

BEST PRACTICES IN ANTI-CORRUPTION: A DECADE OF INSTITUTIONAL AND PRACTICAL DEVELOPMENT IN SOUTHEAST ASIA

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I. BACKGROUND

Over the past decade, the Malaysian Anti-Corruption Commission (MACC) has further advanced its anti-corruption efforts by undertaking various initiatives and making changes resulting in significant operational enhancements to continue improving its performance. The ongoing strategic efforts to establish effective practices aimed at the prevention of corruption can be seen across the various divisions within the MACC.

Since the introduction of the new anti-corruption law in 2009, the MACC has conducted several strategic brainstorming sessions, internally and externally, in collecting useful information for diagnostic purposes and assessing the current state in formulating the strategic direction. Road Maps of Implementation have been put in place by MACC, which are scheduled to be carried out over the medium and long-term time lines.

II. MACC'S KEY INITIATIVES FROM 2009–2017

Summarized below are some of the key implementations and initiatives taken by MACC from 2009 – 2017.

A. Interviewing Standards

The MACC has adopted the PEACE technique of interviewing witnesses/suspects. The PEACE technique broadly consists of:

- I. Planning and Preparation;
- II. Engage and Explain;
- III. Account, Clarification and Challenge;
- IV. Closure; and
- V. Evaluation.

In this respect, the MACC has put in place a project to train all investigating officers in the PEACE technique. Most of the MACC investigating officers have been trained in PEACE courses conducted at the Malaysia Anti-Corruption Academy (MACA) by the National Policing Improvement Agency of the United Kingdom.

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B. Search & Seizure

Stricter standard operating procedures have been issued with regard to search and seizure in situations with or without written authorization.

C. Qualification and Training of MACC Officers

The entry qualification for a candidate into the MACC service is a diploma or tertiary degree, and the basic training has been extended from 3 months to 12 months with effect from 2013 for the new recruits.

D. Malaysia Anti-Corruption Academy (MACA)

The courses conducted at MACA have also been improved to incorporate the changes that suit the current needs. The courses' contents have been revamped to be more comprehensive and to cover a wider range of fields.

E. Video Interview Rooms (VIR)

The MACC has introduced the use of video recording interviewing room where the interview process is recorded visually with audio to ensure transparency and also to dispel allegations of misuse of powers by MACC officers during any interview. All interviews are to be conducted fully within the ground floors of the MACC offices.

F. Treatment of Summoned Persons and Visitors

Specific instructions for tighter procedures have been issued on the handling/supervision and monitoring of summoned persons and visitors to the MACC.

G. Security Features in MACC Offices

All MACC offices have been equipped with CCTV. Security grilles (certain levels on an as needed basis) have been installed in all MACC offices nationwide for security and safety.

III. OTHER BEST PRACTICES/METHODOLOGIES

A. Team-Based Investigation

A team-based investigation (combining both operations and prevention, simultaneously) is the key to an efficient methodology in investigations. In this respect, New Standard Operating Procedures and Operational Toolkits are being implemented. A team-based investigation not only shortens the time of completion of an investigation but also enables effective pooling of various expertise needed in a complex investigation which would yield positive outcomes in every investigation.

Another milestone initiative is the setting up of the Special Operations Room equipped with advanced technology, networking and complete one-stop office facilities. It is especially useful for larger team-based operations where the team can work efficiently and effectively in a focused manner and environment.

MACC has also developed structured training modules to support the implementation of this methodology.

B. Private Sector Investigation

To enhance investigation of corruption in the private sector, a collaborative approach was taken in building strategic alliances with various government agencies like Bank Negara Malaysia, the Inland Revenue Board, the Companies Commission, Cyber Security, the Stock Exchange and the Securities Commission Malaysia. These alliances through a collaborative multi-disciplinary work approach have laid the foundation for a more solid, transparent and efficient sharing of information, expertise, knowledge and skills. This should also enable MACC to probe other corruption-related offences.

Leveraging on the collaboration with other agencies, they have been engaged to provide considerable in-depth training for MACC officers to enhance the industry knowledge on private sector investigation. MACC has also developed structured training modules to support the implementation of this methodology.

C. Legal and Prosecution

The MACC has identified weaknesses in the effectiveness of its prosecutions and a few steps were undertaken to address and improve our success rate of prosecutions and convictions. The MACC is now engaging with Deputy Public Prosecutors to identify gaps in the processes of handling cases pertaining to corruption, looking into the current Standard Operating Procedure (SOP) and/or any loopholes within the designated law. This immense effort is to study and strategize to improve the rate of conviction of corruption cases in Malaysia. As a result of this, Legal Gap Analysis was prepared and recommendations on legal aspects were made including the proposal to enhance SOPs and amend certain corruption law provisions. The applicability of Plea Bargaining, Corporate Liability and Misconduct in Public Office are also being examined.

D. Pro-Active Investigation

A foreign expert who is specialized in undercover training in some of the most reputable enforcement agencies in Canada, the United States of America and Europe was engaged to train several officers in specialized undercover operations and integrity testing. An updated SOP on undercover operations is already in place. With the need for speedy information, the MACC has set up an Intel-Info Centre, where the terminals are linked to external agencies online for the data retrieval process in facilitating intelligence work. Pro-active investigation is complemented by intelligence gathering work carried out by Zone Centralized offices instead of State Offices.

E. Complaint Management

One of the project initiatives was to effectively manage the complaints received from various sources through the Complaint Management System (CMS). Once a complaint has been registered, the identified complainant will be notified through emails, short messaging system and complaint management portal. The decision by the Information Evaluation Committee with regard to the complaint made to the MACC CMS is also designed to update the complainant of the status of the complaint from time to time.

Security access controls in all existing record rooms were enhanced with the introduction of biometric access to protect the confidentiality and secrecy of records and documents under the custody of the MACC. This measure is vital to the MACC's ability to protect the confidentiality

of the information and to allow the MACC to keep the highest commitment to serving the Malaysian public.

F. Forensic Accounting

Statistical data and detailed assessment indicate a wide gap in terms of capacity, capability, expertise and skill in this field. Instead of organic growth of the department, which can be slow, external recruits bring the competency to a higher level in a shorter period of time while grooming the existing officers in this department. A Forensic Accounting expert was recruited to assist the current investigators in the handling of forensics cases.

Starting with a team of five, the number of forensic accounting staff has now doubled and is on the increase. The valued contributions shown in the outcomes of finance-based investigations have further confirmed the importance of forensic accounting in corruption investigations.

IV. CASE STUDY: PUBLIC UTILITY DEPARTMENT CORRUPTION PROBE

One of the local departments in a Malaysian corruption probe refers to a widespread investigation by the MACC from 2016 to 2017 over the alleged abuse of power and corruption inside the department resulting in the arrest of more than 20 senior officers in the department along with the confiscation of millions of ringgit along with foreign currencies which had been hidden in several locations by the suspects.

The total confiscation came to hundreds of millions of ringgit, with the case being considered as the largest ever confiscation by the MACC in the country's corruption history. Further investigation revealed a money trail leading to a few foreign countries. For over 10 years, the suspects had taken some percentage of public funds channeled by the federal government that had supposedly been used for public benefit. Responding to complaints over the unfair distribution of development project contracts in the department, the MACC spent less than a year investigating the suspects. Following a series of investigation, three main suspects were charged under the money laundering offence.

V. CONCLUSION

In conclusion, the MACC has indeed implemented a lot of measures to complement our punitive measures. What I have highlighted and shared here are some of the best practices implemented by MACC. It is our hope that the anti-corruption methodologies that have been shared here will encourage all of us to improve our capacity to handle all those corruption cases in the safeguarding of our nations. Our journey towards achieving a society with "zero-tolerance towards corruption" still continues with new challenges yet to come.