

MACC TODAY

Together



FIGHT CORRUPTION

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Special Edition
In conjunction with



Malaysia's Experience, Sharing Good Practices



"Malaysia stands committed to learn and share information with our international anti-corruption counterparts. We shall continue to strengthen our commitment through the provision of capacity and capability building and the facilitation of technical assistance."

Senator Datuk Paul Low Seng Kuan,
Minister in the Prime Minister's Department

"Malaysia would provide a holistic platform for participants to share their views and experience to combat corruption more effectively. We invite everyone to join us and to materialise the objective of the convention. Be united to achieve our common goal." **Tan Sri Abu Kassim Mohamed,**
Chief Commissioner, Malaysian Anti-Corruption Commission



REPORT CORRUPTION

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MACC's Continuous Improvement In

“For my organisation, I’m trying my best. There are a lot of changes. Our success rate is around 80%, which is of course a great improvement from 54% in 2009. But fighting corruption is not one organisation’s duty alone.”

The above response was given by Tan Sri Abu Kassim Mohamed, the Malaysian Anti-Corruption Commission (MACC) Chief Commissioner, when asked about the journey of the MACC since it was established in 2009.

By 2014, the MACC had surpassed international standards in combating corruption by successfully completing 85% of its investigations within one year, which was also due to the implementation of more than 30 initiatives introduced under the Transformation Programme. The MACC had managed to complete 75% of its investigations within one year by 2012, and continue to improve on that today.

“Apart from that, the conviction rate of corruption cases have surpassed the international standards set at 80%,” the Chief Commissioner added. “The MACC success rate in solving cases proves that the MACC Transformation Programme has begun to yield positive results.”

Implemented in 2011, the MACC Transformation Programme involved strengthening the anti-corruption



MACC Chief Commissioner Tan Sri Abu Kassim Mohamed. *MACC Images*

enforcement agency’s operations strategies, effective management of human capital, and enhancing corruption prevention.

These measures serve to improve the MACC’s performance and effectiveness in its operations and consequently enhance public perception and confidence in that the MACC is independent, transparent and professional in carrying out its investigations.

The MACC has introduced more than 30 initiatives covering both operations and human capital and has now entered into its third stage, focusing on the implementation of the actions plans on prevention.

MACC’s transformation brought about positive changes in the work methods and operations related to investigation.

The usage of Video Interviewing Room (VIR), one of the transformation initiatives, has reduces the opportunity for any allegations that might be otherwise made against MACC officers. “From January 2013 until today [2015], there were no complaints that MACC had used force or coerced people to get confessions, compared to 26 complaints in 2008,” Abu Kassim said.

The MACC aims to provide greater focus in enhancing its operations in order to achieve its objective of being an exemplary international anti-corruption agency.



A discussion session taking place in the Investigation Operations Room (BGOS). BGOS is one of the initiatives under the MACC Transformation Programme.

Combating Corruption

INTERNATIONAL ATTENTION

The MACC transformation has caught the eyes of other anti-corruption authorities including international bodies like the United Nations Office on Drugs and Crime (UNODC) and International Anti-Corruption Academy (IACA).

MACC has also received requests from many countries to learn and have a first-hand look at the transformation process. Apart from an improvement in the Corruption Perception Index (CPI), Malaysia's ranking in the Global Competitiveness Report 2014-2015 has improved to 20th position out of 144 economies, the report also recognised that Malaysia has been 'relatively successful at tackling corruption and red tape'. Malaysia was ranked at 24th position out of 148 countries in 2013.

According to the report, released in September 2014, Malaysia, which introduced major transformation strategy since 2009, stands out as one of the few countries which has successfully tackled both corruption and red tape.

The remarks by the Global Competitiveness Report 2014-2015 are another important recognition for the MACC and Malaysia at large.

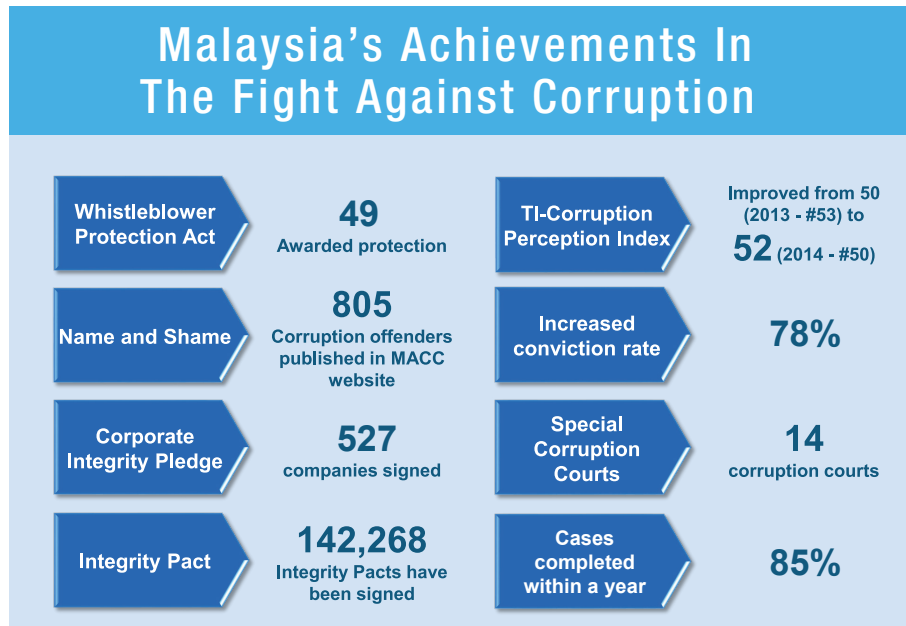
In 2008, in order to ensure transparency and independence in corruption investigations, the government formed the MACC to replace the Anti-Corruption Agency (ACA), by having a new anti-corruption law.

The formation of the MACC was accompanied by the establishment of five independent panels. MACC's numerous achievements and successes in the last few years is proof that the Commission is heading in the right direction.

DOING THE RIGHT THING

In sharing his view on how the MACC is different from its predecessor the ACA in its effectiveness, Abu Kassim said that it was important to understand why the ACA was changed to the MACC.

"We must look at the underlying reasons, then we will understand the whole process. The ACA was transformed



into the MACC due to one reason: transparency," he said. "We have the same structure as the ICAC Hong Kong, but Hong Kong has better public support. I went there and looked at our performance and discovered we need the public to participate in our work. Also, we need to be transparent so the public understands how we work."

He added, "Did we achieve the objective of moving from the ACA to the MACC? I can say yes, there are changes in public perception. We have five panels and their members are varied. We have a former Bar Council president, the Malaysian Human Right Commission's former commissioners, professors, a former Transparency International president, and so on. But of course, there is still room for improvement."

"They look at our work and most importantly, come out with a report yearly," Abu Kassim said further, adding that the MACC has always been independent and transparent, and adopted a professional approach in carrying out its investigations as empowered under the MACC Act.

This further increases the transparency and professionalism of the MACC's investigative process, which ultimately increases public confidence in the Commission's ability to effectively combat corruption.

KEY MILESTONES OF MACC'S IMPROVEMENTS

- Five independent oversight bodies monitoring the MACC
- Continuous rise in conviction rate
- Continuous increase in public confidence on the MACC
- Continuous success in completion of cases within a 12-month period
- Recognition of the Malaysia Anti-Corruption Academy as an international training hub
- Comprehensive Transformation Programme

The MACC also continued its effort in forging collaboration with various national law enforcement agencies. This collaboration was among the 23 initiatives as best practices recognized by the UNODC.

At the same time, the MACC became a resource and reference centre for countries interested in learning aspects regarding corruption prevention.

Nurturing A Transformation Culture

MACC's aspiration envisions to increase the confidence level and to improve the perception of both the local and international communities on the effectiveness of the MACC in combating corruption based on the three key principles: independent, transparent and professional.

In order to achieve the aspiration outlined, the MACC had commissioned a comprehensive transformation programme since its establishment in 2009 - to improve and to ensure the effectiveness of the MACC as the national anti-corruption agency.

The transformation programme comprises of all three main sectors: operations, human capital and prevention.

The MACC's transformation programme has begun to show its impact on society as a result of the implementation of the strategies and approaches developed under the transformation programme.

Though primarily impacting domestically, Malaysia's corruption prevention model has gained international recognition as effective and among the best models that can be emulated by the international community.

The transformation programme in MACC has resulted in the introduction of more than 30 initiatives that has improved the quality and level of professionalism - invariably improving the quality of investigations, systems and work procedures, conviction rate, skills and competency level of the workforce, and the level of public confidence towards the MACC as the nation's sole corruption prevention agency.

MACC Transformation Initiatives

- MACC PEACE interviewing technique
- Video Interviewing Room to record statements
- Investigation Operation Room to improve investigation procedures
- Team-based investigation method
- Procedures for private sector investigation
- Applying proactive investigation procedure
- Complaints Management System
- Forensic accounting division
- Reviewing the standard operating procedures
- Enhancing the qualifications and training of MACC officers
- Enhancing security features at MACC offices nationwide

IMPACT OF MACC TRANSFORMATION

OPERATIONS

1. Increase in conviction rate from 54 percent in 2009 to 78 percent in 2014.
2. Increase in public confidence in MACC from 31 percent in 2009 to 68 percent in 2014.
3. Forging cooperation with various agencies has enabled the MACC to conduct efficient and effective investigations in high profile cases.
2. Functional and behavioural competency assessment and accreditation programmes were developed to increase skills, knowledge and professionalism throughout the MACC workforce.
3. Hiring of external experts in specialised fields has contributed to greater success in investigating high profile cases.

4. A more systematic and effective Complaints Management System has resulted in an efficient information search and progress report.

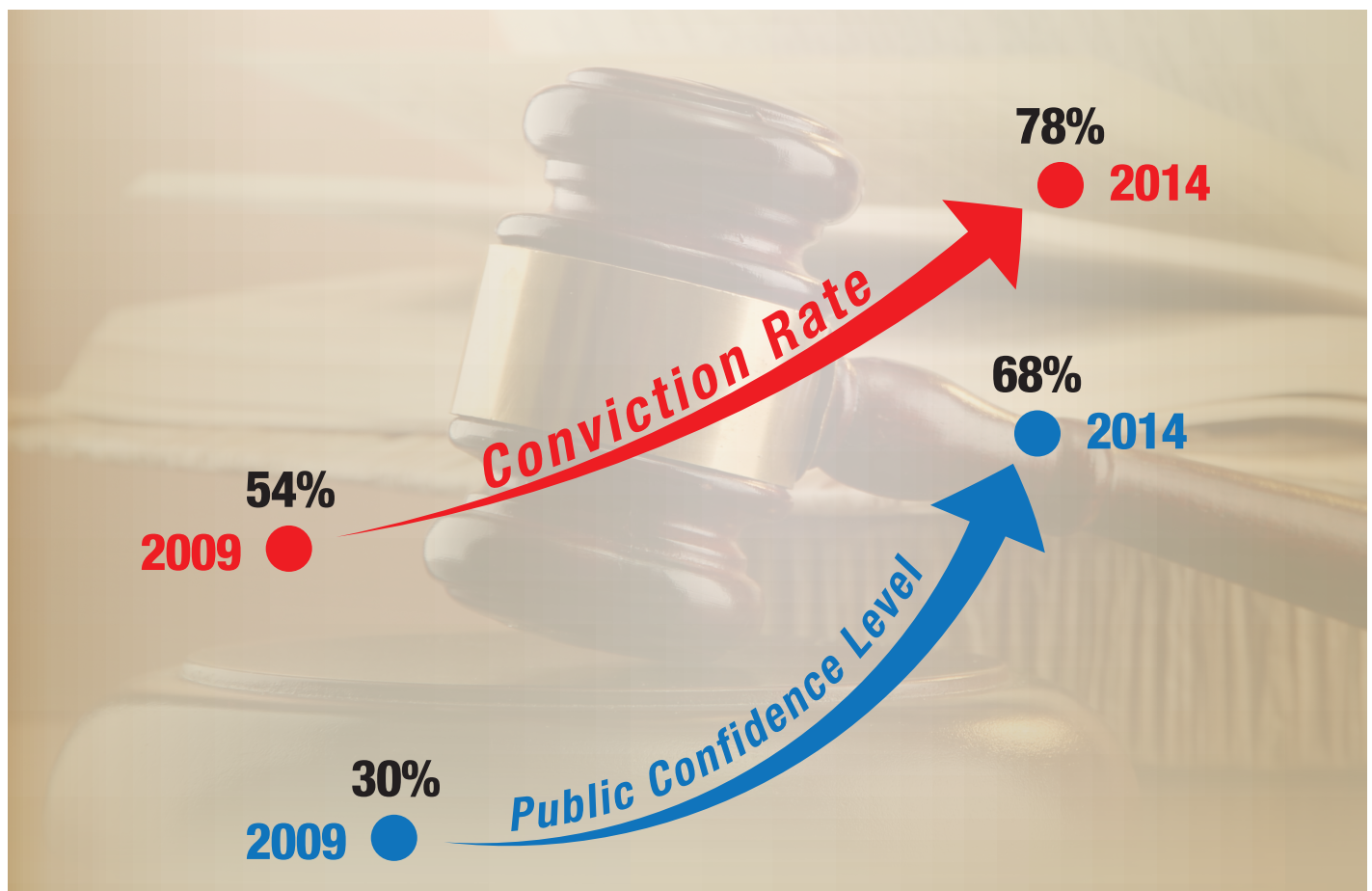
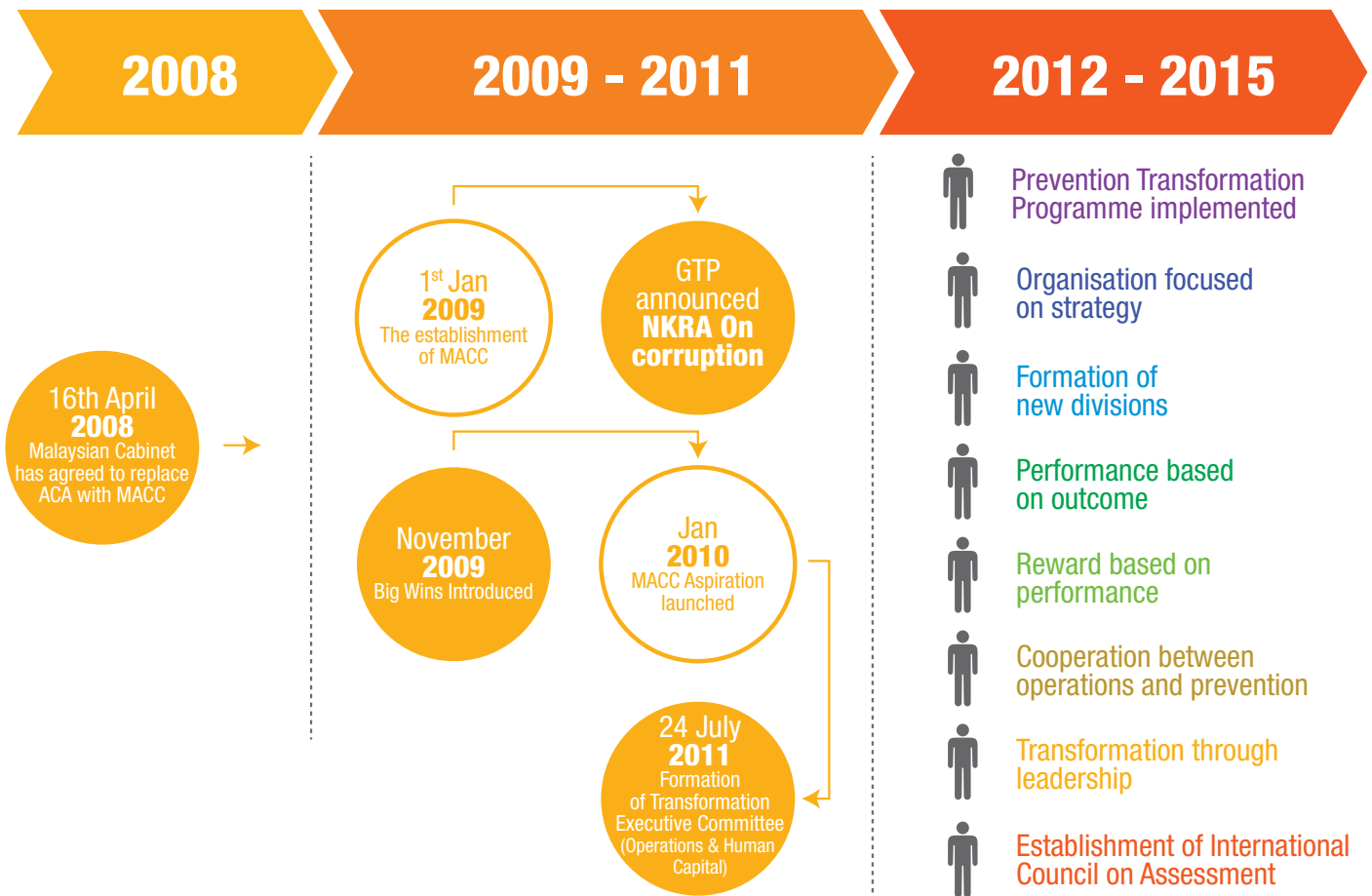
HUMAN CAPITAL

1. Several new divisions such as Forensic Division were established and existing ones realigned - creating a knowledgeable, creative, innovative and competitive workforce.

PREVENTION

1. Greater engagement with various stakeholders such as civil society and political parties improved the public's supports and confidence.
2. Improved human capital development for prevention programmes.
3. Improved media and communications strategies.

The MACC Transformation Journey



Malaysia's Anti-Corruption Initiatives

Malaysia's position in several indexes used to measure the severity of the crime of corruption shows that the country continuously registers an ever increasing ranking. Since the establishment of the Malaysian Anti-Corruption Commisison (MACC) in 2009, the country's position in these main indexes has improved following the transformational measures taken by the government and MACC. Both the government and the MACC have taken great efforts to fight corruption, abuse of power and malpractices.

Corruption cannot be prevented overnight. To fight corruption one needs long term strategies and the cooperation from all quarters.

The efforts taken and implemented have finally shown positive results. Numerous reports and external research findings indicate that the efforts taken to fight corruption since 2009 have been successful. These reports and research findings are the recognitions that should be accepted by all quarters in order to prevent negative perception and confusion among the people.

The Index of Economic Freedom Report 2015 shows that Malaysia registers a score of 70.8, putting Malaysia at the 31st placing in the world's economic freedom chart index. According to the 2015 Report, Malaysia's position in 2015 has increased 1.2 points compared to the previous year. From a score of 63 in 2011 Malaysia gained a score of 70.8 in 2015, making its economy the 31st freest in the 2015 Index.

Malaysia's score has increased by 1.2 points since last year, with improvements in freedom from corruption, business freedom, and trade freedom outweighing declines in labor freedom and the management of government spending. Malaysia is ranked 8th out of 42 countries in the Asia-Pacific region, and its overall score is above the world and regional averages. *Economic Freedom Report 2015*

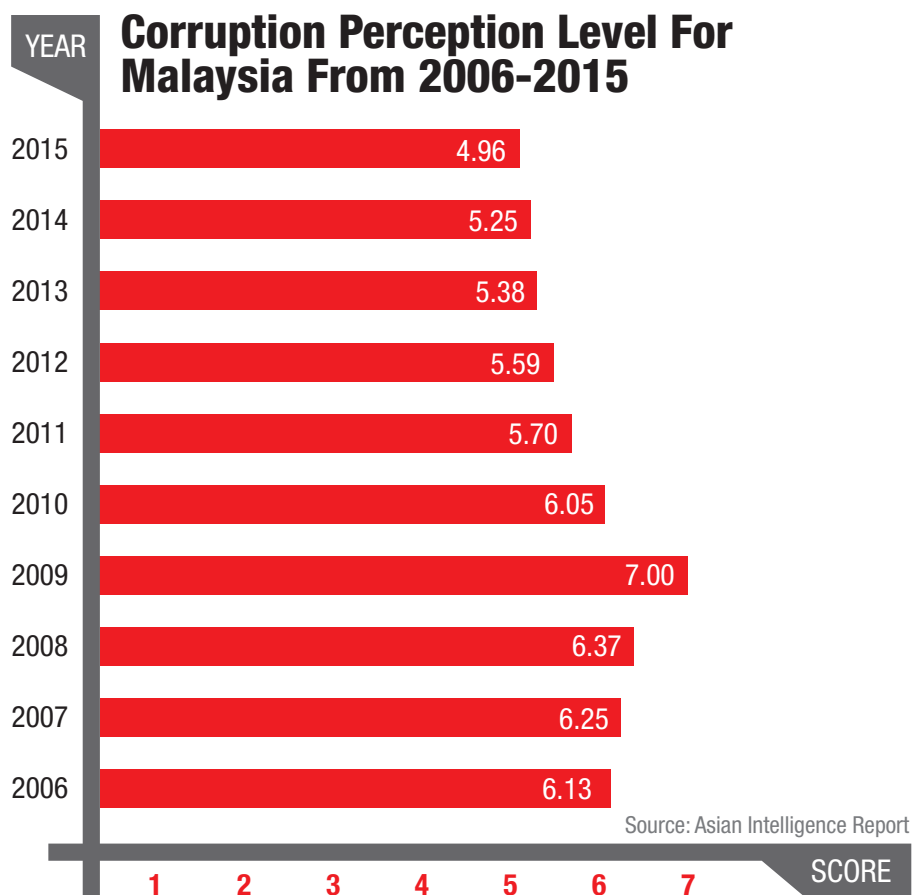
Malaysia has risen to the "mostly free" category. Since 2011, its economic freedom has advanced by 4.5 points, the third largest point increase in the Asia-Pacific region. Gains in six of the

10 economic freedoms have been led by double-digit increases in investment, financial, and business freedoms. In addition to that, the Index of Economic Freedom has also recognised the government measures to effectively combat corruption.

In the **Asian Intelligence Report 2015**, which is an analysis of the perception in the level of corruption in Asia, the United States of America and Australia prepared by the Political & Economic Risk Consultancy, Malaysia's score has improved from 6.13 in 2006 to 4.96 in 2015. In the analyses issued on April

media statement issued by Transparency International Malaysia in November 2011, Malaysia scored 5.6 in 2006 whereas in 2011 the score improved to 7.6. This is proof that Malaysia is very strict in its stand to fight corruption and it has shown positive developments. However, there is always room for improvements.

The **2014-2015 Global Competitiveness Index** report indicates that Malaysia's position has improved – ranked the 20th out of 144 countries. It also recognises that Malaysia has succeeded in preventing corruption and bureaucracy. According



1, 2015, Malaysia ranks seventh after the US. The study was conducted on 16 countries.

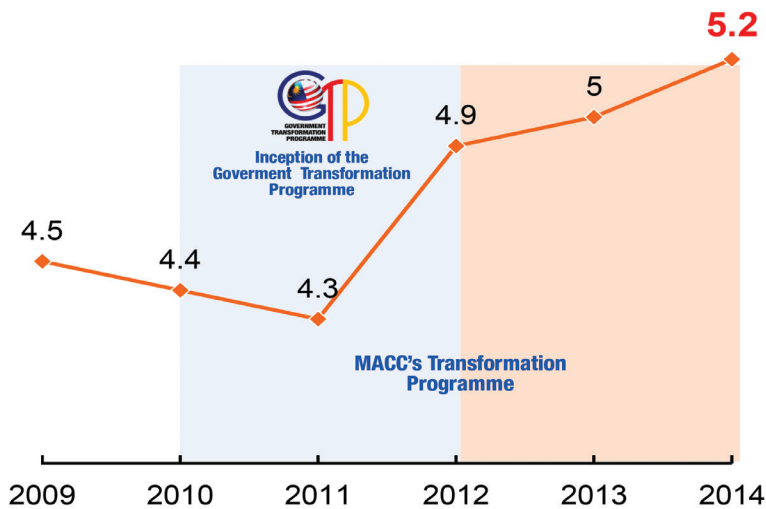
The Bribe Payers Index (BPI) 2011 shows that Malaysia's score is 7.6 which is at par with Hong Kong, an example commonly cited to have freedom and high potentials in terms of the efforts to combat corruption. The study surveys the situations in 30 countries where the average score is 7.8. According to the

to the report, Malaysia has introduced many major changes since 2009 and it emerges as one of the countries which have succeeded in combatting corruption and managing bureaucracy – which are commonly interrelated.

The following is the excerpt from the Global Competitiveness Report 2014-2015 which recognises the role Malaysia plays in combatting corruption and bureaucracy:

Gain Global Recognition

Improvement In Malaysia's Corruption Perception Index



Malaysia's CPI Ranking:

2013: **53**

2014: **50**

Continuing its upward trend, Malaysia makes its way into the top 20 for the first time since the current GCI methodology was introduced in 2006. The country remains the highest ranked among the developing Asian economies.

Malaysia advances nine positions in the institutions pillar, which largely drives this year's progress. It ranks no lower than 60th in any of the 12 pillars of the GCI. It ranks an outstanding 4th in the financial market development pillar, which reflects its efforts to position itself as the leading center of global Islamic finance. And it ranks 7th in the efficiency of its goods and services markets and a business-friendly institutional framework (29th).

In a region plagued by corruption and red tape, Malaysia stands out as one of the very few countries that have been relatively successful at tackling these two issues, as part of its economic and government transformation programs.

Global Competitiveness Index

In the **World Bank Ease of Doing Business Report 2014**, Malaysia has achieved the sixth position in the efficiency of doing business among 189 countries compared to the year before where it ranked at 12th place. In 2009,

Malaysia was ranked the 23rd. This development proves that Malaysia is in the same league as countries like Singapore, Hong Kong, New Zealand, US and Denmark. Malaysia even surpasses South Korea, Norway, Hong Kong, Australia and Finland. The main writer for the World Bank report, Rita Ramalho portrays Malaysia's achievement as follows:

"Through an ambitious reform agenda, Malaysia has gradually improved on the ease of doing business. This has benefited local entrepreneurs, who now have fewer regulatory hurdles to deal with and more resources to focus on their business."

World Audit Corruption ranks Malaysia at the 37th position out of 150 countries surveyed by them. The survey conducted by World Audit Corruption shows that Malaysia is in the top 25% group among all the countries involved in the survey.

The above achievements proof that Malaysia is not a champion nation in corruption as claimed by certain quarters. One other evidence that should be taken into account is the findings of Global Corruption Barometer 2013.

One of the questions asked in the survey is whether the respondent have given any bribe in the previous year. In the 2013 report on Malaysia, less than five per cent

of respondents admitted to giving bribes in the last year to any one of the eight sectors. In 2013, Malaysia scored three per cent compared to 6 per cent in 2005 – which is an achievement for Malaysia. Besides Malaysia, other countries in the same category are Australia, Belgium, Canada, Croatia, Denmark, Finland, Georgia, Japan, South Korea, Maldives, New Zealand, Norway, Portugal, Spain and Uruguay. (There are nine categories: below 5%, 5-9.9%, 10-14%, 15-19.9%, 20-29.9%, 30-39.9%, 40-49.9%, 50-74.9%, and 75% and above).

Various initiatives were introduced under the Government Transformation Programme (GTP) and these efforts are continued through GTP 2.0. Many of these initiatives have shown the desired results. The GTP report, which can be obtained online, proves that the Federal Government has taken a bold approach in combatting corruption.

"Malaysia is doing the right things to improve conditions and secure its economic future, and we feel that the MACC's efforts to address and fight corruption are sincere, genuine, and effective."

Michael Herschman, co-founder Transparency International

UNODC Recognition - MACC at par globally

2.2 Successes and good practices

50. Overall, the following successes and good practices in implementing Chapter III of the Convention are highlighted:

- Section 25 of MACCA establishes a duty to report any bribery transaction or attempt thereof and criminalizes non-compliance.
- Section 50 of MACCA establishes a rebuttable presumption that a gratification has been corruptly received, unless the contrary is proven. Furthermore, according to section 57 of MACCA, evidence is not admissible to show that a gratification is customary in a profession, social occasion or similar context.
- The absence of a statute of limitations helps to maximize the possibility of corruption prosecutions.
- The Operations Review Panel in MACC reviews delayed cases or cases which were transferred to DPP, but did not result in a charge. The Panel submits recommendations, but has no authoritative powers that could interfere with the DPP's discretion.
- 14 specialized anti-corruption courts have been in existence since 2011. Judges are instructed to hear cases within one year and can be held accountable for non-

Excerpt of list of success and good practices noted by UNODC on Malaysia's compliance of the United Nations Convention Against Corruption (UNCAC).

The United Nations Office on Drugs and Crime (UNODC) has recognised the MACC as an independent entity in weeding out corruption. In May 2013, the Review of the UNODC on Malaysia's compliance of the UN Convention Against Corruption (UNCAC) recognised Malaysia's successful efforts to combat corruption, and Malaysia fared well in its first UNCAC review on anti-corruption compliance. In its report, UNCAC commended Malaysia for its 23 successes and good practices in its fight against corruption.

These practices include Section 25 of the MACC Act 2009, which establishes a duty to report any bribery or attempt to bribe and criminalises non-compliance; the absence of statute limitations which helps maximise the possibility of prosecutions; and the establishment of 14 specialised anti-corruption courts, where judges are instructed to hear cases within a year and can be held accountable for non-compliance.

The UNCAC requires that state parties implement several anti-corruption measures to prevent corruption,

criminalise certain conducts, strengthen international law enforcement and judicial cooperation, provide effective legal mechanisms for asset recovery, technical assistance and mechanisms for the implementation of the convention, among others.

Malaysian Parliamentary Special Committee on Corruption Chairman, Tan Sri Abu Zahar Ujang said the United Nations has deemed the MACC as one of the five bodies internationally recognised for its check and balance capabilities. The current structure of the MACC, according to Abu Zahar, was aimed towards being truly independent, neutral, open, and transparent in investigating any case involving corruption. Abu Zahar, who is Dewan Negara (Senate) speaker, headed the parliamentary committee, whose members comprises of Members of Parliament from both ruling government and opposition.

"We have representatives from the opposition and the government. They are all appointed by the Yang di-Pertuan Agong (the King). We are above politics, meaning our main mission is to carry

out our duties as stated in the MACC Act. The MACC is also the only anti-corruption commission in the world which is monitored by five different independent panels," he said. Besides the parliamentary committee, the other four bodies monitoring the MACC were the Anti-Corruption Advisory Board, Operations Review Panel, Complaints Committee, and Anti-Corruption and Consultation Panel. All bodies collectively comprise 46 members.

"To prove that MACC is independent, our Operations Review Panel is in the position to forward recommendations to revisit cases the DPP had deemed was not sufficient to be prosecuted. This particular panel is also recognised by the UNODC," he said. Since 2009, the Operations Review Panel has recommended for 52 cases to be re-opened and eight of those were successfully brought to the court.

UNODC REPORT: HIGHLIGHTS FROM THE 23 SUCCESSES AND GOOD PRACTICES RECORDED BY MALAYSIA

- Operations Review Panel reviews delayed cases or cases which were transferred to Deputy Public Prosecutor, but did not result in a charge.
- Existence of Specialized anti-corruption courts. Judges are instructed to hear cases within one year.
- Malaysia Anti-Corruption Academy (MACA) and the anti-corruption courts were deemed to constitute exemplary practices.
- Malaysia had developed a solid system to provide and request international cooperation, which profiles the country be a provider of technical assistance.
- Malaysia had concluded bilateral and multilateral treaties and cooperates widely in international and regional organizations and initiatives.
- Malaysia has taken necessary steps to expediting extradition procedures and simplifying evidentiary requirements.
- Use of joint investigations and an operational working group with Brunei Darussalam are good examples of law enforcement cooperation among countries at the policy and operational level.

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