ROOM DOCUMENT 2

MODERNISING BUSINESS REGULATION IN MALAYSIA

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Introduction

1. Dramatic changes in the competitive environment through globalisation, technology and changing market demand and competitiveness meant that old ways and approaches that have served their time and purpose need to be reviewed and, if necessary, dismantled and re-engineered to fit to the changing circumstances. The Government recognises that the state of affairs of the regulatory framework in Malaysia can be further improved by facilitating business operations where obsolete and irrelevant regulations should be minimised. Currently, there are about 900 agencies, at both federal and state levels which administer over 3,000 regulatory procedures. The country has to reform archaic regulatory approaches and replace them with more coherent regulations befitting that of an advanced economy. Malaysia needs strong growth to achieve its vision where productivity has to increase 4-5% per year on average to accomplish a high-income status of USD15,000 – USD20,000 by 2020.

2. Regulatory environments which encourage competition have a positive impact on productivity while enhanced product market competition has shown to contribute to GDP per capita growth by increasing employment. Over-regulation which stifles competition will result in a lack of innovation in the economy as advantaged firms will not see the need to innovate to improve, while disadvantaged companies will see limited upsides to innovation. The government has identified four drivers to enhance national productivity through policies to improve or ensure competition; invest or promote investment in infrastructure; provide incentives, and support to help companies innovate and improve efficiency of policy and regulatory processes.

1. Improve Efficiency of Policy and Regulatory Processes

3. Removing unnecessary regulatory burden through a comprehensive review of regulations that impede business innovation and effectiveness is a priority on the national agenda. This will ensure that Malaysia is at par with global development and on the right track to achieve high income economy status through enhanced productivity and competitiveness at all levels. Regulatory Review Framework need to be consistently updated to ensure it remains current and in line with the changing competitive environment.

4. In line with this, Malaysia Productivity Corporation (MPC) established its Regulatory Review Department (RR) in October 2010 to monitor, review and provide recommendations for better regulation. In Malaysia’s context, if the regulatory burden in the economy constitutes 2.5% of Malaysia’s GDP of RM588 billion (USD207 billion) in 2011, then the amount of regulatory cost to businesses was RM15 billion. Many countries have set a 25% reduction target for their regulatory burden reduction programmes. If Malaysia can similarly set and achieve the 25% reduction target, the economy could save around RM4 billion of unnecessary regulatory costs per year. To reduce the regulatory burden to business MPC has taken various initiatives by ensuring quality of new regulation and improving the quality of existing regulation.
2. Implementing the Principles of Quality Regulatory Management System (QRMS)

5. The Government is introducing a national policy to transform the rule-making process in Malaysia by ensuring that Quality Regulatory Management System (QRMS) and Framework is implemented to improve the quality of new regulations. This is to ensure that regulations are effective in addressing the desired public policy objectives and serving the country in a balanced, equitable and transparent manner. The QRMS comprises the following principles:

2.1 Develop and maintain a system to manage the regulatory process that meets the requirements

6. MPC is responsible for the conception, implementation and sustainability of QRMS and modernising business regulation initiatives. The Tenth Malaysia Plan (2011-2015) outlined the new thrust mandated to MPC to spearhead comprehensive review of business regulations and improve processes and procedures to increase productivity and competitiveness of major economic sectors. Under the Economic Transformation Programme (ETP), MPC will provide support to New Key Economic Areas (NKEAs) by reviewing and recommending changes to existing regulations and policy with a view to remove unnecessary rules and compliance costs and improve the speed and ease of delivery.

2.2 Adopt good regulatory principles at the highest government level

7. The Government took a significant step in adopting the good regulatory principles in 2007 by establishing the Special Task Force to Facilitate Business (PEMUDAH). This task force helps to facilitate business and to alleviate the burden on business from unnecessary regulations. While in 2009, Performance Management & Delivery Unit (PEMANDU) was formed to improve public delivery services to business to reduce redundancies, remove overlapping and standardizing functions with a clear governance structure embedded to ensure execution and compliance. Both PEMANDU and PEMUDAH are under the purview of Prime Minister’s Department.

2.3 Ensure new regulations to be in accordance with the defined process

8. The National Development Planning Committee (NDPC) plays the role of a Gatekeeper which will provide the quality control mechanism for the development of business regulatory proposals and review of existing regulations. The creation of new regulation or review must be in accordance with the Regulatory Impact Analysis (RIA) process that is defined in the National Policy on the Development and Implementation of Regulations and Best Practice Regulation Handbook. The NDPC will examine the Regulatory Impact Statement (RIS) for compliance with the regulatory process management requirements.

2.4 Principle of good regulation and effective processes that meets international standard

9. Two important documents for ensuring effective implementation of gatekeeping system are National Policy on the Development and Implementation of Regulations and Best Practice Regulation Handbook. They were developed through consultations and engagement from a wide range of stakeholders within government that include representatives from all ministries and agencies responsible for the development and implementation of regulations in a number of sessions held throughout February and
March 2012. These documents were made available for review on MPC website and all affected parties were invited to submit their comments on the drafted policy and the Best Practice Regulation Handbook.

2.5 Mandatory requirement to undertake RIA

10. A quality regulation is one that has characteristics of good governance and must fulfil “adequacy” and “gatekeeping” requirements. This is to ensure that the quality and effectiveness of a new business regulation would minimise unnecessary compliance costs and fulfils the expectations of the business community. Thus, Regulatory Impact Analysis (RIA) is used as a tool to ensure new regulations to be in accordance with the defined process for quality decision-making, public involvement, accountability and transparency.

2.6 Creating a registry of regulation

11. A registry of business regulations and licenses will be maintained by MPC that provides the means to track and reduce overlap or contradictions in regulations as well as the input needed to monitor review progress and measure regulatory burden.


12. MPC is targeting to substantially reduce the regulatory burden to businesses which involves massive transformation processes across the entire strata of Malaysia’s political, societal and most importantly, economic landscapes. Various initiatives are taken to improve the quality of existing regulation as follows:

3.1 Modernising Business Licensing (MBL)

13. Realising the needs to enhance efficiency in the public delivery system and facilitate trade investment, MPC and PEMUDAH address the quality of licensing administration and practices in 23 ministries at federal level by assessing the legality, necessity and appropriateness of the licenses. 52% of business licenses have been reduced and this initiative will generate an estimated reduction of RM729 million in compliance cost when the exercise is completed by end of 2013. MBL is extended to other states to reduce regulatory burden and increase value and integrity to the public delivery system in Malaysia. Procedures that do not meet legislative justification and unnecessary are abolished, while any requirements that are not business-friendly are simplified. The simplified licenses are automated or integrated into the Business Licensing Electronic Support System (BLESS) portal managed by the Implementation Coordination Unit (ICU), a central agency under the Prime Minister’s Department. BLESS is an on-line one stop centre for simultaneous applications for licenses, approvals and permits and it also provides information and facilities for starting and operating business license applications.

3.2 Dealing with Construction Permits

14. MPC and PEMUDAH conduct a thorough study to identify regulatory and non-regulatory options that are able to reduce burdens placed by the regulators to business community in construction permits. The introduction of OSC1 Submission, a special lane to get faster approval will now require only
10 procedures and take 100 days to process the permits compared to 37 procedures which required 260 days.

15. The initiative to map the existing baseline of submission has been expanded to 13 capital cities and 2 cities under the Ministry of Federal Territories and Urban Wellbeing namely Putrajaya and Labuan to help other local authorities and regulators to identify best practices and quick wins by reducing procedures and time to process the development proposal. The expansion has created a new wave of change in dealing with the construction permits landscape in Malaysia. Malaysia registered marked improvement in its ranking to 96th position in Doing Business (DB) Report 2013 from 113rd in DB2012.

### 3.3 Initiatives to Speed-Up Doing Business: 18 Liberalised Sub-Sectors

16. MPC and PEMUDAH review regulatory framework for 18 autonomous liberalisation services sub-sectors to identify regulatory burdens and speed-up doing business activities. Involvement of business players and regulators are engaged through consultation to understand the regulatory processes from the start until the business is ready for operation. The initiative records any interaction with government agency or any other body as required by an existing regulation, the time taken for processing, compliance cost as well as all the relevant laws, regulations, procedures, forms and fee schedules. Recommendations to reduce those burdens and better design and development of regulatory frameworks affecting these sub-sectors were then made to various interested parties. The study estimated that the compliance cost of all the 18 sub-sectors is as high as RM 35 million per year.

### 3.4 Modernising Trade Facilitation through Business Process Improvement

17. Modernising trade facilitation includes streamlining and standardising the import and export process flows for trade activities. To simplify and expedite the export process, export documents have been combined through integrated data management. The elimination of non-value adding procedures has resulted in a reduction of waiting time, multiple data entry points, errors in documentation and multiple levels of approvals. Malaysia was ranked 11th in DB2013 from 29th position in DB2012.

### 3.5 Improving Efficiency in Getting Electricity

18. MPC and PEMUDAH facilitate the initiative to improve electricity connections by engaging electricity supply companies, electrical professionals and regulatory agencies to review and reduce procedures and costs as well as to shorten timelines that electricity consumers had to undergo in order to obtain electricity connections. These have led to a reduction in the number of procedures from 6 to 5, number of days from 51 to 46 and cost (% of income per capita) from 95.5 to 53.9. The Getting Electricity indicator improved the most by 31 places at 28th position in DB2013 from 59th in DB2012.

### 3.6 Manufacturing License and Tax Incentives Transformation

19. The project undertaken by MPC with Malaysian Investment Development Authority (MIDA) aims to propose new approach in processing the applications for manufacturing license and tax incentives by eliminating unnecessary procedures to reduce regulatory burden for investors and SMEs. With faster approval and tax incentives, the expected impact of the project is that more investors will be more
interested in coming to Malaysian shores and allow them to bring more technologies which in turn will increase the country’s productivity.

3.7 **Integration of SME Business Registration and Licensing**

20. This initiative aims at creating a single window for both business registration and licensing to encourage formation of businesses. At present, there are two separate systems; My Corporate Identity (MyCoID) for registration of businesses that deal with multiple agencies using single reference number and BLESS for application and renewal of licenses and permits through a single gateway. Thus, the integration of registration (MyCoID) and licenses (BLESS) is very crucial to spur a conducive environment for the SMEs.

3.8 **Benchmarking in Dealing with Construction Permits in Capital Cities**

21. MPC in collaboration with the Ministry of Housing and Local Government and Ministry of Federal Territory and Urban Wellbeing conducted a baseline study to map plot the interaction of Dealing with Construction Permits in 16 cities throughout Malaysia. The study focuses on setting up the Petrol Station in 16 cities based on local and national regulations that affect small to medium-size domestic firm in dealing with construction permits indicator. The study identifies differences or variances in local regulations and in the enforcement of national regulations that can enhance or constrain local business activity.

**Conclusion**

22. Regulation has become an important requirement in Malaysia whereby business is faced with a significant array of complex and overlapping regulations, some of which are unnecessarily burdensome. The reduction of unnecessary compliance costs associated with regulations has become an important part of the review process to improve the competitiveness of business and the performance of the economy. Thus, removing unnecessary regulatory burden through a comprehensive review of regulations that impede business innovation and effectiveness is a priority on the national agenda. This will ensure that Malaysia is at par with global development and on the right track to achieve high income economy status through enhanced productivity and competitiveness at all levels.