



Corporate Integrity

MACC begins the year with a slew of new initiatives, as well as continuing previous initiatives

At the recent APEC Leaders' Meeting in Honolulu, Hawaii, USA in November, the Leaders were unanimous in their opinion that transparency and good governance are key factors in ensuring long-term economic competitiveness leading to sustainable economic growth and prosperity. The Leaders were also supportive towards efforts to increase public trust by fighting corruption and by committing themselves to transparent and accountable governance.

Malaysia, in particular, came up with the Kuala Lumpur Principles (intended for the medical device sector) a business ethics guideline that will provide companies, especially resource constrained SMEs without compliance personnel or adequate ethical procedures with greater clarity of what constitutes appropriate business interactions across the APEC region.

The government has acknowledged that corruption is a problem to be dealt with in our country, and has also recognised the dangers that corruption poses to our economic growth and prosperity. It is for this reason that the KL Principles is adopted to promote anti-corruption practices in both the business dealings or corporate lifestyle of our SMEs. Surely, instances of corruption can be reduced if public servants, business people and politicians perceive it as a 'high-risk, low-reward' activity. This education of society on the evils of corruption rests on the premise that a corrupt individual is likely to be caught and punished severely.

2011 has been a trying and eventful year for the Malaysian Anti-Corruption Commission (MACC). The office, responsible for the fight against corruption in Malaysia, has been tireless in its noble efforts, and the fruits of those efforts are now being realised. Anti-Corruption Principles for Corporations in Malaysia ed.

According to Malaysian Anti-Corruption Commission Deputy Chief Commissioner (Prevention) Dato Hajah Sutinah Sutan, the MACC is firmly of the belief that corruption is a costly barrier to trade. "Corruption is an extra cost to businesses that many cannot afford," she said. Thus, the MACC has a clear mandate to create and maintain a corruption-free business environment.

Said Sutinah: "I am aware that there is a general feeling that the big crooks escape prosecution while only the small fish fry. To educate the public on the evils of corruption, we must create the confidence in people that powerful politicians or individuals of influence are treated no less different from the ordinary citizen or that it is only the lower rank public servants or minor political figures that are prosecuted."

She said that this applies to big corporations who shouldn't be given any special treatment in comparison to SMEs on this issue of corruption.

"Creating public confidence and trust with regards to anti-corruption initiatives is also a perception battle," she commented.

"However, as more arrests or prosecutions are carried out by the MACC,

“Improving public confidence and trust with regards to anti-corruption initiatives is a consistent effort.”

— Dato Hajah Sutinah Sutan

the people's negative perception on corruption in Malaysia may be reinforced. The point is that as more corrupt activities are uncovered it unfortunately adversely affects our perception of the prevalence of corruption in Malaysia instead of positively shaping our view of the MACC's efforts in reducing corruption. So, in this context let us be fair to those entrusted with this fight against graft," she sighed. "It is a double-edged sword."

As part of the MACC's efforts to eradicate corruption, the MACC has formed a dedicated division to further reduce the chances of corruption involving government departments, government-linked companies and enforcement agencies. Dubbed the Inspection and Consultation Unit- it is staffed with around 60 well-trained officers specialising in various fields that will identify and propose measures to fight corruption which is getting more complex in nature.

Corporate Integrity Pledge

On the way to realising its ambitions, the MACC has set out numerous programs, many of which have been successful. One of these is the Corporate Integrity Pledge (CIP). Often highlighted is the endemic corruption dilemma facing investors in the burgeoning Asia Pacific region. In line with this, the MACC added the Corporate Integrity Pledge (CIP) to its list of activities geared towards a clean corporate Malaysia.

Rapid economic growth in much of East and Southeast Asia and in India has profound governance implications. However, many Asia Pacific countries suffer from corruption, in some cases endemic. At the same time, there are outstanding examples of transparency and accountability in the region.

With Malaysia's efforts to attract MNCs and foreign companies to invest money and bring in job opportunities coming up against the taboo and perceptions about the region's notoriety concerning corruption.

The Corporate Integrity Pledge was launched at Bursa Malaysia on 31 March 2011. It is a groundbreaking collaboration – another step in the right direction by the government to put the framework in place to combat corruption.

The CIP is a pledge that allows a company to make a commitment to uphold the Anti-Corruption Principles for Corporations in Malaysia. This Pledge and Principles are more than a statement of mere intent. By voluntarily signing the Corporate Integrity Pledge to uphold

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MACC Chief Commissioner Dato Sri Abu Kassim Mohamed signing the SME Pledge, while International Trade and Industry Deputy Minister Datuk Mukhriz Mahathir and SMECorp CEO Datuk Hafsah Hashim look on



(From left) MACC Chief Commissioner Dato Sri Abu Kassim Mohamed, International Trade and Industry Deputy Minister Datuk Mukhriz Mahathir and SMECorp CEO Datuk Hafsah Hashim during the SME Pledge signing ceremony

The 5 Anti-corruption Principles for corporations in Malaysia

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the Principles, companies are committing to a longer-term programme to create an effective system, to increase integrity in the Malaysian corporate sector through transparency, accountability and good governance, including anti-corruption measures. It will see companies gradually moving towards self-assessment, identifying gaps and action plans to close them and eventually reporting on anti-corruption measures, in line with the United Nations Reporting Guidance on the 10th Principle under the Global Compact.

The Anti-Corruption Principles for Corporations in Malaysia sets out principles for corporations to adopt in order to demonstrate their commitment towards creating a business environment that is fair, transparent and free from corruption.

The principles are intended to act as guidance on areas that corporations can focus on to play their role in contributing towards anti-corruption efforts in the country, in line with the objectives of the National Key Result Area of “Fighting Corruption” under the Government Transformation Programme initiated by the Prime Minister Datuk Sri Najib Razak.

“By signing the pledge, a company is making a unilateral declaration that it will not commit corrupt acts, will work toward creating a business environment that is free from corruption and will uphold the Anti-Corruption Principles for Corporations in Malaysia in the conduct of its business and in its interactions with its business partners and the government.”

The Anti-Corruption Principles for Corporations represents a key nexus between reforms taking place in the public sector, and the continued improvements taking place in the private sector, to drive the nation’s progress towards becoming a developed nation.

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According to Sutinah, The Anti-Corruption Principles for Corporations in Malaysia are:

1. Committing to promoting values of integrity, transparency, and good governance
 - To prohibit bribery and corruption in any form, whether direct or indirect, in the line of business
 - To ensure full compliance with the code of ethics at all times; and
 - To create a positive culture that up-

holds integrity in order to create a clean business environment

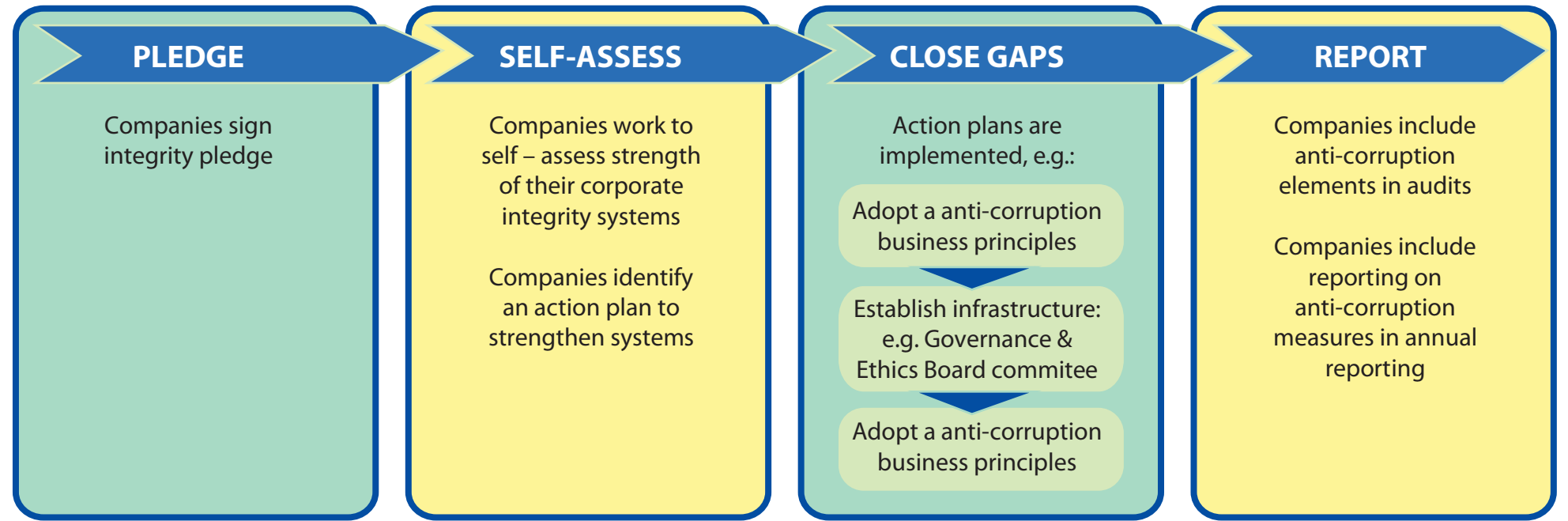
2. Strengthening internal systems that support corruption prevention

- To develop an anti-corruption programme that articulates values, policies and procedures to be used to prevent corruption from occurring
- To improve existing systems and procedures to prevent corrupt practices
- To include corruption prevention, ethics and integrity as areas for training and development for management, employees, and staff
- To create a secure and accessible channel through which employees and others may report violations in confidence and without risk of reprisal

3. Complying with laws, policies and procedures relating to fighting corruption

- To ensure that all laws and company policies and procedures relating to fighting corruption are strictly complied with
- To ensure that good governance is practiced, checks and balances put into place, and business is conduct-

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SME Pledge will assure investors of *SME's integrity*



MACC Chief Commissioner Datuk Abu Kassim Mohamed speaking during the TM Corporate Integrity Launching

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ed with transparency and accountability to avoid conflicts of interest, abuses of power, and misconduct

4. Fighting any form of corrupt practice
 - To take proportionate action against any employee, staff or other person involved in corruption in relation to the business, regardless of position or status
 - To report any corrupt practice that occurs in the business place to the appropriate authorities
5. Supporting corruption prevention initiatives by the Malaysian Government and the MACC
 - To support anti-corruption efforts by the Government and by the MACC
 - To maintain relationships with the authorities, regulators and MACC and to provide full cooperation in relation to corruption detection, prevention and enforcement of laws against corruption

According to Sutinah, the longer-term programme is intended to see companies gradually moving forward towards self-assessment, identifying gaps and action plans to close them and eventually reporting on anti-corruption measures. (See Chart 1)

As always, the move towards a corruption-free corporate Malaysia will be paved by the MNCs and GLCs, that in turn initiate systems or work processes within their organisations that ultimately affect SMEs that trade with them or provide services through the extended supply chain.

The CIP serves to get Malaysian-based corporations on that level of commitment. The supply chain effect is currently the only way to get SMEs in on reducing corruption within their organisations.

The Pledge is a voluntary tool, to aid companies that recognise the importance of anti-corruption measures in being a competitive business and operating in increasingly competitive and globalised markets.

Sutinah said that the effect of the signing is twofold: first, a company will be making a clear stand of how it operates, and this will be locked down in writing – this will be guidance to the company in its business interactions, should it be faced with the possibility of condoning any payments or other activities that would amount to corruption.

And secondly, she said that a company can use this Pledge to set itself apart from its peers by demonstrating to its stakeholders that its business operations do not include any hidden risks or costs that are associated with corrupt activities.

By signing the pledge, the company can be listed in the register of signatories on the website of the Malaysian Integrity

Institute, and accessed through the website of Bursa Malaysia Berhad.

The Pledge is a tool to be used by companies and is not a regulatory instrument of any sort. Breach of the pledge – e.g. if a signatory company is later found to have been complicit in corruption – will not carry any legal sanction under the pledge on its own.

Instead, the Pledge will be given force through self-reporting by the company, to meet the demands of its stakeholders.

Adherence to the Pledge is therefore monitored to the same extent that other non-mandated disclosures by any company to its stakeholders are monitored – through scrutiny and demands of the stakeholders.

For companies that want to begin incorporating an anti-corruption policy in its interactions with business partners, the Corporate Integrity Agreement is a good way to start extending a signatory's commitment to SMEs in the supply chain.

Code of business ethics for small and medium enterprises

For SMEs, Sutinah said that for SMEs, including micro enterprises face a serious challenge in the fight against corruption in their cycle of growing and sustaining their business.

"For your information, the Government has also undertaken other anti-corruption initiatives such as various internal auditing systems and the Malaysian Code of Corporate," she said.

She said that in line with the Anti-Corruption Principles for Corporations in Malaysia, an SME Pledge was created especially to foster an anti-corruption environment. "The Pledge seeks to let SMEs acknowledge that integrity, transparency and good governance are very important for business enterprises to thrive and further contribute to the eco-

nomic development in the country," she said.

Said Sutinah; "The occurrence of corruption in the small and medium enterprise sector will undermine the confidence of investors as well as members of society. With the pledge, SMEs can assure their investors as well as the general public that they are corruption-free. This integrity will ensure business expansion and continuity."

"In this context, the SME Pledge is just one of the very many initiatives taken to create awareness amongst our local SMEs and to make it known that the Government disapproves of unethical business transactions and neither do we condone corrupt practices," she continued.

Rest assured, that Malaysia will soldier on and fight corruption with our arsenal of dedicated agencies such as the MACC that we have armed with effective laws, she commented. "Starting with and not exclusive to this SME Pledge, Malaysia will continue to work towards reducing corruption across all sectors of our economy."

"I thus call upon all SMEs to participate in this initiative to ensure transparent business relations for the sake of long-term economic competitiveness which could lead to overall sustainable economic growth and prosperity," ended Sutinah.

Additionally Malaysia has the honour of hosting the next IAACA Annual Conference and General Meeting, in Kuala Lumpur from the 4th – 7th of October 2012. The theme for this year is 'Technical Assistance and Information Exchange,' and we welcome all national institutions entrusted with the task of fighting corruption, and all IAACA members to join us in Kuala Lumpur. The conference will be held at the Kuala Lumpur Convention Centre.



Datuk Sri Abdul Wahid Omar speaking during the Maybank Corporate Integrity Pledge Signing Ceremony

NKRA against corruption: The three indexes of note

Since the mid-1990's, the issue of corruption has gained a prominent place on the global agenda. International organisations, including the UN and the Organisation for Economic Cooperation and Development (OECD), have adopted conventions requiring their member states to adopt or enact anti-bribery laws and practices.

Underlying these rules and rhetoric is the growing recognition that bribery and extortion has deleterious consequences. In fact, corruption has been acknowledged: corruption distorts markets and downplays competition, breeds cynicism among citizens, undermines the rule of law and damages government legitimacy, as well as corrodes the integrity of the private sector.

Malaysia, recognising this fact, have lifted the task of eradicating corruption - both graft and abuse of power, into one of the six National Key Result Areas under the Government Transformation Program (GTP).

Nearly two years later, the NKRA Corruption, Monitoring and Coordination Division has achieved some wins, most importantly in people's perception.

The Global Corruption Barometer

The government, under the GTP, has agreed to make the Global Corruption Barometer (GCB) score, as governed by Transparency International as one of the National Key Performance Indicators (NKPI), to be used as a marker in order to benchmark Malaysia on a global level.

The GCB is an accurate internationally-recognised index involving lay people and their views and perception of corruption, principally involving major institutions and the public sector. Apart from that, it also makes a study on the views of the populace of any given country on their country's efforts to combat corruption as well as the most trusted institutions in combating corruption.

Through government effort via the NKRA Corruption, Monitoring and Coordination Division in coordination with the Malaysian Anti-Corruption Agency, 48% of Malaysians thought that



ERADICATING CORRUPTION FOR THE FUTURE GENERATION

the positive actions undertaken by these agencies have been impressive in handling corruption. Malaysia is the second country in Southeast Asia to achieve the highest score. In 2010, Malaysia has shown a drastic increase - from 28% to 48%, and continues to improve in 2011 with an increase to 49%.

Some of the initiatives that have caused such a drastic change were:

- The Whistleblower Protection Act 2010 (Act 711) which encourages people to report cases of corruption
- The Name and Shame database, which causes fear and shame to be associated with corruption
- The 14 specialised Corruption Courts, which aims to complete corruption cases in one year
- The Myprocurement and Mypartnership portals that freely shows any and all tenders by the government
- The setting-up of a Compliance Unit to be placed at every major enforcement agency

This achievement shows that Malaysia is well on the way in its efforts to combat corruption.

However, the cooperation of all parties is a necessary component in order to effectively combat corruption, states the GCB report. It also states that the responsibility to combat corruption is shared between government agencies, the private sector, the community, and NGOs in order to achieve the best results.

Bribe Payer Index

Another important index of note is the Bribe Payer Index, which is a measure of how willing a nation appears to comply with demands for corrupt business practices. The first BPI was published by Transparency International on October 26, 1999.

The BPI 2008 ranked 28 of the leading exporting countries in the world on the



likelihood that their multinational businesses will use bribes when operating abroad. The ranking is calculated from responses by businessmen to two questions on the World Economic Forum's Executive Opinion Survey.

In 2011, Malaysia is listed among the 28 major exporting countries in the international ranking based on outflow of goods and services as well as via outflow and inflow of capital by Malaysian companies. The study showed Malaysia as listed at 15th out of 28 countries with a score of 7.6 out of a full score of 10.

The 15th spot is shared between Malaysia, Hong Kong, Italy and South Africa.

Comparison

For comparison and analysis, it is easy to make Hong Kong as benchmark; for example Hong Kong scored 8.4 in the Corruption Perception Index (CPI) 2010, whereas Malaysia scored 4.4. After about one year of the Anti-Corruption NKRA being implemented, Malaysia has already rose 3.2 points. In this regard, Malaysia is on the right platform to improve its international rankings via smart implementation of anti-corruption edicts.

Accountability Index

Another way of changing public perception has been proposed by the Auditor-General Tan Sri Ambrin Buang; to introduce an accountability index which will award star ratings to all ministries, state governments and statutory bodies for their management of public funds. It is seen as an innovative initiative that must be lauded by all quarters.

The accountability index is an objective assessment of the financial performance of ministries, departments and state governments. Marks were given according to performance and are translated into star ratings to measure compliance, viz:

- 4 stars — Excellent (90% - 100%)
- 3 stars — Good (70% - 89%)
- 2 stars — Satisfactory (50% - 69%)
- 1 star — Not Satisfactory (49% and below)

The promotion of secretaries-general and heads of department will also be tied to the index of their financial management performance.

When introducing the 2008 Budget

speech, the former Prime Minister-cum-Finance Minister, Datuk Seri Abdullah Badawi had emphasised the priority and importance of raising the level of performance of the civil service, which is critical in sustaining the competitiveness of the nation, especially in the context of increasing globalization.

Calling for best practices and the culture of high performance in the civil service, Abdullah had announced that beginning on 1 January 2008, Secretaries General of ministries and Heads of Services will be offered a three-year contract and their performance rewarded based on KPIs (key performance indicators).

This contract will be offered to officers who are currently serving in the Diplomatic and Administrative as well as in other relevant services.

The three-year contract offered to Secretaries General and Heads of Services should contain one specific clause for the termination of contract for unsatisfactory performance — if the ministry or department concerned fails in the accountability index, getting only one star with less than 50% compliance in the star-rating system, where the Secretary General or head of department had completed a full year of contract to be audited by the Auditor-General.

This culture of responsibility must also apply to Ministers who are heading each Ministry. Where a ministry fails in the accountability index in getting only one star in the accountability index with less than 50% compliance, the Minister concerned should also bear full responsibility and resign from the Cabinet.

It is only when a Minister has to resign and the Secretary-General removed if the Ministry concerned fails in the accountability index from next year, getting only one star with less than 50% compliance in the star-rating system, that the innovation proposed by the Auditor-General will have real bite and meaning in enhancing public service integrity and accountability, instead of being relegated to a long heap of fine-sounding innovations which are only good for the ears but have no impact whatsoever in improving quality, accountability and integrity of public service performance.

For more information, visit our website at www.nkracorruption.gov.my

