GOOD ASSESSMENTS ENSURE SUCCESS OF REGULATIONS

In Malaysia, conducting a RIA needs strong support from ministers, parliamentarians and political leaders, who are focused on making the country a high income nation by 2020. All countries have limited resources. Conducting RIAs can determine the benefits, including improvements in quality of life or environment, and the cost for governments to get those benefits. Mr. Jacobs reiterated that politicians should take an active interest in the quality of policies and regulations that they are responsible for creating. There is always a temptation to cut corners by reducing the amount of evidence and consultation with stakeholders to speed up action - which is a big mistake. Currently RIA has not been adopted by many ministries. There are many cases where ministries took action in a hurry without preparation and analysis, which increases the risk of failure. Failure to implement regulatory policies properly may cause lives to be lost, damage opportunities for the young, and destroy the environment. RIA is compulsory in countries that have adopted it as a sustainable system. It can’t be a voluntary decision by a minister based on its convenience. RIA is like budgeting, which is always mandatory when spend the country’s resources. It is also the moment that a proposed policy is likely to fail as it did not consider important consequences or understand how to achieve good results.

Bad policies also create loopholes for parties to take advantage of. RIA is used in many countries when proposing new laws to understand the consequences on competitiveness and the impact on future generations, such as opportunities for the young, investments and jobs creation, and innovation.

"Malaysia has made a marvelous start at the country level and a lot of work has been put in, with MPC providing guidance to regulators in conducting RIA".

The Malaysian government may take a year or two to fully adopt the use of RIAs. The United States and the United Kingdom have adopted RIA for about 30 years. The process of refining and improving is ongoing," he said, adding that only a strong political will can ensure that regulators conduct RIA consistently. Mr. Jacobs said the Annual Report on Modernisation of Regulations 2016, published by the Malaysia Productivity Corporation (MPC) is a good report as it outlines the importance of having good regulations for the future in Malaysia. He said the report is also useful to sustain the wealth of reform.
FOCUS GROUP & WORKING GROUP IN ACTION

REALIGNMENT WORKSHOP: TRADE FACILITATION CLUSTER WORKING GROUP (TFCWG)

28 February 2017. The workshop was held to realign initiatives registered in the TFCWG to develop strategies and action plans for 2017 and beyond. A total of 65 participants from various government ministries, agencies and commissions and the business community attended.

* TFCWG is chaired by Ministry of International Trade and Industry (MITI) and Royal Malaysian Customs Department (RMCD). The objectives of TFCWG are to:
  - Increase the efficiency of trade facilitation mechanisms particularly through improvements in cargo clearance system, paperless trading and security of trade documents; and
  - Enhance the capabilities of service providers by strengthening internal capabilities and external readiness.

FOCUS GROUP ON DEALING WITH CONSTRUCTION PERMITS (FGDCP) 1/2017 MEETING

17 January 2017. The meeting was co-chaired by YBhg. Datuk Hj. Mohammad Bin Mentek, Secretary General of Ministry of Urban Wellbeing, Housing and Local Government (MHLG), YBhg. Dato’ Hj. Mohd Najib Bin Hj. Mohd. Executive Director (Planning) of Kuala Lumpur City Hall (DBKL) and YBhg Tan Sri Teo Chiang Kok, PEMUDAH Member. The new governance structure of FGDCP will strengthen the direction of the focus group in 2017, which aims to expand its scope beyond the World Bank ranking. Through constructive discussions on issues of strategic importance, the Focus Group will be able to materialise and deliver the desired impact to the construction industry.

* Among the highlights of the meeting focused on Landscape and Universal Design Concerns, FGDCP Work Plan 2017, Recommendation on the Amendment of Partial CCC in the Act 118, Subsidiary Management Corporation (MCC) Guideline and the requirement to Have Town Planner for KM Submission.

CONTINUOUS AND REGULAR UPDATES WITH WORLD BANK ON CONSTRUCTION PERMITTING MEASURE

The World Bank collaborates with the Focus Group on Dealing with Construction Permits (FGDCP) to understand more about the good practices in the building sector and to monitor on Malaysia’s updated improvement initiatives in enhancing the efficiency of construction permitting measure.

The group consists of Edgar Chavez, Operation Analyst for Malaysia, World Bank, Dato’ Abduh Latif Hj. Abu Seman, Deputy Director General, MPC, Zainal Ismail, Director, MPC, Hajjah Nor Fajarianah Sulaiman, Deputy Director OSC, DBKL, Jr. Bashar Ahamed Maideen, Engineer, Nadi Consult and Ar. Ezumi Harzani Ismail, Director of Architect, PAM.

FOCUS GROUP ON GETTING ELECTRICITY (FGGE) 1/2017 MEETING

FGGE Meeting 1/2017 was co-chaired by YBhg. Datuk Ir. Ahmad Fauzi bin Hasan (CEO of Energy Commission) and YBhg. Dato’ Wong Siew Hai (PEMUDAH Member).

The ranking of Getting Electricity in the World Bank is set to achieve Top 3 position.

* The team is emphasizing on the Focus Group on Getting Electricity’s (FGGE) commitment in its initiatives to obtain a higher ranking for CE and acknowledging the seriousness of the matters relating to Getting Electricity to businesses.

* Moving forward, the Energy Commission will continue to monitor and improve coordination with Tenaga Nasional Berhad (TNB) and other agencies for continuous improvement.

REDUCING UNNECESSARY REGULATORY BURDEN (RUB) SUCCESS STORY: SINGLE COLLECTION AGENCY LICENSING ROYALTIES

A Case Study to reduce unnecessary regulatory burden (RUB) was undertaken on the issue and challenges of royalty collection by the Intellectual Property Corporation of Malaysia (MyIPO). Industries often have to negotiate with Collection Management Organisations (CMOs) on the rates. The Recording Performers Malaysia Berhad (RPM) has appointed Public Performance Malaysia (PPM) as their exclusive agent to collect royalties on their behalf, while Performers Rights and Interest Society of Malaysia Berhad (PRISM) act independently. Besides RPM and PRISM, currently there are 2 other collecting agents, namely Music Authors’ Copyright Protection Bhd (MACP) representing composers and lyricists and Public Performance Malaysia (PPM) representing recording companies which contributes to the disputes among royalties collection agencies.

Following a meeting between MPC, MyIPO, PRISM, RPM and the Malaysia Association of Hotel (MAH) representatives, MPC proposed 2 options (based on best practices adopted by Japan, UK and Australia). The options are:

1) To remove both parties as CMOs and appoint a new CMO to represent the performers. As an interim measure, PPM will continue to collect royalty on behalf of the performers group for 2 years, where a new CMO from then on will take over to do the collection.

2) To immediately establish a new licensed CMO to represent both RPM and PRISM.

In order to resolve this issue, YB Dato’ Siti Hamzah Zainudin, Minister of Domestic Trade, Cooperatives and Consumerism Ministry (Ministry) announced the establishment of the Music Rights Malaysia (MRM) as a Single Collection Agency Licensing Royalties on 8 December 2016. Effective from Jan 1st, 2017, MRM will be the agency to carry out collective licensing in Malaysia while four (4) existing bodies - Music Author’s Copyright Protection (MACP), PPM, RPM and PRISM will continue their roles as distributor of royalties.
MEETING WITH THE STATE SECRETARY OF PENANG ON ‘1 STATE 1 DCP CHAMPION’ PROGRAMME

Jan 2017: The meeting was chaired by the Penang State Secretary, Dato’ Seri Farizan Darus and MPC team was led by Dato’ Abdul Latif Haji Abu Seman, Deputy Director General. A Focus Group with representation from the stakeholders involved in dealing with construction permits will be set up to meet monthly. The MPC team will collaborate with Penang’s SPEAD committee to deliver the programme on “1 State 1 DCP Champion”. Capacity building programmes on the concept, tools and techniques will be organised from April to June 2017. The next meeting will be on ‘Baseline Study’ for completed small scale projects to study and improve on the number of procedures and time taken to set new target.

MEETING WITH PAM SABAH CHAPTER ON ‘1 STATE 1 DCP CHAMPION’ PROGRAMME

21 Feb 2017: Proposed to set up a Focus Group with involvement from the public and private agencies. Capacity programmes to enhance awareness, concept, tools and techniques to improve efficiency in dealing with construction permits will be organised from April to June 2017.

COURTESY CALL TO SABAH STATE GOVERNMENT AND MAYOR OF KOTA KINABALU CITY HALL

Sabah State Government had agreed to enhance collaboration in dealing with construction permits in Kota Kinabalu.

Dato’ Abdul Latif Haji Abu Seman, Mr. Zahid Ismail, Ms. Norzirin Ariffin and Mr. Edward Binty paid a courtesy visit to YB Tan Sri Datuk Seri Panglima Sukarti Bin Wakiman, the State Secretary of Sabah. This was followed by another visit to Datuk Yeo Boon Hai, the Mayor of Kota Kinabalu City Hall.

1STATE 1 DCP CHAMPION WORKSHOP FOR IPOH CITY COUNCIL

“The State Government is committed to implement ‘1 State 1 DCP Champion’ programme and all internal and external technical agencies in Ipoh city must work together to gain success in order to bring benefits for citizens of Perak particularly in Ipoh city” - Dato’ Zamri Bin Man, Mayor of MBI.

On 27 and 28 February 2017, the first workshop was organised by Ipoh City Council (MBI), MPC and the Department of Local Government, Ministry of Urban Wellbeing, Housing and Local Government (KPKT).

Feedback from Workshop "1 State 1 DCP Champion"

1 State 1 DCP Champion Will Bring Success...

...The team who are involved can understand where improvements that can be made to existing procedures and length of time taken. This will result in mutual consent for implementation. It will convince more investors to invest in Ipoh because development of construction permits can be obtained very quickly, saving time and development costs.”

Head of OSC Ipoh City Council, Mohamad Sabri bin Ahmad
SOFTWARE LAUNCH OF STATE GRP POLICY IN NEGERI SEMBILAN

The Soft Launch of State GRP Policy was officially launched by YB Dato’ Seri Haji Mat Ali Bin Hassan, State Secretary of Negeri Sembilan on 16 March 2017.

The journey towards GRP implementation began in February 2016 with 16 programmes being carried out with UPEN and other related agencies and stakeholders on capacity building. A total of 16 Regulatory Coordinators (RCs) have been appointed in ensuring the amendment or introduction of new laws and regulations are in compliance with GRP requirements. Currently there are 2 pilot projects in the pipeline to be tested using GRP elements. The status of the 2 pilot projects are 80% completed where the team will proceed to get the real data in supporting Cost Benefit Analysis (CBA).

Moving Forward, UPEN, Negeri Sembilan and MPC will be organising the GRP Open Day Programme in April 2017 followed with a series of capacity building programmes.

GRP INITIATIVES IN KELANTAN

GRP Phase 1 activities Taking-off: State GRP Portal and GRP Secretariat

Majlis Mesyuarat Kerajaan Negeri (MMKN) has approved the implementation of GRP at State level. The state GRP Portal was designed to facilitate customers, public and regulators to search for the relevant information, business processes and related State and Federal Government on good regulatory practices. On-going updates are being made to include the broad range of laws and regulations affecting Kelantan state and at the federal level. Currently, the secretariat aims to expand RIA in extensive manner and intends to introduce new regulatory management system techniques like Cutting Red Tape program (CURE) and Reducing Unnecessary Regulatory Burden (RURB) programmes.

Establishing good governance for Regulatory Practices

The strategy to make the State GRP embedded at state level has begun last year. It was a pilot project for the state of Kelantan. With the consent of the State Secretary, a team of GRP secretariat was formed together with UPEN officers led by the Deputy Director (Macro Division) and a few members of State SUK Officers.
GRP INITIATIVES IN TERENGGANU

Good Regulatory Practices (GRP) in the State of Terengganu has started since early 2016. The initiatives include adopting the Policy on Development and Implementation of Regulation, Mapping of Business Regulation, Modernising Business Regulation project, “1 State 1 DCP” and GRP pilot project.

The proposal to implement Good Regulatory Practices in Terengganu State was presented in Mersyuarat Jawatankuasa Perancang Ekonomi Negeri (MIPEN) on 7 December 2016 and State Government of Terengganu agreed to implement GRP through the Policy on Development and Implementation of Regulation Negeri Terengganu.

The Good Regulatory Practices Seminar which was jointly organised by State Government of Terengganu and Malaysia Productivity Corporation (MPC) was held on 23rd February 2017. The seminar aimed to create awareness and understanding on the Policy on Development and Implementation of Regulation in Terengganu as well as to give exposure on Regulatory Impact Analysis (RIA) which is a process of examining the likely impact of a proposed regulation and policy by the State Government.

The seminar was attended by 170 participants comprising officers from departments and agencies of Terengganu State Government and Federal State Agencies as well as Local Government.

“The objective of Good Regulatory Practice is to ensure that each new regulation or amended regulation would be implemented more accurately, timely and comprehensive assessment being made in ensuring quality regulation. Regulation plays a critical role in protecting the public health, welfare, safety and the environment. In addition, quality regulation promotes economic growth, innovation, competitiveness, productivity and job creations.” (Excerpt from speech by Y. Berasah Tuan Haji Zainal Abidin bin Hussein, Deputy State Secretary (Administration) of Terengganu at the launching of the Seminar.

Y. Bhg Dato’ Abdul Latif Bin Abu Seman, Deputy Director General of MPC in his welcoming remarks emphasised that “Terengganu is among the earliest state to adopt the Good Regulatory Practices through the policy mentioned above. For this purpose, lot of initiatives have been done to improve the quality of new and existing regulations.”

GRP AWARENESS PROGRAMME IN SARAWAK

28 February - 1 March 2017: An awareness program on GRP was held at Pustaka Miri, Sarawak in collaboration with State Service Modernisation Unit, Chief Minister’s Department Sarawak aimed to provide exposure and knowledge to local government officials in the northern region of Sarawak on GRP and Regulatory Impact Analysis (RIA). During this two-day programme, speakers shared their valuable insights and experience on GRP and RIA with the participants. State officers from Miri, Marudi, Subis, Mulu, Niah, Limbang, Lawas and Tinjar attended the session.

The objective of this program is to ensure the quality of new and existing regulations, regulators at federal, state and local governments need to comply with Good Regulatory Practice (GRP) and fulfilling the adequacy criteria which emphasises on transparency, openness and accountability. GRP transforms the rule-making process within the government and ultimately modernise business regulations thus ensuring the quality of new regulations.
PRODUCTIVITY MADE EASY: SHARING SESSION ON NON-TARIFF MEASURES

Participants gained better understanding of NTMs and how the NTM data was collected, validated, and stored from official sources in the 10 ASEAN countries. This session comes in timely as MPC endeavours to assess unnecessary regulatory burdens related to Non-Tariff Measures (NTMs) with the aim of recommending options for reducing the burden of government regulations on business, in tandem with the minimisation of border barriers. Reducing unnecessary regulatory burdens (RURB) will facilitate the ease of doing business and improve productivity thereby enhancing competitiveness.

NTMs are currently receiving equal if not more attention than tariff barriers due to their significant impact on trade worldwide and the challenges in identifying such measures. The talk on classification of NTMs focused on Sanitary and Phytosanitary Measures (SPS) and Technical Barriers to Trade (TBTs).

For Malaysia, the NTMs are drawn directly from a total of 64 related Acts and Regulations in Malaysia. Only laws enacted by the Federal legislature are compiled in the database. A total of 715 public (mandatory) NTMs are recorded in Malaysia (ERIA-UNCTAD, 2016).

The food sector is highly regulated in Malaysia, accounting for a large share (66%) of NTMs. NTMs in the food sector mainly consist of technical measures, of which 51% TBTs, followed by 46% SPS. In the case of TBTs, the measures that dominate are A31: Labelling requirements and A22: Restricted use of certain substances in foods and feeds and their contact materials; while for the SPS chapter, the measures are largely for restricted substances and labelling requirements (B7 Product-quality or -performance requirement and B31 Labelling requirements).

Way Forward
- Consider specific NTMs and specific sub-sectors of food highly tradable within ASEAN for harmonisation of standards and regulations in the food sector.
- Focus on those NTMs in the highly tradable sector of the region with divergent standards that could impede trade.

As not all NTMs (including TBTs) are Non Tariff Barriers (NTBs), the focus should shift away from eliminating NTMs to streamlining NTMs across the region. However, the lack of information on the extent and diversity of NTMs and regulatory heterogeneity are among the challenges to ASEAN’s efforts to harmonise regulatory standards under the ASEAN Economic Community (AEC).

## Defining Non-Tariff Measures
Non-tariff measures (NTMs) are policy measures, other than ordinary customs tariffs, that can potentially have an economic effect on international trade in goods, changing quantities traded, or prices or both (UNCTAD, 2010). NTM is not the same as non-tariff barrier (NTB) as NTBs are policy measures that surely affect quantity traded and prices and have proven discriminatory effects against foreign firms.

Policy-makers, particularly in developing countries are interested in NTMs as these measures can also be driven by protectionist intentions with important discriminatory and restrictive effects for developing countries’ exports.

## Importance of NTMs
- Based on global trends:
  - Proliferation of standards and technical regulations - consumer demands for greater safety, cleaner environments and better functioning markets.
  - Less import restrictions applied at the border than domestic regulations and other internal (behind-the-border) policies that pose problems. Areas of shared concern: technical measures and customs rules and procedures.
  - Less direct and often not visible (opaque), subjective.

However lengthy customs and administrative procedures can cause time delays which could severely deteriorate product quality (especially for highly perishable goods), which in turn decreases product market prices in the importing country; hence imposed additional costs in customs. Also implications of NTMs for SMEs (because of their size, limited resources, lower threshold to absorb risks) that are interested in developing export markets.
“Stakeholders can become familiar with the Government’s regulatory plan and can be better prepared to participate more effectively and provide valuable input into the regulatory process. With the Annual Regulatory Plan, stakeholders will be able to seek further information from respective regulators’ website. This Annual Regulatory Plan in the Report should also encourage stakeholders to assume their proper role in the rule-making process. (Excerpts from Speech by YBhg. Tan Sri Dr. Ali bin Hamsa, Chief Secretary to the Government of Malaysia at the launching of the Report, 29 November 2016).

The Annual Report on Modernisation of Regulation will encourage greater adoption of CRP and ensure quality regulatory environment that is supportive of a more responsive and dynamic economic growth and development progress in Malaysia.

Chapter One of the Annual Report on Modernisation Regulation in Malaysia 2016 begins with a brief introduction outlining the inspiration for the regulatory modernisation initiatives undertaken by the Government.

Chapter Two provides an update of the first prong of the MBR programme, i.e. efforts to address quality of existing regulations which were undertaken under the Modernising Business Licensing (MBL) and Reducing Unnecessary Regulatory Burden (RURB) initiatives.

Chapters Three, Four and Five contain progress reports on the implementation of the National Policy on the Development and Implementation of Regulations (NPDIR) for 2014-2015.

Chapter Six concludes the report with an assessment on the challenges and the way forward in the regulatory reform efforts.

AN OVERVIEW OF GOOD REGULATORY PRACTICE (GRP) IMPLEMENTATION

The development and implementation of CRP started in Malaysia in 2011 and has successfully gone through the start-up phase with the engagement and consultation both in the government and private sectors. Realising reforming Malaysia’s regulatory system is essential to support the country’s aspirations to become a high-income and progressive nation by 2020, the government launched the National Policy on the Development and Implementation of Regulations (NPDIR) in 2013. This policy introduces the Regulatory Process Management requirements which include principles of CRP, the need for regulatory impact analysis (RIA), regulatory impact statement (RIS) and public consultation in order to enhance the transparency and credibility of regulatory actions.

To further promote greater awareness of Malaysia’s effort in modernisation regulations, several international events were also hosted in Kuala Lumpur in collaboration with international organisations namely OECD, APEC, Economic Research for ASEAN and East Asia (ERIA) and Australia Agency for International Development to provide opportunities for participants to learn from the experience of others and to benchmark best practices on CRP.

The introduction of the NPDIR aims to implement CRP in the rule-making process across all federal ministries and agencies. The National Development Planning Committee (NDPC) has been entrusted to oversee the implementation of NDPIR and to perform the oversight role for improving the process and quality of developing any new or amendment to business-related regulation. This role is undertaken through the gate-keeping system which requires regulators to submit their Regulatory Impact Statement (RIS) to NDPC for adequacy assessment.

MPC is responsible for the implementation on the NPDIR which includes: developing guidelines and programmes for the implementation, ensuring capacity building for regulators are available, assisting NDPC assessing RIS, providing guidance and assistance to regulators on RIA and preparation of RIS, conducting periodic reviews of progress and submitting reports to NDPC promoting transparency of RIS.
Good public consultation strengthens the relationship between regulatory authorities, policy makers, business communities and interested parties from the public. It is a two-way process which provides an opportunity for groups and individuals to give comments and inputs and to encourage and promote stakeholders’ involvement in the policy or regulatory development process. This ensures that their issues and concerns are understood and considered. It helps to improve the quality of regulation and helps regulators in developing regulations that are technically viable, informed and implementable.

Why should we have Public Consultation?

Public consultation requires Government bodies to engage meaningfully with stakeholders when developing regulations that may affect doing business and the national or local population. This in line with the second principle in the National Policy on the Development and Implementation of Regulations (NPDIR) 2013 states that, “Stakeholders are effectively consulted and they have an opportunity to participate in the regulatory development process”. The public sector needs to be more facilitative by fostering increased collaboration to find innovative approaches to resolving national issues. Collaboration within government and with the wider society will allow the nation as a whole to combine competencies, resources and capabilities in tackling our many development challenges.

How to conduct Public Consultation?

There are four-stage processes to conduct Public Consultation:

![Figure 1: An Overview of the Public Consultation Process](image)

- **Notification**: Provide consultation session details.
- **Preliminary Feedback**: Publish draft concept.
- **Consultation**: Collect feedback.
- **Conclusion**: Publish draft act or legislation, publish result of consultation, government issues feedback on results.

**Key benefits**:
- Brings in the required expertise.
- Allows for preparation and foster better understanding of the issues being consulted.
- Boost public confidence in government rule-making process.
- Instil accountability in government in rule-making.

Questions that would guide the implementation:

1. Decide WHO to consult with
2. Decide WHAT to consult on
3. Decide HOW to ask them
4. START the consultation
5. EVALUATE and use the results

An adequate consultation exercise should take at least 12 weeks. A proper announcement of the report release should be made and the report should be easily accessible to all, e.g. via the official website. Key stakeholders should be notified formally or through emails. Stakeholders should be given sufficient time to review the report before responding, normally 30 days would be adequate. Formal public consultation can take different forms and the agency itself is the best judge of means to do this. Public consultation can take many forms, such as stakeholder meetings, public meetings, one-to-one interviews, public surveys, focus groups, round table discussions and web forums.

**Case Example: Queensland Government Online Public Consultation**

One of the good example of public consultation is the Queensland Government portal for engaging Queenslanders: [https://www.getinvolved.qld.gov.au/](https://www.getinvolved.qld.gov.au/). Readers are advised to visit this portal observe the best practice of online public consultation. The Queensland Government has well developed guidelines to facilitate both the regulators and the citizen in public consultation. The contents of the guideline “Engaging Queenslanders: Community engagement in the business of government” by the Department of Communities illustrate the practice of transparency by the State of Queensland. The guideline outlined the guiding principles, practices and the roles and responsibilities to be upheld by the regulator. Such guideline is important to build confidence in the public and also ensure that the regulator conformed to expectation.

**BUSINESS REGULATORY FORUM ON GOOD REGULATORY PRACTICE: THE IMPORTANCE OF PUBLIC CONSULTATION IN FACILITATING TRADE AND INVESTMENT**

The objectives of Business Regulatory Forum on Good Regulatory Practice is to discover the effective ways to get feedback from various stakeholders and improve our methods & approaches in conducting efficient public consultation. These feedbacks are critical in finalising the decision in rule-making process. It is one of the elements in RIA to improve transparency, efficiency and effectiveness of regulation. The forum was held on 7th March 2017 at Dewan Perdana, MITI. 139 participants from 44 government agencies participated in the Business Regulatory Forum on Good Regulatory Practice. The forum was divided into two sessions which covered ‘The Importance of Why Public Consultation Need To Be In Place’ and “How To Ensure Public Consultation is Sufficiently Implemented”.

YBhg Dato’ Mohd Razali Hussain, Director General MPC at the opening of the forum.

**WHAT’S NEXT**:
- Cutting Red Tape (CURE) - Showcasing Regulators’ Commitment to Accountability and Public Reporting on Regulatory Reforms
- Best Practices on Stakeholder Engagement in Regulatory Policy