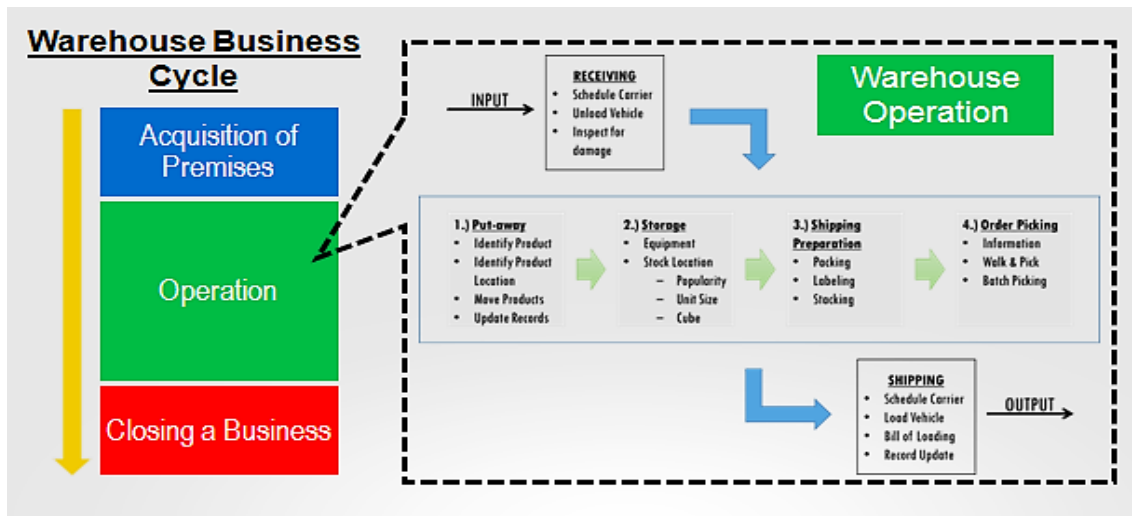
**Table 4.1: Dealing with Construction Permits performance (2014-2016)**

Indicator	Malaysia DB 2016	Malaysia DB 2015	Malaysia DB 2014	Best Performer DB 2016 (Spore)
<b>Dealing with Construction Permits (Rank/DTF Score)</b>	15 (81.10)	28 (82.49)	39 (79.55)	1 (92.92)
<b>Procedures (number)</b>	15	13	13	10
<b>Time (days)</b>	79	74	105	26
<b>Cost (% of warehouse value)</b>	1.4	1.3	1.3	0.1
<b>Building Quality Control Index (0-15)</b>	13	-	-	11.0

## 4.6 Warehousing business cycle

In general, warehousing service business cycle consists of three main activities, namely 1) Acquisition of premises, 2) Operational, and 3) Closing /cessation of a business (Figure 4.6). However focus of this study would be on the acquisition of premises and warehouse business start up.

Figure 4.6: Warehousing Services Business Cycle & Activities



#### 4.7 Specific environmental and security conditions and regulations under which each of these products must be kept

There are relevant regulations, standards (local and international), code of practices, licences and good manufacturing practices that the establishment must understand and comply with, in addition to their customer’s requirements, including product and process standards in particular if the standards are mandatory (such as standards for dangerous goods including hazardous chemical substances and dangerous goods waste) to ensure the quality and integrity of the products stored are maintained at all times such as protecting products from contaminants, unapproved chemicals, excessive temperature fluctuations and physical damage, hygienic condition and pose no risk to products. For eg, to maintain the original quality of pharmaceutical products, every party active in the distribution chain has to comply with the applicable legislation and regulations. Every activity in the distribution of pharmaceutical products should be carried out according to the principles of GMP, good storage practice (GSP) and good distribution practice.

For **drugs and pharmaceuticals**, the storing, handling, distributions, labelling and packaging, traceability and re-calling among others are governed by the Pharmaceutical Services Division of the Ministry of Health (MOH). The MOH also has various guidelines such as the Good Manufacturing Practices (GMP) and Good Distribution Practices that industries need to follow.

**Dangerous goods and radioactive materials** are strictly regulated and the governing authorities include the Department of Safety and Health (DOSH), the Atomic Energy Licensing Board (AELB), the Fire & Rescue Department of Malaysia (BOMBA) and the Department of Environment Malaysia (DOE).



Among related regulations of the warehousing business operations are as shown in Figure 4.7. However this study has its limitations as no analysis would be done on warehousing business operations and its related regulations.

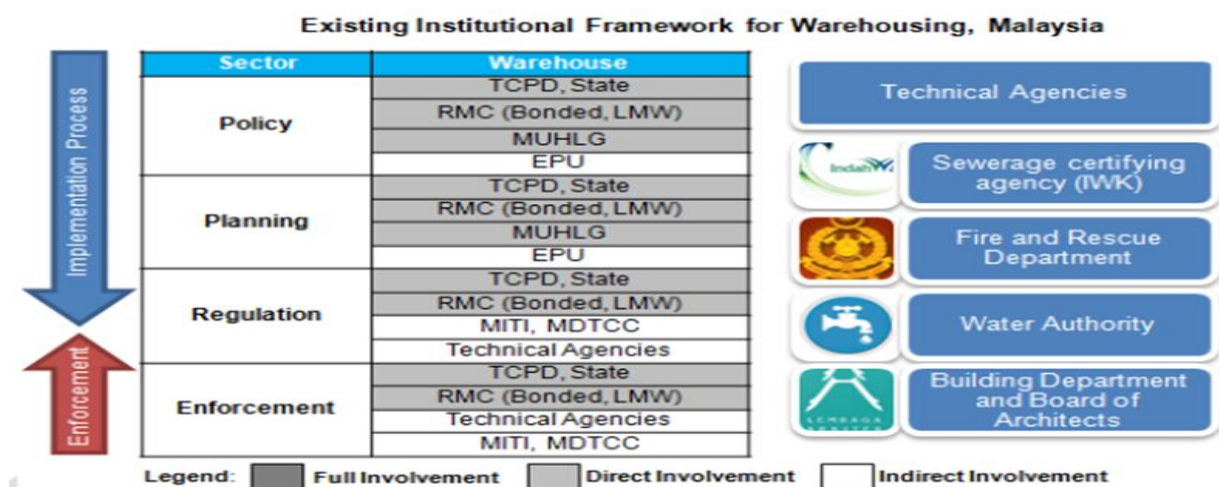
**Figure 4.7: Warehousing Business Operations**



## 4.8 Institutional Framework for Warehousing in Malaysia<sup>1</sup>

Figure 4.8 shows the current institutional framework of warehouse industry in Malaysia across the different sectors of policy, planning, regulation and enforcement with its respective ministries and agencies. It provides an overview of the regulatory framework, existing legislative and institutional arrangements, and mapping of the value chain to regulations, including the stakeholders.

**Figure 4.8: Existing Institutional Framework for Warehousing**

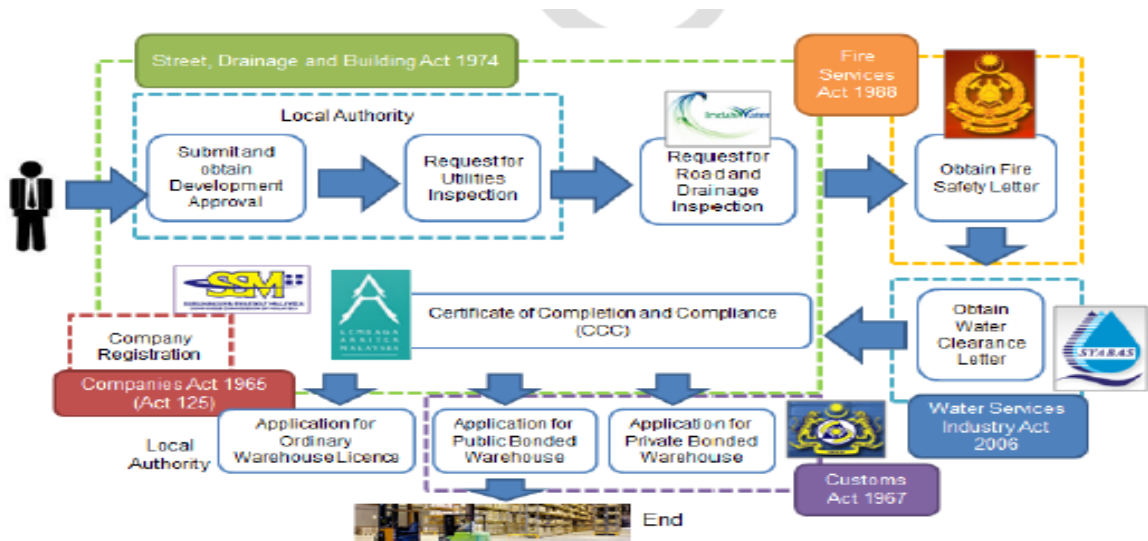


<sup>1</sup> EPU Logistics Trade Facilitation Masterplan, 2014

## 4.9 Warehouse Business Startup

The warehousing services value chain commences with the regulatory compliance surrounding the acquisition of the warehouse to start the business, then to the operation of the warehouse and cessation of warehouse if the business needs to relocate or exit the industry. In warehousing, an operator must first submit an application to construct a warehouse and obtain development approval from the local authority (Figure 4.9). Once building construction is complete, inspections from the relevant technical agencies are required. Upon inspection and confirmation that the warehouse is fit for occupancy and use and complies with relevant regulations, the operator will receive a Certificate of Completion and Compliance (CCC) from a principal submitting person (“PSP”) who is defined in SDBA (Street, Drainage and Building Act, 1974) as a Professional Architect, Professional Engineer or building draughtsman registered under the Board of Architects Malaysia (BAM). The warehouse operator can then apply for a warehouse licence appropriate for its intended use from the local authority or from the Customs Department. There are three types of warehouse licences, and selection of the appropriate type depends on how the operator intends to use the warehouse. An operator can choose to operate an ordinary warehouse, a public-bonded warehouse or a private-bonded warehouse.

Figure 4.9: Warehousing Business Startup Procedures <sup>2</sup>



Source: Shah Alam City Council, Royal Malaysian Customs

## 4.10 Value Chain and Regulatory Mapping

The purpose of value chain analysis in this report aims to review the regulatory framework and identify those aspects which have contributed or stifled the efficiency and growth of the

<sup>2</sup> EPU Logistics Trade Facilitation Masterplan, 2014

warehousing industry. This section has its limitations of the review process, as it will only **narrow the scope to regulatory mapping on the first phase of the business cycle (starting a business)**. It will provide detailed analysis on the **business startup of a physical premise for warehousing activities in terms of the general regulatory requirements**. However as warehousing is complicated by the types of goods handled and stored, regulations on **selected types of goods handled would be highlighted** (Table 4.2) **as they are subjected to different types of regulations** e.g. pharmaceuticals, dangerous and hazardous goods, scheduled chemicals, cold chain facilities and disposal of scrap/waste; albeit no detail analysis in this study.

Details of the requirements in terms of Acts, Regulations, Policies for each step of the value chain process, namely Acquisition of premise & startup; Application for warehouse licence (Ordinary, Public Bonded, Private Bonded & LMW) as well as Warehouse Operations (selected types of goods handled) are listed in Table 4.2 (Note: The list of Acts, Regulations and Policies is however not exhaustive).

**Table 4.2: Acts, Regulations and Policies by Approval of Agency/Ministry for Warehouse Activities<sup>3</sup>**

<b>Value Chain</b>	<b>Primary Activity/Process</b>	<b>Acts, Regulations, Policies</b>	<b>Approval Agency/Ministry</b>
<b>Acquisition of premise and start-up</b>	Submission for development approval (Warehouse operators can submit applications for warehouse construction and operation permits to OSC 1Submission, but the process to obtain development approval takes 130 days due to the need to satisfy the multiple requirements of different internal and external agencies).	<ul style="list-style-type: none"> <li>• Street, Drainage &amp; Building Act 1974</li> <li>• Companies Act 1955</li> </ul>	<ul style="list-style-type: none"> <li>• Local Authority</li> <li>• Companies Commission of Malaysia (SSM)</li> </ul>
	Request for utility Inspection	<ul style="list-style-type: none"> <li>• Street, Drainage &amp; Building Act 1974</li> </ul>	<ul style="list-style-type: none"> <li>• Local Authority</li> </ul>
	Request for Road and Drainage Inspection	<ul style="list-style-type: none"> <li>• Street, Drainage &amp; Building Act 1974</li> </ul>	<ul style="list-style-type: none"> <li>• Sewerage Certifying Agency (IWK)</li> </ul>

<sup>3</sup> Adapted from EPU Logistics Trade Facilitation Masterplan, 2014

	Obtain approval on fire safety (premise is equipped with an adequate number of fire extinguishers, as well as fire and safety alarm systems).	<ul style="list-style-type: none"> <li>• Fire Services Act 1988</li> </ul>	<ul style="list-style-type: none"> <li>• Fire and Rescue Department (BOMBA)</li> </ul>
	Obtain a water clearance letter	<ul style="list-style-type: none"> <li>• Water Services Industry Act 2006</li> </ul>	<ul style="list-style-type: none"> <li>• Water authority (SYABAS)</li> </ul>
	Application for the Certificate of Completion and Compliance (CCC). (Potential operators of ordinary warehouses must obtain approval from the Department of the Environment if they want to store hazardous goods, and approval from the Fire and Rescue Department and other technical agencies along with a Certificate of Completion and Compliance (CCC) from the local authority to acknowledge that the building is safe for occupation).	<ul style="list-style-type: none"> <li>• Street, Drainage &amp; Building Act 1974</li> </ul>	<ul style="list-style-type: none"> <li>• Building Department and Board of Architects via the Local Authority</li> </ul>
<b>Application for Warehouse Licence (Ordinary, Public Bonded, Bonded and LMW)- Cont'd</b>	Application for an Ordinary Warehouse Licence	<ul style="list-style-type: none"> <li>• Companies Act 1965;</li> <li>• Local Government Act 1976;</li> <li>• Street, Drainage &amp; Building Act 1974;</li> <li>• Fire Services Act 1988;</li> <li>• Water Services Industry Act 2006;</li> </ul>	<ul style="list-style-type: none"> <li>• SSM</li> <li>• Local Authority</li> <li>• IWK</li> <li>• BOMBA</li> <li>• SYABAS</li> <li>• Building Department and Board of Architects</li> </ul>
	Application for a Public Bonded Warehouse Licence for a warehouse that intends to provide central storage for the distribution of bonded goods (i.e., goods on which Customs' duties and	<ul style="list-style-type: none"> <li>• Customs Act 1967;</li> <li>• Companies Act 1965;</li> <li>• Street, Drainage &amp; Building Act 1974;</li> <li>• Fire Services Act 1988;</li> </ul>	<ul style="list-style-type: none"> <li>• Royal Malaysian Customs Department (JKDM)</li> <li>• SSM</li> <li>• Local Authority</li> <li>• IWK</li> </ul>

	taxes have not been paid) in the country and for international trade. This type of warehouse caters to the public).	<ul style="list-style-type: none"> <li>• Water Services Industry Act 2006;</li> </ul>	<ul style="list-style-type: none"> <li>• BOMBA</li> <li>• SYABAS</li> <li>• Building Department and Board of Architects</li> </ul>
	Application for a Private Bonded Warehouse Licence for a warehouse that intends to provide central storage and distribution for bonded goods (i.e., goods on which Customs' duties and taxes have not been paid) for the company and its related companies.	<ul style="list-style-type: none"> <li>• Customs Act 1967;</li> <li>• Companies Act 1965;</li> <li>• Street, Drainage &amp; Building Act 1974;</li> <li>• Fire Services Act 1988;</li> <li>• Water Services Industry Act 2006</li> </ul>	<ul style="list-style-type: none"> <li>• JKDM</li> <li>• SSM</li> <li>• Local Authority</li> <li>• IWK</li> <li>• BOMBA</li> <li>• SYABAS</li> <li>• Building Department and Board of Architects</li> </ul>
	The operations of the Licensed Manufacturing Warehouse (LMW) (bonded warehouse where manufacturing is undertaken to produce finished goods for export, are subject to minimal Customs procedures).	<ul style="list-style-type: none"> <li>• Customs Act 1967</li> </ul>	<ul style="list-style-type: none"> <li>• JKDM</li> </ul>
<b>Operation of Warehouse (selected types of goods handled)- Cont'd</b>	Handling & Transport of hazardous goods and management of toxic, hazardous chemicals, radioactive materials and hazardous wastes. A facility which generates, stores, transports, treats or disposes scheduled waste is subject to the stipulated environmental regulations.	<ul style="list-style-type: none"> <li>• Guidelines on Storage of Hazardous Chemicals: A Guide for Safe Warehousing of Packaged Hazardous Chemicals</li> <li>• Environmental Quality (Scheduled Wastes) Regulations 2005;</li> <li>• Environmental Quality (Prescribed Conveyance) (Scheduled Wastes) Order 2005;</li> <li>• Environmental Quality (Prescribed Premises) (Scheduled Wastes Treatment and Disposal Facilities) Order 1989;</li> </ul>	<ul style="list-style-type: none"> <li>• Department of Occupational Safety and Health (DOSH)</li> <li>• Ministry of Human Resources (MOHR)</li> <li>• Ministry of Natural Resources and Environment (NRE)</li> <li>• JKDM</li> <li>• Atomic Energy Licensing Board (AELB)</li> <li>• Ministry of Science, Technology and</li> </ul>

		<ul style="list-style-type: none"> <li>• Environmental Quality (Prescribed Premises) (Scheduled Waste Treatment and Disposal Facilities) Regulations 1989;</li> <li>• Customs (Prohibition of Export/Import) Order (Amendment)(No.2) 1993, and;</li> <li>• Radioactive Substances Act Explosive Act &amp; Regulations 1957;</li> <li>• Atomic Energy Licensing Act &amp; Regulations 1984.</li> </ul>	<p>Innovation (MOSTI)</p> <ul style="list-style-type: none"> <li>• Department of Environment (DOE)</li> </ul>
	<p>For pharmaceuticals and drugs, the storing, handling, distributions, labelling and packaging, traceability and re-calling. Storage conditions for hazardous, sensitive and dangerous materials and/or products and/or cosmetics such as combustible liquids and solids, pressurized gases, highly toxic substances and radioactive materials / products.</p>	<p>Good Manufacturing Practices and Guidelines on Good Distribution Practice (GDP) 2013, under the Dangerous Drugs Act 1952 (Revised 1980), Poison Act 1952 (Revised 1989), Poisons (Psychotropic Substances) Regulations 1989 and the Control of Drugs and Cosmetics Regulations 1984 (Revised 2009).</p>	<ul style="list-style-type: none"> <li>• National Pharmaceutical Control Bureau, Ministry of Health Malaysia (MOH)</li> </ul>
<p><b>Operation of Warehouse (OHS, Machinery operations, inventory management, specialised storage, and scheduled waste management</b></p>	<p><b><u>OCCUPATIONAL HEALTH &amp; SAFETY</u></b>  - the legislative framework to promote, stimulate and encourage high standards of safety and health at work, reduced risks to health from the use, storage or transportation of substances . To meet these aims, all practicable precautions must be taken in the proper use and handling</p>	<ul style="list-style-type: none"> <li>• Occupational Safety and Health Act (OSHA), 1994. supported by regulations, codes of practices and guidelines</li> </ul>	<ul style="list-style-type: none"> <li>• DOSH</li> <li>• MOHR</li> </ul>

	of any substance likely to cause a risk to health.		
	<p><b><u>MACHINERY OPERATIONS</u></b></p> <p>- provides for the control of factories with respect to matters relating to the safety, health and welfare of person therein, the registration and inspection of machinery and for matters connected therewith. DOSH carries out inspection, certification and registration of all machinery prior to their installation.</p>	<ul style="list-style-type: none"> <li>• Factories and Machinery Act 1967</li> </ul>	<ul style="list-style-type: none"> <li>• DOSH</li> <li>• MOHR</li> </ul>
	<p><b><u>INVENTORY MANAGEMENT</u></b></p> <p>- provides for inspection and certification of factory machinery.</p>	<ul style="list-style-type: none"> <li>• Factories and Machinery (Notification, Certificate of Fitness, and Inspection) Regulations, 1970.</li> </ul>	<ul style="list-style-type: none"> <li>• DOSH</li> <li>• MOHR</li> </ul>
	<p><b><u>SPECIALISED STORAGE</u></b></p> <p>- Protection of persons and property from fire risks and for purposes connected therewith. - a legal framework to control exposure of chemical hazardous to health at workplace.</p>	<ul style="list-style-type: none"> <li>• Fire Services Act 1988</li> <li>• Occupational Safety and Health (Use and Standards of Exposure of Chemicals Hazardous to Health (USECHH) Regulation 2000</li> </ul>	<ul style="list-style-type: none"> <li>• BOMBA</li> <li>• DOSH</li> <li>• MOHR</li> </ul>
	<p><b><u>SCHEDULED WASTE MANAGEMENT</u></b></p> <p>- ensure that scheduled wastes generated are properly stored, treated on-site, recovered on-site for material or product from such scheduled wastes or delivered to and received at prescribed premises for treatment, disposal or recovery of material or product from</p>	<ul style="list-style-type: none"> <li>• Environment Quality Act 1974</li> <li>• Environment Quality (Scheduled Waste regulations) 2005</li> </ul>	<ul style="list-style-type: none"> <li>• DOE</li> <li>• NRE</li> </ul>

	<p>scheduled wastes. Areas for the storage of the containers shall be designed, constructed and maintained adequately to prevent spillage or leakage of scheduled wastes into the environment.</p>		
<p><b>Employment Requirements</b></p>	<p><b><u>SPECIFIC IMMIGRATION PROCEDURE</u></b>  - the company must apply for an approval to employ expatriates from the Expatriate Committee of the Immigration Department. Upon approval of the expatriate posts, companies should forward their applications for Employment Passes to the Immigration Department for endorsement. The spouse and children of the expatriate can apply for Dependant Passes once the expatriate has been issued with the Employment Pass. The Dependant Pass may be applied together with the application for the Employment Pass or after the Employment Pass is approved. The spouse and children of the expatriate who enter the country on a visit (temporary employment or professional) will be issued a visit (social) pass. 1.5 Special Industrial Building Allowance for Warehouses An initial allowance of 10% and an annual allowance of</p>	<ul style="list-style-type: none"> <li>• Employment Act 2011</li> <li>• Industrial Relation Act 1967</li> <li>• Minimum Wages Order 2012</li> <li>• Minimum Retirement Age Bill 2012</li> <li>• Employees Provident Fund Act 1991</li> <li>• Income Tax Act 1967</li> <li>• Employees' Social Security Act 1969</li> <li>• <i>Pembangunan Sumber Manusia Berhad</i> Act 2001</li> <li>• Occupational Safety and Health Act 1994</li> <li>• Immigration Act 1959/63</li> </ul>	<ul style="list-style-type: none"> <li>• Registration of workforce (MOHR)</li> <li>• Registration of Unions (Industrial Relations Department – MOHR)</li> <li>• Registration of employees with SOCSO</li> <li>• Registration of employees with PSMB</li> <li>• Registration of employees with LHDN</li> <li>• Work Permits (Immigration)</li> </ul>



	3% of qualifying capital expenditure is given for buildings used as warehouses for storing goods for export and re-export. Applications should be submitted to the Inland Revenue Board.		
<b>Cessation of Warehouse</b>	Closing/Winding down of business, Sales or ownership transfer and Bankruptcy	<ul style="list-style-type: none"> <li>• Insolvency Law Act 360</li> <li>• Bankruptcy 1967</li> </ul>	<ul style="list-style-type: none"> <li>• Malaysia Department of Insolvency</li> </ul>

*(Note: The list of Acts, Regulations and Policies is however not exhaustive.)*

## 4.11 Trade Associations as Intermediaries

Trade associations and Chambers of Commerce act as intermediaries to communicate and coordinate between the logistics and warehousing businesses and the regulators. They provide services, information and training to enhance regulatory compliance and issue resolutions between regulators and the businesses. There are regular consultations to deal with issues of concern on government policies and implementation.

Beside the industry-based associations there are also service business-based associations which play a major role in mediation and negotiation with the Government on logistics matters. Among them are the Federation of Malaysian Freight Forwarders (FMFF), Airfreight Forwarders association (AFAM), Association of Malaysian Hauliers, ASEAN Ports Authorities etc.

The Federation of Malaysian Freight Forwarders (FMFF) was registered in September 1987 as a National Association representing the Freight Forwarders in the logistics industry. In 2000, the Ministry of Transport endorsed and recognized FMFF as a national Association to represent the logistics industry. Current membership in FMFF nationwide is about 1091 members with several applicants pending approval. FMFF membership as per State association is as follows:-

Selangor Freight Forwarders and Logistics Association (SFFLA) - 627 company members; Johor Freight Forwarders Association (JOFFA) - 254 company members; Penang Freight Forwarders Association (PFFA) - 119 company members; Kota Kinabalu Freight Forwarders Association (KKFAA) - 51 company members; Sarawak Freight Forwarders Association (SFAA) - 92 company members; Labuan Freight Forwarders Association (LFFA) - 15 company members.

FMFF is affiliated to FIATA (International Federation of Freight Forwarders Association), AFFA (Asean Freight Forwarders Association), FAPAA (Federation of Asia Pacific Air Cargo Associations, MNSC (Malaysian National Shippers Council). FMFF participates in many government forums such as Dialogues with MITI and MOF, Customs Liaison meeting, MOT,

MLC, Trade and Facilitation Action Council (MITI) and provides industry views and inputs for policy makers' consideration.

The Selangor Freight Forwarders and Logistics Association (SFFLA) is the largest in the region. Its mission is to undertake to market and promote its members' activities / businesses through participation in exhibitions, trade missions, dialogues and forums, locally and internationally. Through all this, members benefit directly and indirectly through the extended local and international network co-operation and collaboration in all the logistics activities.

SFFLA and FMFF participate actively in all government fora and consultative bodies and meetings to ensure that the interests of the logistics industry are articulated and represented at dialogues and pre-dialogue meetings initiated by important ministries such as MOF, MITI and MOT, SME Corporation, and Customs Liaison Meetings. SFFLA also implements a sustainable professional capacity development programme for its members to enhance the professional capacity of the logistics industry.

The International Federation of Freight Forwarders Association (FIATA)'s objectives are:

- to unite the freight forwarding industry worldwide
- to represent, promote and protect the interests of the industry by participating as advisors or experts in meetings of international bodies dealing with transportation
- to familiarise trade and industry and the public at large with the services rendered by freight forwarders through the dissemination of information, distribution of publications, etc.
- to improve the quality of services rendered by freight forwarders by developing and promoting uniform forwarding documents, standard trading conditions, etc.
- to assist with vocational training for freight forwarders, liability insurance problems, tools for electronic commerce including electronic data interchange (EDI) and barcode.

The Federation of Asia Pacific Aircargo Associations (FAPAA) is the regional Aircargo body bringing together the representative Aircargo Associations in 20 Member countries and/or regions around the Asia-Pacific and provides a forum for sharing and developing knowledge, innovation and experience amongst leaders in the international logistics chain.

The Associations that comprise FAPAA can be accessed via the "Members by Country and/or Region" page and their respective Forwarding members businesses have the ability to reach all corners of the globe - for any type of commodity and provide a variety of services including Import /Export Forwarding; 3rd & 4th party Logistics; Customs Brokerage and professional advice. The group meets on an annual basis in one of the member countries and/or regions and during the year communicates on a regular basis to enact the primary objectives of the group.

The Malaysia Logistics Directory (msialogistics.com) classifies the logistics industries into four categories: sea freight, land and rail transport, air freight and supporting industries. Under the supporting industries include Warehouses-public (40), warehousing equipment and supplies (10), warehousing services-bonded (10), warehouse services-cold storage (7) and warehousing services-general (46). The trading community in Malaysia is a vibrant one. Comprising not only traders, manufacturers, importers, exporters, forwarders, shipping agents, warehouse and depot operators; it also includes transport and logistics community, banking and insurance agencies

as well as ASEAN and international links. Smooth communications is key for this community to run business efficiently.

myTRADELINK is Malaysia's trade facilitation portal that connects trading communities with the relevant government agencies and also other businesses involved in global trade and logistics. An initiative of the Malaysian Government, led by the Ministry of Finance of Malaysia - and operated by Dagang Net Technologies Sdn Bhd, it is a single platform where the trade community can exchange documents required to fulfil regulatory trade processes for import, export or transit - anytime, anywhere via the Internet. Traders, manufacturers, importers, exporters, forwarders, shipping agents, warehouse and depot operators, transport and logistics community, banking and insurance agencies as well as ASEAN and international links stand to gain many benefits from myTRADELINK. Among them are a significant reduction of manual paperwork and physical processes; and the convenient reusability of data and information that reduces the unnecessary keying in of the same data or information more than once. Dagang Net Technologies Sdn Bhd ("*Dagang Net*") has been appointed by the Royal Malaysian Customs Department as National Single Window Service Provider ("*NSW Service Provider*"). As a NSW Service Provider, Dagang Net will provide the trading community (including importers, exporters, shipping agents, traders, manufacturers, and warehouse and depot operators) the gateway for the business community to access to the uCustoms trade services upon its implementation. Apart from facilitating trade transactions, myTRADELINK service serves as a trade information hub and allows users to streamline their transactional activities. The portal provides the listing of main stakeholders of the import-export logistics communities. The communities identified are in four categories: Trade associations, port operators (sea and inland ports), port authorities and permit issuing agencies.

The following section presents in more detail an overview of government stakeholders (regulators) – the Royal Malaysian Customs Department (JKDM), Department of Environment, Ministry of Natural Resources and Environment), Department of Occupational Safety and Health, Ministry of Human Resources Malaysia, Malaysia's Ministry of International Trade and Industry (MITI), Ministry of Transport (MOT), MIDA and State / local Authorities (PBTs) and their roles.

## **4.12 Overview of government stakeholders (regulators) and their roles in the value chain**

### **4.12.1 Customs Act 1967 and GST Act 2014**

The main Acts governing the activities in warehousing services sub-sector in Malaysia are the Customs Act 1967 and GST Act 2014. JKDM is the government agency responsible for administrating the nation's indirect tax policy.

**Box 4.1: Customs Act 1967**

**Sections 2. (1)** “customs warehouse” means a warehouse or other place established by the Minister under subsection 63(1) for the deposit of dutiable goods;

**Sections 63. (1)** The Minister may establish and maintain customs warehouses, wherein dutiable goods may be deposited and kept without payment of customs duty, at any customs port, customs airport, place of import or export or at any inland customs station and may prescribe the amount to be paid as warehouse rent on goods deposited in such warehouses and remit any amount payable rent.

**Sections 65. (1)** The Director General may, at his absolute discretion, on payment of such fees as may be fixed by him in each case, grant a licence to any person, hereinafter in this section referred to as the licensee, and when granted withdraw any licence, for warehousing goods liable to customs duties and any other goods in a place or places specified in such licence.

**Sections 65D. (1)** The Director General may at his absolute discretion on payment of such fee as may be prescribed, grant a licence to operate a duty free shop to any person, hereinafter in this section referred to as “the licensee”, and when granted, may suspend or withdraw such licence.

**Sections 65E. (1)** The Director General may at his absolute discretion on payment of such fee as may be prescribed, grant a licence to operate an inland clearance depot to any person, hereinafter in this section referred to as “the licensee”, and when granted, may suspend or withdraw such licence.

**Box 4.2: GST Act 2014**

**Sections 70. (7)(a)** “customs warehouse” has the meaning assigned to it in section 2 of the Customs Act 1967

**Sections 70. (7)(g)** ‘warehouse’ means –

- (i). any customs warehouse;
- (ii). any licensed warehouse;
- (iii). any duty free shop licensed;
- (iv). any inland clearance depot.

## 4.12.2 Other Regulations

The warehousing services sub-sector is also bound by other acts at the Federal, State and Local Government levels.

### 4.12.2.1 Federal Regulations

Acts which are applicable to the warehousing services sub-sector at the federal level include the National Land Code 1965 (Act 56 of 1965), Land Acquisition Act 1960 (Act 34), Environmental Quality Act 1974 (Act 127), Occupational Safety and Health Act 1994 (Act

514), Factories and Machinery Act 1967 (Act 139), Land Public Transport Act 2010 (Act 715), Road Transport Act 1987 (Act 333), Industrial Co-ordination Act 1975 (Act 156), Excise Act 1976 (Act 176), Customs Act 1967 (Act 235), GST Act 2014 (Act 762).

The Environmental Quality Act 1974 relates to the prevention, abatement, control of pollution and enhancement of the environment, and for purposes connected therewith. Licences are required from the Department of Environment (DOE), NRE, for activities that give rise to pollutions, such as emission of noise, emission or disposal of wastes into the atmosphere, water, or land. It is compulsory to conduct an Environmental Impact Assessment (EIA) for any proposed project to assess its potential impact on the environment, and subsequently propose measures to control such impact. A list of Environmental Quality regulations relevant to the warehousing services sub-sector is available in Table 4.2.

The Occupational Safety and Health Act 1994 is an act to make further provisions for securing the safety, health and welfare of persons at work, for protecting others against risks to safety or health in connection with the activities of persons at work, to establish the National Council for Occupational Safety and Health, and for matters connected therewith. The Act is enforced by the Department of Occupational Safety and Health (DOSH), under the Ministry of Human Resources (MOHR). The Act is applicable throughout Malaysia to the industries specified in the first schedule of the Occupational Safety and Health regulations relevant to the industry are as listed in Table 4.2.

The warehousing services sub-sector must abide by the Factories and Machinery Act 1967, which provides for the control of factories with respect to matters relating to the safety, health and welfare of person therein, the registration and inspection of machinery and for matters connected therewith. DOSH carries out inspection, certification and registration of all machinery prior to their installation. Regulations under the Factories and Machinery Act 1967 relevant to the warehousing services sub-sector are listed in Table 4.2.

The Land Public Transport Commission (SPAD) enforces the Land Public Transport Act 2010 in plans, regulates, and enforces all matters relating to land public transport and has jurisdiction over Peninsular Malaysia and agency issues Goods Vehicle Operator Permit.

The Road Transport Department (RTD) under MOT is in charge of the registration and licensing of drivers and all motor vehicles and trailers and the enforcement of the Road Transport Act 1987 which provides for the regulation of motor vehicles and of traffic on roads and other related matters.

Labour laws relevant to the warehousing services sub-sector include the Employment Act 1955 (Act 265), Immigration Act 1959/ 1963 (Act 155), Minimum Retirement Age Act 2012 (Act 753), Minimum Wages Order 2012, and Workmen's Compensation Act 1952 (Act 273). The Department of Labour (JTKSM) under the Ministry of Human Resource (MOHR) is responsible for the administration of labour laws.

#### 4.12.2.2 State Regulations

Land matters in the Peninsular Malaysia are governed by Acts such as the National Land Code 1965, and Land Acquisition Act 1960 (Box 4.3). Although these are federal law, state authorities are empowered to make rules for carrying out the objects and purposes of the Act within their respective states.

##### **Box 4.3: Land Acquisition Act 1960**

*Section 3 of the Land Acquisition Act 1960 provides that the State Authority may acquire any (privately owned) land which is needed:*

- a) *For any public purpose;*
- b) *By any person or corporation for any purpose which in the opinion of the State Authority is beneficial to the economic development of Malaysia or any part thereof or to the public generally or any class of the public; or*
- c) *For the purpose of mining or for residential, agricultural, commercial, industrial or recreational purposes or any combination of such purposes.*

In Sabah and Sarawak, the main legislations with regard to land matters are the Sabah Land Ordinance, and the Sarawak Land Code respectively.

Matters related to supply of water are also within the jurisdiction of each state government.

#### 4.12.2.3 Local Government Regulations

Local governments are generally within the administration of the respective state governments. However, the Ministry of Housing and Local Government plays a role in coordinating and standardising the practices of local governments across the country. There are currently three types of local governments; City Hall or City Council (e.g. Kuala Lumpur City Hall), Municipal Council (e.g. Batu Pahat Municipal Council), District Council (e.g. Hulu Selangor District Council). There are 149 local authorities, consisting of 12 City Halls/Councils, 39 Municipal Councils and 98 District Councils. There are other bodies empowered by state governments to execute the functions of local authority such as Kulim Hi- Tech Local Authority and Putrajaya Corporation.

Matters pertaining to local regulations are bound by the Local Government Act 1976 (Act 171) which outlines the form, organisational structure, functions and responsibilities of a local authority. The Town and Country Planning Act 1976 (Act 172) controls the planning of land use in local authority area. The Street, Drainage and Building Act 1974 (Act 133) deals with matters regarding drainage, maintenance of municipal roads and public buildings. The Acts empower local governments with authority on local planning, licensing, property taxes, construction of buildings, housing and commercial, public utilities, and traffic management.

## **4.13 Regulators and other relevant bodies**

### **4.13.1 Free Zones Area**

A free zone is a designated, secured area in which commercial and industrial activities are carried out and gazetted by the MOF as stated under section 3(1) Free Zone Act 1990. There are two types of free zone that is the free zone for industrial activities and free zone for commercial activities. Customs control at the free zone is at the minimum and basically only at the exit point. Free Zone Authority is appointed by the Minister under Section 3(2) Free Zones Act 1990 to administer, maintain and operate the zone.

#### **4.13.1.2 Port Authority**

The function of the Port Authority includes operating and maintaining the port in respect of which it is established, within the powers and duties provided under the Port Authorities Act 1963. Two main roles of the Port Authority relating to warehouse are:

- i. to undertake all or any work of every description of or in connection with the loading, unloading and storing of goods or cargo in the port, or authorize by way of licence any company, firm person or persons to undertake such work, subject to such regulations or by-laws as the authority may from time to time make, and such licence may contain conditions which may include a condition that such work shall be undertaken under contract to the authority;
- ii. to construct and maintain, and, within the limits of the lands vested in it, to operate railways, warehouses, sheds, engines, cranes, scales and other appliances for conveying, receiving, handling and storing goods to be landed or shipped or otherwise dealt with by the authority;

## **4.14 An Overview of Licences**

Licensing can be in various forms, such as registrations, notifications, approvals, licences and permits. The main characteristic of licensing as a regulatory instrument is that a prior approval from the government is required before any commencement of business or operations of business.

### **4.14.1 Royal Malaysian Customs**

Basically guided by the General operations of Free Industrial Zone (FIZ) and Licensed Manufacturing Warehouse Guidelines. It is documentarily controlled by the Royal Malaysian Customs Department and is subjected to all Customs laws and regulations.

#### 4.14.1.1 Customs Act 1967

A licensed warehouse has been specially designated for storing dutiable goods approved by the JKDM under Section 65 of the Customs Act 1967. However, since 1981, its function has been enhanced for other activities such as break bulking and trading to facilitate commercial activities as well as to make it a distribution hub within the ASEAN region. Its creation also helps to reduce port congestion and for convenience of the importers.

There are several categories of warehouses under the Customs Act 1967, subject to approval, such as public warehouse, private warehouse, PEKEMA (Association of Malay Importers and Traders of Motor Vehicles of Malaysia) warehouse and public agent warehouse. Each category has different criteria and different types of goods to be kept but all of them need to be licensed under Section 65 of the same Act.

In Malaysia, Manufacturing Bonded Warehouse is known as Licensed Manufacturing Warehouse (LMW) established under the provision of section 65/65A of the Customs Act 1967. LMW is a type of bonded warehouse where the manufacturing process is allowed to be carried out to produce finished goods for export. Manufacturing operation therein is subject to minimal customs procedures. It is primarily intended to cater for export oriented industries.

Customs duty exemption is given to all raw materials and components used directly in the manufacturing process of approved produce from the initial stage of manufacturing until the finished product is finally packed ready for export. This includes packing materials and casings. The list of raw materials/components that can be imported and taken to a licensed manufacturing warehouse without payments of customs duty is issued together with the licensed manufacturing warehouse license.

Goods subject to excise duty incorporated in the final product may be exempted from excise duty. Application for such excise duty exemption should be made to the Treasury (MOF) for consideration. Machinery equipment required for direct manufacturing process of approved final products is entitled to exemption from customs duty and sales tax.

Generally, licensed manufacturing warehouse are documentarily controlled by the customs. As such, customs officers will not be stationed at the licensed premises. Manufacturing process can be carried out without any time limit, but no dutiable goods shall be brought in or taken out of the licensed premises outside the normal opening hours without written permission from customs authority.

The **Guide on Warehousing Scheme Goods and Service Tax (GST)** by the Royal Malaysian Customs (as at 6 July 2015) assists businesses in understanding matters with regards to GST treatment on Warehousing Scheme under section 70 of the Goods and Services Act 2014.

In general, under the GST system, goods are subject to GST upon importation. The payment of GST by importers at the point of importation would cause difficulties in terms of cash flow as they have to pay the tax upfront. Thus, a special scheme known as a **Warehousing Scheme** is introduced to assist them to alleviate cash flow problems. Generally, GST on all goods imported and deposited in a public licensed warehouse is suspended.



This scheme is provided for importers or owners of the goods as the users of a licensed warehouse since it provides storage facilities with payment of GST suspended. No application is required for users to enjoy this scheme.

### **Warehousing Scheme**

A licensed warehouse has been specially designated for storing dutiable goods approved by the Royal Malaysian Customs Department (JKDM) under Section 65 of the Customs Act 1967. However, since 1981, its function has been enhanced for other activities such as break bulking and trading to facilitate commercial activities as well as to make it a distribution hub within the ASEAN region. Its creation also help to reduce port congestion and for convenience of the importers.

#### **4.14.1.2 Customs Agent- Customs Brokerage Licence (CBL)**

Approval of Forwarding and Shipping agents to become an import or export agent in Customs matters is subject to Section 90, Customs Act 1967.

##### *14.14.1.2.1 Qualification*

For Forwarding Agent Company - At least **51% Bumiputera participation** on share capital, management and employees.

For Shipping Agent Company - At least **30% Bumiputera participation** on share capital, management and employees.

##### *4.14.1.2.2 Approval*

Approval as forwarding / shipping agent is given for a period of two years and is subject to the conditions stated that could be added to or changed when necessary. Some of the main conditions are:

1. they are not allowed to transfer ownership, change name, sell or handover to any party without Customs permission;
2. prepare General Bond according to the amount fixed by Customs;
3. be legally liable on acts of workers; and
4. comply with all the provisions under the Customs Act 1967 and its Regulations as well as other instructions released by the Customs.

Approval will be revoked upon impingement of provisions under the Customs Act 1967 and related regulations.

Approval to become a forwarding / shipping agent by the State Director of Customs in one state also covers company branches in other states. The branch company's approval to be an agent is also subject to terms stated in paragraph ***Conditions Approval***. Nonetheless,

Bumiputera share capital and employees' equity is taken into consideration as a whole without focusing only on branches that will be set up.

#### 4.14.1.2.3 *Renewal*

Application to renew an approval has to be submitted 2 months before the approval's expiry. Supporting documents that need to be enclosed are EPF Statement, annual report and audited financial statement, Form 24, Form 49, list of lower-level management and employees as well as represented customers. Approval of renewal will be given for a period of two years subject to the conditions stated.

### **4.14.2 MIDA**

There are three (3) types of licences, depending on the warehousing requirements of the operator. An operator can choose to operate as an ordinary warehouse, a Public Bonded Warehouse or a Private Bonded Warehouse. Investors intending to provide warehousing services are required to incorporate a company under the Companies Act, 1965.

#### 4.14.2.1 Licensing and Registration

(i) Ordinary Warehouse Licence: A company that wishes to provide ordinary warehousing services must apply for a licence to the relevant Local Authority. The following approvals must be obtained before applying to the Local Authority:

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

#### (ii) Public Bonded Warehouse Licence

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

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

(iii) Private Bonded Warehouse Licence

- A Private Bonded Warehouse is a central storage and distribution centre for bonded goods (i.e. goods on which Customs duties and taxes have not been paid), of the companies and its related companies.
- Private Bonded Warehouses that store different categories of goods must comply with the following conditions:-

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

A company that wishes to provide public or private bonded warehousing services must apply to the Royal Malaysian Customs Department. The following approvals must be obtained before applying to the Royal Malaysian Customs Department: Approval from DOE when operators store hazardous goods.

- Approval from the Fire and Rescue Department and other Technical Agencies.
- CCC from the Local Authority.

#### 4.14.2.2 Other Licensing and Registration

A Public or Private Bonded Warehouse operator that is licensed under Section 65 of the Customs Act, 1967 can be given permission to act as an agent for transacting businesses relating to the import or export of goods that are stored in the licensed warehouse. For this purpose, a warehouse operator is required to obtain a Freight Forwarding Agent/Customs Agent License and/or Shipping Agent License and a Service Tax Licence. The Service Tax Act, 1975 shall apply throughout Malaysia except Langkawi, Tioman, Labuan, Free Zones and 'Joint Development Area'. Effective 1 January 2011 the rate of service tax is 6%. Applications for the above licenses except for Customs Agent License should be submitted directly to the Royal Malaysian Customs Department. Before acquiring a Freight Forwarding Agent/Customs Agent Licence from the Royal Malaysian Customs Department, the company must obtain an International Integrated Logistics Services (IILS) status from MIDA.

#### 4.14.2.3 Equity Policy

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

#### 4.14.2.4 Specific Immigration Procedure

The company must apply for an approval to employ expatriates from the Expatriate Committee of the Immigration Department. Upon approval of the expatriate posts, companies should forward their applications for Employment Passes to the Immigration Department for endorsement. The spouse and children of the expatriate can apply for Dependant Passes once the expatriate has been issued with the Employment Pass. The Dependant Pass may be applied together with the application for the Employment Pass or after the Employment Pass is approved. The spouse and children of the expatriate who enter the country on a visit (temporary employment or professional) will be issued a visit (social) pass. 1.5 Special Industrial Building Allowance for Warehouses An initial allowance of 10% and an annual allowance of 3% of qualifying capital expenditure is given for buildings used as warehouses for storing goods for export and re-export. Applications should be submitted to the Inland Revenue Board.

#### 4.14.3 Local Authorities (PBTs)

Business licenses issued by the local authorities are grouped according to category of business and comprise schedule of licensing annual fees for Trades, Business and Industries By-Law. Under warehousing and storage, are for Acetylene, oxygen and LPG exceeding 230; Alloy and amalgam including other metal treatment; Animal/Fish manure; Animal feed; Bottling of drinks(manufacture); Cables & wires; Charcoal, Coal and other related material; Detergent, wash products; Embroidery; Fiberglass products; Flammable gas; Godown; Hardware and construction products; Industrial and agriculture chemicals and Plywood.

Section 102 of the Local Government Act 1976 (Act 171) specifies the general functions of the local authority in making, amending and revoking by-laws. The by-laws legislated by the local authorities as prescribed under this section are for the purpose of maintaining the health, safety and well-being of the population. This section also pertains to the good order and government of the local authority area. The subsections of Section 102 states the purposes for which local authorities are allowed to administer and for which by-laws can be made.

##### **Box 4.4 General power to make by-laws**

**102.** *In addition to the powers of making by-laws expressly or impliedly conferred upon it by any other provisions of this Act every local authority may from time to time make, amend and revoke by-laws in respect of all such matters as are necessary or desirable for the maintenance of the health, safety and well-being of the inhabitants or for the good order and government of the local authority area and in particular in respect of all or any of the following purposes:*

(a) ... (r)

(s) to **control and supervise**, by **registration, licensing** or otherwise, including in proper cases by prohibition, a trade, business or industry which is of an obnoxious nature or which could be a source of nuisance to the public or a class of the public;

(t) ... (u).

For any business to operate, it is required by law to obtain a licence from the local government. This as has been prescribed by the relevant by-laws: “No person shall act as a hawker without licence issued by the Mayor under this By-Laws” as stated in the section Prohibition to hawk without licence (Hawkers (...City Council) By-laws 2010). In a Public and Private Market (...City Council By-Laws 2010), under the section Licence for private market, it is stated that “No person shall establish, conduct or carry on a private market in any place, holding or building without a licence issued by the Mayor under these By-Laws.” Table 4.4 shows related licence to warehousing services.

**Table 4.3: Warehousing services business licence**

Category	Types of Licences
Liquor/Beer	List of technical licences ☑ Liquor Wholesale / Storing / Selling Licence List of non-technical licences (immediate) ☑ Beer Warehouse / Distributor Licence
Storage	List of non-technical licences (immediate) ☑ Rubber Storage Licence ☑ Construction Materials Storage Licence ☑ Wood and Planks Storage Licence ☑ Fertiliser Storage Licence ☑ Latex / Copra Storage Licence ☑ Sea Produce Storage/ Selling Licence ☑ Stone / Clay Products Storage Licence ☑ Liquid Gas Petroleum Storage Licence ☑ Skid Tank Storage Licence ☑ Dangerous Oil Storage Licence ☑ Non-dangerous Oil Storage Licence ☑ Paints Storage Licence ☑ Warehouse Licence ☑ Carpet / Fabric Products Storage Licence ☑ Cement Storage Licence ☑ Hardware Storage Licence ☑ Fabric / Linen Storage Licence ☑ Cement products Storage Licence ☑ Charcoal / Coal Storage Licence ☑ Gas Storage Licence ☑ Rotten Fish Storage Licence ☑ Heavy vehicles storage (open area) Licence ☑ Heavy vehicles storage (in building) Licence ☑ Aluminium / Glass Products Storage Licence ☑ Wood / Rattan/ Bamboo products Storage Licence

	<input type="checkbox"/> Coal / Attap Storage Licence <input type="checkbox"/> Storing Old / Used Things Licence <input type="checkbox"/> Food / Drinks Storage Warehouse Licence <input type="checkbox"/> Cocoa / Palm Storage Licence <input type="checkbox"/> Refrigerated Food Storage Licence <input type="checkbox"/> Food and Drink Distributor / Storage Licence
Food	List of technical licences (immediate) <input type="checkbox"/> Ice-cream Making / Distributing Licence <input type="checkbox"/> Food and Drink Distributor / Storage Licence
Cigarette	List of non-technical licences (immediate) <input type="checkbox"/> Cigar making / Tobacco storage Licence <input type="checkbox"/> Tobacco Produce Selling / Storage Licence
Parking	List of non-technical licences (immediate) <input type="checkbox"/> Parking Licence
Healthcare	List of non-technical licences (immediate) <input type="checkbox"/> Medicine Shop Licence <input type="checkbox"/> Pharmacy Licence <input type="checkbox"/> Livestock Feed / Medicines Licence
Vehicle	List of non-technical licences (immediate) <input type="checkbox"/> New Cars Display Licence <input type="checkbox"/> Used Cars Display Licence <input type="checkbox"/> Mini Car Track Licence List of technical licences <input type="checkbox"/> Used Car Display Licence <input type="checkbox"/> Heavy Vehicles Display (Open Space) Licence <input type="checkbox"/> Motorcycle Display Licence <input type="checkbox"/> Fibreglass Display Licence