MALAYSIA (THIRD MEETING)

Malaysia addresses issues of corruption in the private sector through the following measures/mechanism:-

2.1. Corporate Integrity Pledge
2.2. Integrity Pact
2.3. Mega Project Monitoring by Integrity Governance Committee
2.4. Code of Ethics in Business
2.5. Ant-Corruption Clause in Government Contract
2.6. Capacity and Capability Building
2.7. Disclosure of Procurement Information

Please provide examples of the successful implementation of domestic measures adopted to comply with article 12:

Corporate Integrity Pledge (CIP)

The Corporate Integrity Pledge is a document that allows a company to make a commitment to uphold the Anti-Corruption Principles for Corporations in Malaysia. 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 effect of this is twofold:

i. 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.

ii. 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
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, in line with the model adopted under the 10th Principle of the UN Global Compact. 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.

This Pledge is not issued by any one regulator or authority but is a result of collaboration between Government Agencies such as Bursa Malaysia Berhad, the Companies Commission of Malaysia, the Malaysian Institute of Integrity, the Malaysian Anti-Corruption Commission & NKRA Corruption Monitoring & Coordination Division, Securities Commission Malaysia, Transparency International Malaysia and the Performance Management and Delivery Unit (PEMANDU), Prime Minister’s Office, Government Link Company (GLS) and Non-Profit Organizations (NGO). It is made available through the Malaysian Institute of Integrity, who is also maintaining the list of signatories.

As of 30th November 2011, a total of 53 companies have signed the Corporate Integrity Pledge. The companies represent a different sector ranging from business community, banking, manufacturing, Government Link Company (GLCs) and Multinational Company (MNC). Companies and organization who has pledge to MACC so far is National Chamber Of Commerce and Industry of Malaysia, Maybank Berhad, Sime Darby Berhad and Tenaga Nasional Berhad.

Integrity Pact

In the implementation and execution of the Project, the owner and the contractor agree to introduce appropriate measures necessary from time to time, to assist the Parties in creating awareness amongst their employees and agents in their efforts to comply with anti-bribery laws and legislation. These measures known as Integrity Pact that include the following aspect:

Purpose of this Pact

1. To introduce programs to create awareness on the offences of corruption and bribery.
2. To promote awareness on the offences of corruption and bribery in collaboration with the Malaysian Anti-Corruption Commission (MACC).

3. To introduce compliance programs in respect of the relevant code of conduct rejecting the use of bribes and other unethical behavior in discharging their responsibilities in the execution of the MRT Project.
4. To establish an independent monitoring system, which may be implemented through the Auditor General of Malaysia or otherwise.

5. To impress the importance of disclosure of interest and/or conflict of interest among the Parties’ top management.

6. To place procedures on the prevention of corrupt practices by the Parties’ employees or agents as and when the circumstance requires and with each Party’s concurrence.

Commitment of the Parties

1. The Parties hereby commit and declare that the Parties and/or their respective employees and agents have not and shall not offer or give bribes in the execution of the Project.

2. The Parties shall disclose any payments that has been made, is being made and intended to be made to agents, brokers or any other intermediaries in connection with the execution of the Project, if it is required by law.

Penalties in Case of Corrupt Practices

The Parties hereby agree that in the event of the Parties’ employees or agents attempting to seek bribe/be involved in corrupt practices in the execution of the Project, the Parties will promptly report the said action to the responsible authorities (MACC).

Mega Project Monitoring by Integrity Governance Committee

For Government projects worth RM500 million and above it is a Integrity Governance Committee for Mega Project responsibility to monitor the implementation of the project. MACC was the secretariat for this committee. This committee works to ensure that the project is implemented properly without any problems of corruption, abuse of power and malpractices. Their functions are as below:

1. Making resolutions and establish policies, laws, regulations and procedures related to government mega projects;

2. Identify weaknesses in policies, laws, regulations and procedures to identify corruption risks;

3. Monitor compliance with policies, laws, regulations and procedures;

4. Detect any non-compliance with contractual agreements (cost, time, quality, quantity);

5. Strengthen the integrity among officers working / executive officer either at the department / agency, government or private;
6. As dissemination of information / complaints related to corruption.

Codes of Ethics in Business - Collaboration between MACC and SME Corp

MACC and SME Corp are also coming up with a SME Code of Ethics for SMEs. The purpose of the codes is to ensure all SMEs will not involve in corruption, abuse of power and malpractices. By having codes of ethics, it assists to reduce corruption bad effect in those sectors and at the same time enhancing quality of the product, safe human life (consumer) and undermine business trust. By strengthening the integrity in those sectors, directly will increase product quality. The codes of ethics in those sector will eliminate the sources of corruption in which the parties involve will be more transparent, high integrity and less greedy. Above all the sectors will implement good governance in their business.

Capacity and Capability Building

Malaysian Anti-Corruption Commission (MACC), the Malaysian Institute of Integrity and Transparency International Malaysia will provide training to the companies to enhance the level of integrity within the organization. The training module is based on the outcome of the assessment of the company corporate integrity systems. Malaysian Anti-Corruption Commission through Inspection and Consultancy Division also provide assistance to companies in formulating the Code of Ethics and also will give advices on ways to strengthen the system and procedure to plug the loopholes for corruption and abuse of power.

Malaysian Anti-Corruption Commission is pushing for referral policy to materialized in writing for every companies to support the principle of fighting corruption. This is to ensure that any form of corrupt practice occurs in business place will be reported to the relevant authority.

Anti-Corruption Clause in Government Contract

On 28 February 2009 the Ministry of Finance has issued Special Instruction in order to remind all parties involved in government contract not to commit any corrupt practices during the process. The instruction named as Anti-Corruption Clause in Government Contract. All agencies are required to include corruption offence clause in government contract document, whether at all level of the process including document preparation invitation tender/ quotation / e-Bidding. This clause was initiates by MACC base on the examination done toward the problem faces by the government project that was reported in Auditor General Reports.

NKRA Fighting Corruption – Disclosure of Procurement Information

MACC is tasked with the responsibility in the fight against corruption with Chief Commissioner acting as the Coordinator under the NKRA – Fighting Corruption
initiative. There are nine core initiative which are identified as Big Wins and one of that directly involve with private sector is Disclosure of Procurement Information. The Ministry of Finance through this initiative has publicized the Government Procurement information through its My Procurement Portal which was launched by the Prime Minister on 1 April 2010. The success of this initiative then broadens with the venture of the Public Private Partnership Unit (UKAS) into the creation of My Partnership portal in disclosing information on privatization projects. The portal which is perceived to beef up the level of transparency, integrity and accountability in Government’s procurement was officially launched on 25 August 2010.