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Doing Business 2015

Going Beyond Efficiency

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Malaysia moves up two notches in World Bank Report

By Mohd Azhar Ibrahim

It is now easier to set up business in Malaysia.

According to the International Finance Corporation (IFC) of the World Bank report titled 'Doing Business 2015: Going Beyond Efficiency (DB2015)' Malaysia ranks eighteenth among 189 countries for ease of doing business, moving up two notches from the previous year's twentieth ranking.

Malaysia ranks first among emerging East Asian economies, second among Asean countries, and fourth easiest place to do business at the Asian level.

Released on 29 October 2014, the DB2015 draws on the inputs from more than 10,700 professionals and public officials across 189 countries. The data collected are current as of 1 June 2014.

The report identifies reform initiatives and analyses their economic outcomes including how their implementation have made it easier for investors to set up and operate a small to medium-size business in the countries concerned. It also measures the effectiveness of rules and regulations introduced to help the private sector thrive.

The ten areas put under the microscope are on how easy or quick it is to: start a business; obtain construction permits; get access to electricity; register property; obtain credit; protect minority investors; pay taxes; trade across borders; enforce contracts; and, resolve insolvency.

The survey finds that Malaysia has improved in five of these areas:

1. **The time required to start a business in Malaysia has reduced to 5.5 days from six days previously. In addition, cost, which refers to percentage of income per capita, has corresponding reduced to 7.2 per cent from 7.6.**

2. **The number of procedures involved in getting construction permits is slashed to 13 from 15.**

3. **Cost for getting electricity connection has reduced from 49.1 per cent to 46.3 per cent.**

4. **It takes 13.5 days to register a property, down from 14 days previously.**

5. **It now takes one year to resolve insolvency issues compared to 1.5 years previously, while recovery rate (cents on the dollar) improved to 81.3 from 48.9.**

DB2015 ranks Malaysia among the top five economies in East Asia and the Pacific (excludes Australia, Japan, the Republic of Korea, and New Zealand, which are classified as OECD high-income economies) in seven areas: protecting minority investors, trading across borders, starting a business, getting credit, enforcing contracts, paying taxes, and resolving insolvency.

Malaysia did particularly well in three areas: protecting minority interest (5th), starting a business (13th) and trading across borders (11th), the report noted.

The World Bank report is testimony to the effectiveness of the Government Transformation Programme (GTP) and Economic Transformation Programme (ETP), including initiatives introduced by the Special Taskforce to Facilitate Business (PEMUDAH), to ensure that Malaysia is the preferred place to do business.

PEMUDAH formed a Focus Group on Business Process Re-engineering in Business Licensing (FGBPR) to engage 23 ministries in reviewing all procedures related to the application of business-related licenses.

Under its Modernising Business Licensing (MBL) initiative implemented in March 2010, PEMUDAH introduced a one-stop to streamline business registration process in 2011. More such online services were opened in the following year.

In 2012, the range of services available at these one-stop centres were expanded to include same day service for processing company, tax, social security and employment fund registrations.

This was followed up by a one-stop centre to process the registration of new buildings and get them connected to the telephone service in 2013.

Malaysia's performance in the DB2015 report demonstrates that significant outcomes can be achieved when there is public-private synergy in purpose and cooperation.

PEMUDAH will collaborate with the IFC World Bank to delve deeper into the areas for improvement, and work with the Government to further reduce the costs and time to do business in Malaysia.

This will ultimately make Malaysia a more attractive investment destination, PEMUDAH Co-Chairman, Datuk Saw Choo Boon said.

Malaysia's Ranking

1. Starting a business (No. 13)
2. Dealing with construction permits (No. 28)
3. Getting electricity (No. 27)
4. Registering property (No. 75)
5. Getting credit (No. 23)
6. Protecting minority investors (No. 5)
7. Paying taxes (No. 32)
8. Trading across borders (No. 11)
9. Enforcing contracts (No. 29)
10. Resolving insolvency (No. 36)

Malaysia in world's top 20 most business-friendly locations

Singapore	8.56	1	8.65	1
Switzerland	8.41	2	8.52	2
Hong Kong	8.34	3	8.39	3
Canada	8.15	7	8.30	4
Australia	8.18	5	8.29	5
Sweden	8.20	4	8.26	6
USA	8.02	8	8.25	7
New Zealand	7.99	11	8.18	8
Finland	8.16	6	8.18	9
Denmark	8.01	9	8.16	10
Norway	7.89	13	8.01	11
Germany	7.99	10	7.98	12
Chile	7.81	14	7.89	13
Taiwan	7.68	16	7.85	14
Ireland	7.30	20	7.79	15
Netherlands	7.94	12	7.78	16
Belgium	7.69	15	7.69	17
Austria	7.61	17	7.62	18
Malaysia	7.15	24	7.56	19
Israel	7.17	23	7.50	20
Qatar	7.29	21	7.46	21
UK	7.41	19	7.44	22
Estonia	7.19	22	7.38	23
France	7.47	18	7.38	24
Spain	7.01	26	7.36	25
South Korea	7.04	25	7.35	26
Japan	6.98	27	7.33	27
Czech Republic	6.96	28	7.31	28
Poland	6.87	31	7.29	29
UAE	6.95	29	7.22	30

Malaysia is the 19th business-friendly locations among 82 countries surveyed in the latest Business Environment Ranking and Index 2014 by the Economist Intelligence Unit (EIU).

The EIU report is designed to provide multinational corporations with information that helps them determine which countries offer the most welcoming environments for them to do business in.

The EIU ranks Malaysia at 19th position for the five-year period from 2014 to 2018 as against 24th position from 2009 to 2013.

The ranking is based not only on historical conditions but also on expectations about conditions prevailing over the next five years, the report said.

Malaysian Investment Development Authority (MIDA) Chief Executive Officer, Datuk Azman Mahmud said the ranking is a reflection of the continuous improvement in the delivery of public services and overall efficiency of the government machinery.

It also reflects the government's commitment in its initiatives to strengthen Malaysia's competitiveness to become a developed nation by 2020, he added.

The report also indicated that market opportunities in Malaysia would improve, attributing it mainly to the government's efforts to increase private sector investments.

The improved global ranking shows that the government's reforms under the Government Transformation Programmes will overcome many of the structural and political impediments to the country's target to transform into a high-income nation by 2020, it said.

The EIU also noted that Asia's best performers shared a favourable policy environment, particularly for finance and foreign investment and competition policies that encompass international best practice.

More beef to the MACC Act

By Mohd Azhar Ibrahim

Minister in the Prime Minister's Department, Senator Datuk Paul Low Seng Kuan. *Bernama Images*

The Special Committee on Corruption (SCC), which is one of five independent panels acting as a check and balance mechanism to monitor the performance of the Malaysian Anti-Corruption Commission (MACC), has proposed for three amendments to be made to MACC Act 2009. The amendments are expected to help transform the MACC into a reputable and credible anti-corruption commission that is truly independent and effective in fighting corruption in Malaysia.

Currently, under section 23, which relates to conflict of interest, it is not an offence under the law if the head of the organisation discloses his or her interest before excusing themselves in the decision-making process that results in their family member winning the contract. The SCC has proposed section 23 of the MACC Act be amended to bar direct relatives of any public official who chairs the selection committee for a government procurement tender from participating in the said tender.

Under section 36 of the Act, the MACC may require a public servant to declare his or her assets only if there has been a corruption report made against that person. To facilitate proactive investigation, the SCC proposed section 36 be amended to empower the MACC to compel individuals who seem to be living beyond their means or have acquired assets that are beyond their means, to declare their assets to the Commission.

Presently, when an employee of a company is caught giving a bribe to gain business or win a contract, the employee is charged for corruption. However, when the amount involved is substantial and beyond the means of the employee, there is an implication that he was merely carrying out instructions from the higher-ups.

Under its Initiative 8 in Phase 2 of the Government Transformation Programme (GTP 2.0), the NKRA Against Corruption (Anti-CORR NKRA) have proposed that a Corporate Liability provision be inserted into the MACC Act. The Corporate Liability provision makes the company liable for the employee's action unless the company can furnish proof that it has put in place a comprehensive anti-corruption policy and procedures.

"With the Corporate Liability Provision in place, companies will have to rethink how they do business. They need to make sure that there are adequate anti-corruption compliance policies and procedures," Minister in the Prime Minister's Department, Datuk Paul Low Seng Kuan said at a press held on the MACC Open Day recently.

The Corporate Liability Provision would also cover extraterritorial jurisdiction, whereby the court will hold a locally incorporated company liable for any corrupt act committed abroad by its employee in the course of business, Low said.

According to the Organisation for Economic Cooperation and Development (OECD), the Corporate Liability provision is widely recognised as a best practice in fighting corruption.

The SCC has also proposed for the establishment of the MACC Service Commission to deal with recruitment, confirmation and promotion or dismissal. The proposal includes alleviating the powers of the Chief Commissioner to that similar with those of the Attorney-General and Auditor-General.

In this regard, the SCC is of the opinion that the appointment of the Chief Commissioner should fall under the ambit of the Federal Constitution and not the MACC Act.

The proposal will allow the MACC to hire experts and professionals on a case-to-case basis to facilitate investigations that are highly technical in nature. These professionals will be discharged once the case is completed.

The amendments and provision to the MACC Act will plug existing loopholes that have hindered the MACC from taking actions against corruption offenders in the past, which in turn, have resulted in the perception that the Commission – through no fault of its own – is either not effective or selective in its investigations.

Promoting Regional Cooperation In Combating Corruption

Minister in the Prime Minister's Department, Datuk Paul Low Seng Kuan officiated the tenth annual meeting of the South East Asia Parties Against Corruption (SEA-PAC) in Kuala Lumpur recently.

The South-East Asia Parties Against Corruption (SEA-PAC), which was established in Kuala Lumpur in 2004 with the anti-corruption authorities from Brunei, Indonesia, Singapore and Malaysia as the pioneer members, serves as a platform to promote cooperation in combating cross-border corruption in countries in the South-East Asia region. Anti-corruption agencies from Cambodia, Vietnam, Thailand and the Philippines joined SEA-PAC three years later in 2007, followed by Laos in 2010. The grouping welcomed Myanmar as its tenth member during its ninth annual meeting in Vientiane, Laos in 2013.

"Fighting corruption is a global imperative. Today, it is more important than ever that the international community demonstrate its collective commitment to preventing and fighting corruption," Low said in his opening speech.

Financial crimes such as corruption, fraud, and embezzlement generate significant profits, often at the expense of the public budget. The proceeds from such criminal activities are siphoned outside the country through complex financial and commercial transactions.

Cross-border investigation, recovering and repatriating ill-gotten gains to their country of origin pose a great challenge for the anti-corruption authorities across the globe unless they agree to extend mutual assistance and cooperation in cross-border corruption investigation. To fight corruption effectively in a holistic manner requires a comprehensive and synergistic cooperation amongst anti-corruption authorities across the South-East Asia region.

Minister in the Prime Minister's Department, Datuk Paul Low Seng Kuan (fifth, right) and MACC Chief Commissioner, Tan Sri Abu Kassim Mohamed (sixth, right), joining hands with SEA-PAC members. *Bernama Images*

SEA- PAC's formation is in line with Article 48 Law Enforcement Cooperation of the United Nations Convention Against Corruption (UNCAC), calling for countries within a region to cooperate closely with one another to enhance the effectiveness of law enforcement action to combat corruption.

SEA-PAC is an important platform for the anti-corruption authorities in member states to sort out boundary-related issues, promote a seamless regional cooperation, and share best practices in dealing with cross-border criminal activities such as corruption, money laundering , and human as well as drug trafficking, Minister in the Prime Minister's Department, Datuk Paul Low Seng Kuan, said.

The annual SEA-PAC meetings aimed to increase capacity and institutional building among member countries in preventing and combating corruption. Members lay the groundwork for an institutional framework to facilitate knowledge-sharing, capacity building, and the free flow of information for mutual support, assistance and cooperation in fighting corruption both at the home front and at cross-border.

Apart from the MACC, other SEA-PAC members includes Anti-Corruption Bureau (ACB) Brunei Darussalam; Corruption Eradication Commission of Indonesia (PKP); Singapore Corrupt Practices Investigation Bureau (CPIB); Cambodia's Anti-Corruption Unit (ACU); Office of the Ombudsman Philippines; National Anti-Corruption Commission (MACC) of Thailand; Government Inspection Authority of Lao (PDR); and Government Inspectorate of Vietnam.

Low urged the SEC-PAC member countries to establish a ministerial portfolio for promoting governance, integrity and human rights.

"It is vital to get the ministers in on the act and share experience, good practices, and capacity building to effectively deal with corruption at the regional level. We need to bring integrity and good governance to the forefront of government administration as the issue of corruption affects every parameter of our life," he added.

The Brunei Anti-Corruption Bureau (ACB) will host the SEA-PAC eleventh annual meeting in Brunei Darussalam in 2015.