

Workshop on the Palestinian National Anti-Corruption Strategy in the light of comparative experience from Arab region and the world.



National Anti-Corruption Strategies: Concept Best Practice & Lesson Learned Presentation

Amman, The Hashemite Kingdom of Jordan (June 20th -21st 2012)

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1 Malaysia

People First

Performance Now

MACC Background



ACA 1967



NBI 1973



ACA 1982 -2008



MACC 2009

The Malaysian Anti-Corruption Commission (MACC) began its operation officially on January 1, 2009 replacing the Anti-Corruption Agency (ACA) Malaysia. It was established by legislation namely the Malaysian Anti-Corruption Commission Act 2009 (Act 694).

The MACC would be simultaneously sustained by check and balance mechanism in ensuring that the Commission operates in line with national laws and the aspiration of the society.



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5 mechanisms established by law and the administration to oversee MACC's operation

Anti-Corruption
Advisory Board

Special Committee on
Corruption (Parliament)

Complaints
Committee

Established by law (MACC Act 2009)

Operations Review
Panel

Consultation and Corruption
Prevention Panel

Established administration



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IIM Background



The Malaysian Institute of Integrity (MII) is the brainchild of the 5th Prime Minister of Malaysia, Tun Abdullah Haji Ahmad Badawi, declared on 5 November 2003.

It was established as a company limited by guarantee under the Companies Act 1965 on 4 March 2004.

The Malaysian Institute of Integrity (MII), was established as a coordinating agency for the implementation of the National Integrity Plan (NIP). The main objective of MII is to develop a nation of high integrity, that is resilient and embraces universal good values.



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The Government Transformation Programme (GTP)

launched to support Malaysia's transformation into developed & high-income nation



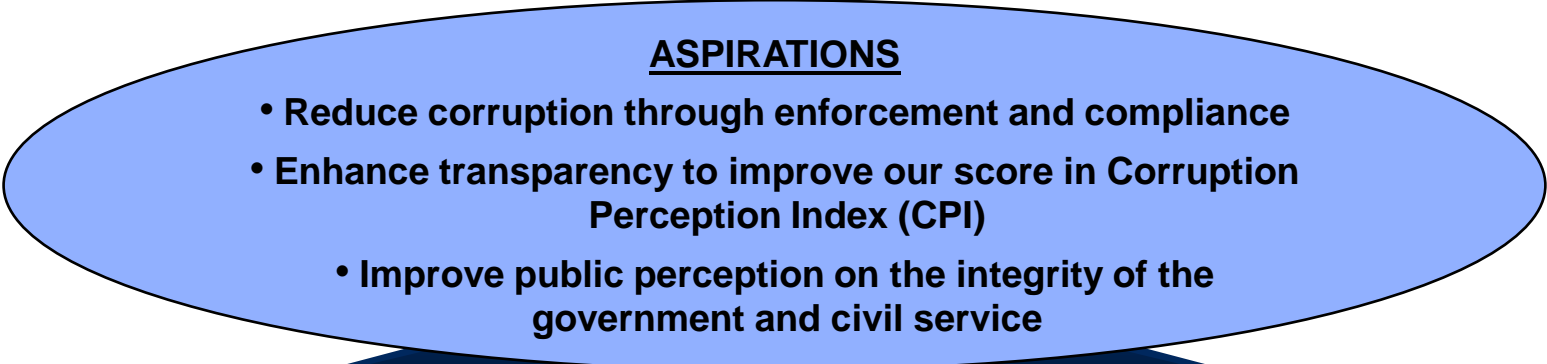
7 National Key Results Areas (NKRAs):

- Reducing Crime
- **Fighting Corruption**
- Improving Students Outcomes
- Raising Living Standards of Low-Income Household
- Improving Rural Basic Infrastructure
- Improving Urban Public Transport
- Addressing Cost of Living



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To achieve our aspirations, we need to address three key corruption areas and strengthen the institutional framework



CORRUPTION = POWER + DISCRETION – ACCOUNTABILITY – TRANSPARENCY

Sub N-KRAs

<p>▪ <u>GRAND CORRUPTION</u></p> <ul style="list-style-type: none"> – Prevent the abuse of power and public resources by politicians and senior civil servants – Enhance the delivery of justice against corruption 	<p>▪ <u>GOVERNMENT PROCUREMENT</u></p> <ul style="list-style-type: none"> – Reduce leakage in the funds allocated for national development and operations – Ensure fairness in the award of contracts 	<p>▪ <u>REGULATORY AND ENFORCEMENT AGENCIES</u></p> <ul style="list-style-type: none"> – Regain public confidence in our enforcement agencies – Enhance competitiveness of Malaysia as a place to do business
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Our anti-corruption reform effort is guided by a top-down and a bottom-up framework

Top Down Framework



- Strong commitment and message from our leaders - **'Zero Tolerance' for corruption**
 - **No political interference** in public administration and perverting the course of justice
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- **Checks and balances to uphold independence** of judiciary, legal and law enforcement institutions
-
- **Efficiency and effectiveness** of law enforcement agencies
 - **Transparency and accountability** in public administrations, politics and the business sector

Bottom Up Framework



- Allow **access to information** to promote public scrutiny
 - Increase awareness of the **rights of Rakyat**
 - Provide **channel** for Rakyat's voice
-
- Comprehensive and robust systems and processes to ensure **check and balance**
 - Institutionalise culture of excellence and integrity
-
- **Strong voice** from Rakyat to endorse leaders who drive positive change
 - Serve as **watchdog** to ensure governance
 - **Report** corrupt practices, and assist investigations

Regulatory and Enforcement Initiatives



	Issues	Prioritised Initiatives	Other Initiatives
DISCRETION & BUREAUCRACY	<ul style="list-style-type: none"> ▪ Manual procedures and discretionary interfaces which provide opportunities for corruption ▪ Lengthy processes and unnecessary regulations 	<ul style="list-style-type: none"> • Hot-job rotation 	<ul style="list-style-type: none"> • Reduce discretion through automation e.g. automatic traffic enforcement system <hr style="border-top: 1px dashed black;"/> <ul style="list-style-type: none"> • Reduce red tape / bureaucracy
COMPLIANCE	<ul style="list-style-type: none"> ▪ Low probability of getting caught ▪ Lack of accountability on decision makers 	<ul style="list-style-type: none"> • Strengthen compliance unit to allow early detection of all types of malpractice, misconduct and abuse of power <hr style="border-top: 1px dashed black;"/> <ul style="list-style-type: none"> • Publish performance league table for PBT 	<ul style="list-style-type: none"> • Accountability in the conduct of PBT officers and allow transferability of officers across local authorities.
TRANSPARENCY	<ul style="list-style-type: none"> ▪ Lack of transparency with regards to management of confiscated goods ▪ Lack of public awareness of work processes 		<ul style="list-style-type: none"> • Central body to manage and dispose confiscated assets that will allow preservation of value and provide revenue to the Government <hr style="border-top: 1px dashed black;"/> <ul style="list-style-type: none"> • Public awareness on Govt service levels, procedures and laws to reduce middle man from taking advantage

Government Procurement Initiatives



	Issues	Prioritised Initiatives	Other Initiatives
GOVERNANCE & PROCESSES	<ul style="list-style-type: none"> • Circumvention of procurement process due to interference by highly influential individuals • Price escalation due to weak market intelligence / benchmarking of price 	<ul style="list-style-type: none"> • Clear parameter definition of “support letter” that it cannot circumvent due process 	<ul style="list-style-type: none"> • Tighten price negotiation process • Develop a reference price database <hr style="border-top: 1px dashed black;"/> <ul style="list-style-type: none"> • Set clear guidelines for Privatisation processes, developing masterplan and publishing a 2-year rolling plan
CAPABILITY & COMPLIANCE	<ul style="list-style-type: none"> • Poor contract management and compliance due to lack of capabilities and manpower 	<ul style="list-style-type: none"> • Systematic and continuous training plan (incl. fraud detection) for procurement staff as well as senior and enforcement officers (e.g. Audit, SPRM) 	<ul style="list-style-type: none"> • Enhance technical capability and establish mini Standard and Cost Committee at every ministry to ensure proper planning and implementation of procurement activities
TRANSPARENCY	<ul style="list-style-type: none"> • Negative perception of procurement process due to lack of information dissemination 	<ul style="list-style-type: none"> • Disclose at Virtual Procurement One Stop Centre <ul style="list-style-type: none"> – List of annual planned – Awarded procurement – Relevant procurement processes 	<ul style="list-style-type: none"> • Integrity Pact between Government and Vendors/ Suppliers to ensure all parties adhere strictly to code of conduct and show case a selected high profile project by inviting an independent party to monitor the implementation of the project

Grand Corruption (Political Corruption) Initiatives



Issues

Prioritised Initiatives

Other Initiatives

TRANSPARENCY

- Lack of transparency in political funding
- Perception that Government allocations are being abused by politicians
- Political parties are too reliant on funding from private sources

- **An impact analysis study on political funding on**
 - Disclosure of political donations and spending
 - Cap on political contributions
 - Supplementary public funding to reduce reliance on private sources of funding

-
- **Disclose the disbursement and audit the spending of Government allocation to the MPs**

ACCOUNTABILITY

- Interference from politicians/ political appointees on the civil service
- Appointment of political appointees are done without proper guidelines and monitoring

- **Segregation of duty between KSUs and Ministers through clear guidelines and job scopes and publicising Code of Ethics to ensure that Ministers do not overstep their limit of power / authority**

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- **Limit and formalise political appointees in Ministers' office with clear roles and responsibilities**

Grand Corruption (Broader Framework) Initiatives



	Issues	Prioritised Initiatives	Other Initiatives
PROSECUTION & PUNISHMENT	<ul style="list-style-type: none"> Lengthy trial hampers delivery of justice and results in lower conviction rate Punishments meted out are not proportionate to the severity of the crime Perceived lack of transparency in the prosecution of corruption cases 	<ul style="list-style-type: none"> Prosecution of corruption cases within 1 year <ul style="list-style-type: none"> Strengthen witness statement recording Increase the number of special courts for corruption and DPPs Stiffer punishment e.g. impose a minimum jail sentence Publish name and details of offenders convicted of corruption for 3 years 	<ul style="list-style-type: none"> Making the MACC's Director of Legal and Prosecution's position an open (outside AG Chambers) post and contractual basis for more transparency
PUBLIC & MEDIA	<ul style="list-style-type: none"> No proper protection for whistleblowers Mainstream media is perceived to be bias 	<ul style="list-style-type: none"> Whistleblower Protection Framework that covers implementing agency, types of protection, and awareness campaign 	<ul style="list-style-type: none"> Increase credibility and integrity of the media by reviewing existing laws and a feasibility study to enact a Freedom of Information Act
CIVIL SERVICE INTEGRITY	<ul style="list-style-type: none"> Lack of incentives to encourage civil servants to assist in corruption cases Asset declaration are not properly managed and monitored 	<ul style="list-style-type: none"> Reward and recognition for civil servants who provide assistance in corruption cases 	<ul style="list-style-type: none"> Centralised database for civil servant to declare asset and debt, which is accessible by MACC to investigate officers that are living beyond their means

2012 NKPIs Achievement

KPI	2011 Actual	2012 Target	2012 Actual	% target achieved
1.1 Transparency International (TI) Corruption Perception Index (CPI) Score.	4.3	4.9	*Measured annually	NA
1.2 Transparency International Global Corruption Barometer Survey on government actions to fight corruption.	48%	52%	*Measured annually	NA
1.3 Number of Ministries scoring above 90% on Procurement Accountability Index.	18	25	*Measured annually	NA
1.4 Percentage (%) of government procurement with Integrity Pact.	77%	100%	94.5%	95
1.5 Percentage of EPP stakeholders announced have signed up to Corporate Integrity Pledge (CIP).	64%	100%	3%	3
1.6 Number of arrest cases brought to trial.	23.7%	25%	50.4%	201.6

2012 NKPIs Achievement

KPI	2011 Actual	2012 Target	2012 Actual	% target achieved
1.7 Number of summons settled vs. number of summons issued by JPJ.	49%	60%	58.48	98
1.8 Number of summons issued vs. total hours of operations (PDRM Traffic).	12.41	13	20.96	161
1.9 Whistleblower protection awareness and satisfaction survey result.	New KPI	50%	NA	NA
1.10 Percentage (%) of completion of compliance unit activities.	99%	85%	*Measured quarterly	NA
1.11 TNS perception survey on how much enforcement agencies are perceived to be affected by corruption.	2.9	2.75	NA	NA
1.12 Percentage of trials completed within a year.	58.73%	70%	54.6	78
1.13 Number of people in the database of convicted offenders.	496	300	169	56
1.14 Full fledged implementation of the Political Funding initiative which includes funds being credited directly into party accounts, properly recorded and able to be audited.	New KPI	100%	NA	NA
1.15 Start reporting corruption related Whistleblower cases	New KPI	100%	MACC – 14; JPJ – 1 SSM - 1	100

GTP 2 – Government Transformation Programme (NKRA 2) 2013-2015



Enforcement Agency

1. Special Committee on Corruption to answer questions concerning MACC Annual Report in Parliament
2. Executive Review Committee in MACC
3. Transformation of MACC
4. *Monitor compliance unit **
5. *Monitor 'name and shame' **
6. *Corporate Integrity System Malaysia (CISM) **
7. Streamline oversight committees



Grand Corruption

8. Engagement with judges
9. *Complete prosecution of corruption cases within 1 year **
10. *Improve political financing governance framework **
11. Insertion of Corporate Liability Provision into MACC Act



Government Procurement

12. Fast-tracking access to AG Performance Audit Report for immediate action
13. Action Committee on AG report
14. Auditor General's online dashboard
15. Putrajaya Inquisition
16. *Implementation of comprehensive integrity pact for PPP projects **
17. *Upgrading MyProcurement and integration with related procurement portals **
18. Guidelines for middle-men/lobbyist

* GTP 1.0

Requires budget



Education and Public Support



19. Setting up of Corruption Prevention Secretariat in Teacher's Training College
20. Training of MPs
21. Incorporate anti-corruption element in textbooks in primary and secondary schools



Technical Assistance and
Information Exchange



6th IAACA ANNUAL CONFERENCE AND GENERAL MEETING 2012

International Association of Anti Corruption
Authorities (IAACA) Annual Conference and
General Meeting

4th – 7th October 2012

Kuala Lumpur, Malaysia

For more information, please log on to

www.sprm.gov.my

www.iaaca.org

Kuala Lumpur Convention Centre (KLCC)

THANK YOU

Technical Assistance and
Information Exchange

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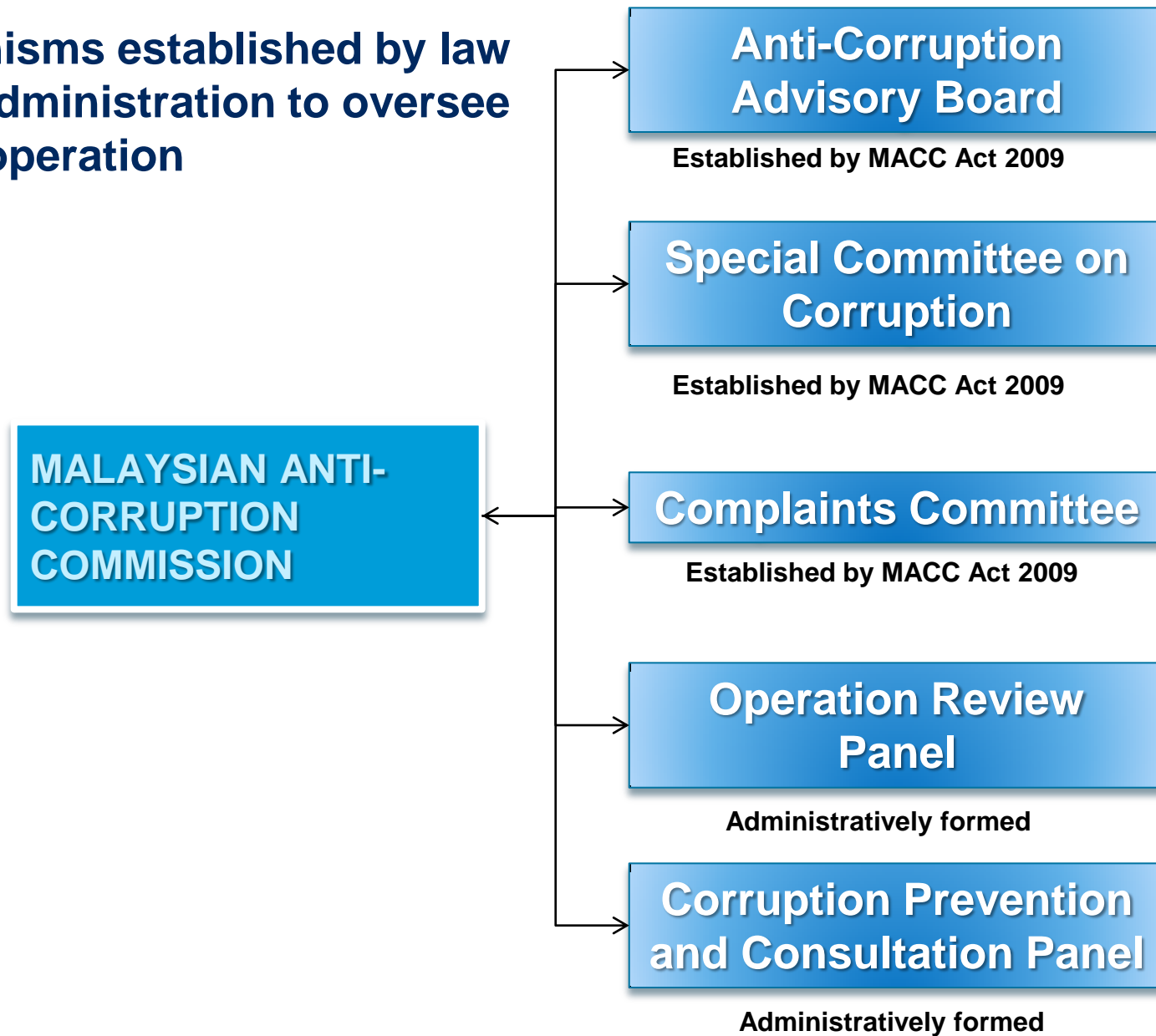
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Putrajaya at night

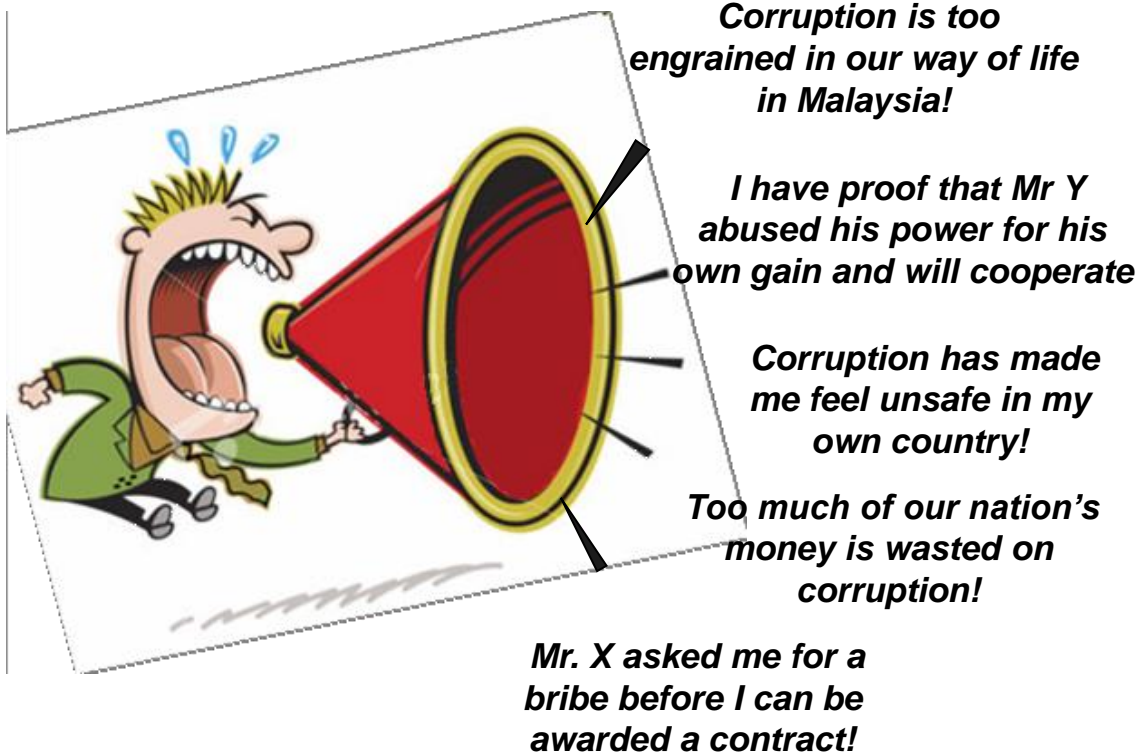


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The Rakyat has the responsibility to be part of the solution to eradicate corruption by continuously voicing out issues to the media and reporting valid cases to MACC



How the voice of the Rakyat will contribute to eradicating corruption in Malaysia:

- Highlights the need for **strong political will** to ensure that the battle against corruption can be successful
- Reaffirms the need for action to be taken by our leaders to **maintain the trust of the Rakyat**
- Provides strong realisation that the Rakyat acts as the **check and balance** for those elected to power

“The world is a dangerous place, not because of those who do evil, but because of those who look on and do nothing” – Albert Einstein

Anti-Corruption Advisory Board Terms of Reference

1. To advise the Commission on any aspect of the corruption problem in Malaysia;
2. To advise the Commission on policies and strategies of the Commission in its efforts to eradicate corruption;
3. To receive, scrutinize and endorse proposals from the Commission towards the efficient and effective running of the Commission;
4. To scrutinize and endorse resource needs of the Commission to ensure its effectiveness;
5. To scrutinize the annual report of the Commission before its submission to the Special Committee on Corruption; and

6. To submit its comments to the Special Committee on Corruption as to the exercise by the Commission of its functions under this Act.



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Special Committee on Corruption Terms of Reference

1. To advise the Prime Minister on any aspect of the corruption problem in Malaysia;
2. To examine the annual report of the Commission;
3. To examine the comments of the Anti-Corruption Advisory Board as to the exercise by the Commission of its functions under this Act; and
4. To seek clarifications and explanations on the annual report of the Commission and the comments of the Anti-Corruption Advisory Board.



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Complaints Committee Terms of Reference

1. To monitor the handling by the Commission of complaints of misconduct which is non-criminal in nature against officers of the Commission; and
2. To identify any weaknesses in the work procedures of the Commission which might lead to complaints and where it considers appropriate to make such recommendations as to the work procedures of the Commission as it deems fit.



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Operations Review Panel Terms of Reference

1. To receive and seek clarification regarding statistics of Investigation Papers opened by the Commission;
2. To receive and scrutinize report from the Commission regarding Investigation Papers which exceed 12 months period of investigation;
3. To receive report from the Commission regarding all cases where suspects arrested are released on bail bond by the Commission exceeding 6 months;
4. To receive and scrutinize report from the Commission regarding the decisions of Investigation Papers made by Public Prosecutor;
5. To receive and scrutinize report from the Commission regarding Investigation Papers submitted to Public Prosecutor in which no decisions were obtained exceeding 6 months and above;



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Operations Review Panel Terms of Reference (Cont)

6. To present its views regarding actions upon cases where no charges are preferred;
7. To advise and assist the Commission on the effectiveness of its investigation operations;
8. To scrutinize, study and endorse on the proposal to enhance the effectiveness of the Commission investigation operations to the Anti-Corruption Advisory Board; and
9. To submit an annual report and the ORP comments to the Prime Minister on the progress of the Commission investigation operations.



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Consultation and Corruption Prevention Panel

Terms of Reference

1. To scrutinize and endorse to the Commission the priority areas on practices, systems and work procedures in public and private sectors which may be conducive to the widespread of corruption;
2. To scrutinize and improve the report prepared by the Commission regarding the endorsement to eradicate corruption from spreading in both public and private sectors;
3. To create and legislate the best practices in focus areas from time to time;
4. To advise the Commission regarding the implementation of information program and community relationship as well as campaigns towards enhancing the awareness on corruption and to garner their support;



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5. To scrutinize the effectiveness of information program and community relationship as well as campaigns carried out by the Commission and to endorse the improvement proposal;
6. To monitor from time-to-time the attitude and general perception of public towards corruption and efforts carried out by the Commission;
7. To assist the Commission as the key communicator in garnering public support; the media and sectors that are being identified towards the prevention efforts implemented by the Commission;
8. To scrutinize, study and endorse on the proposal to enhance the effectiveness of the corruption prevention efforts by the Commission to the Anti-Corruption Advisory Board; and
9. To submit an annual report and the CCPP comments to the Prime Minister on the achievement of activities and programs which have been implemented by the Commission.



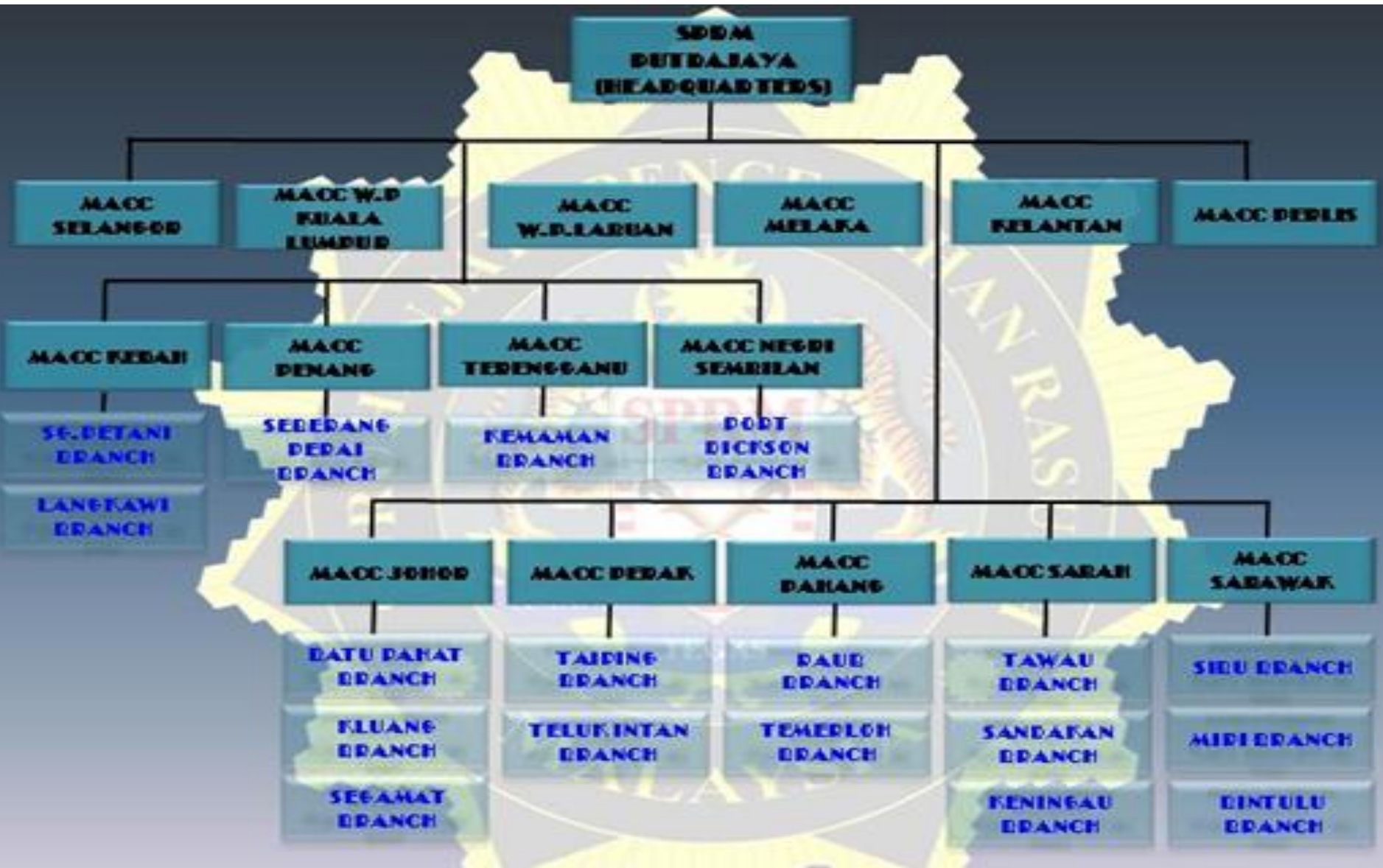
Headquarters Organisation Chart



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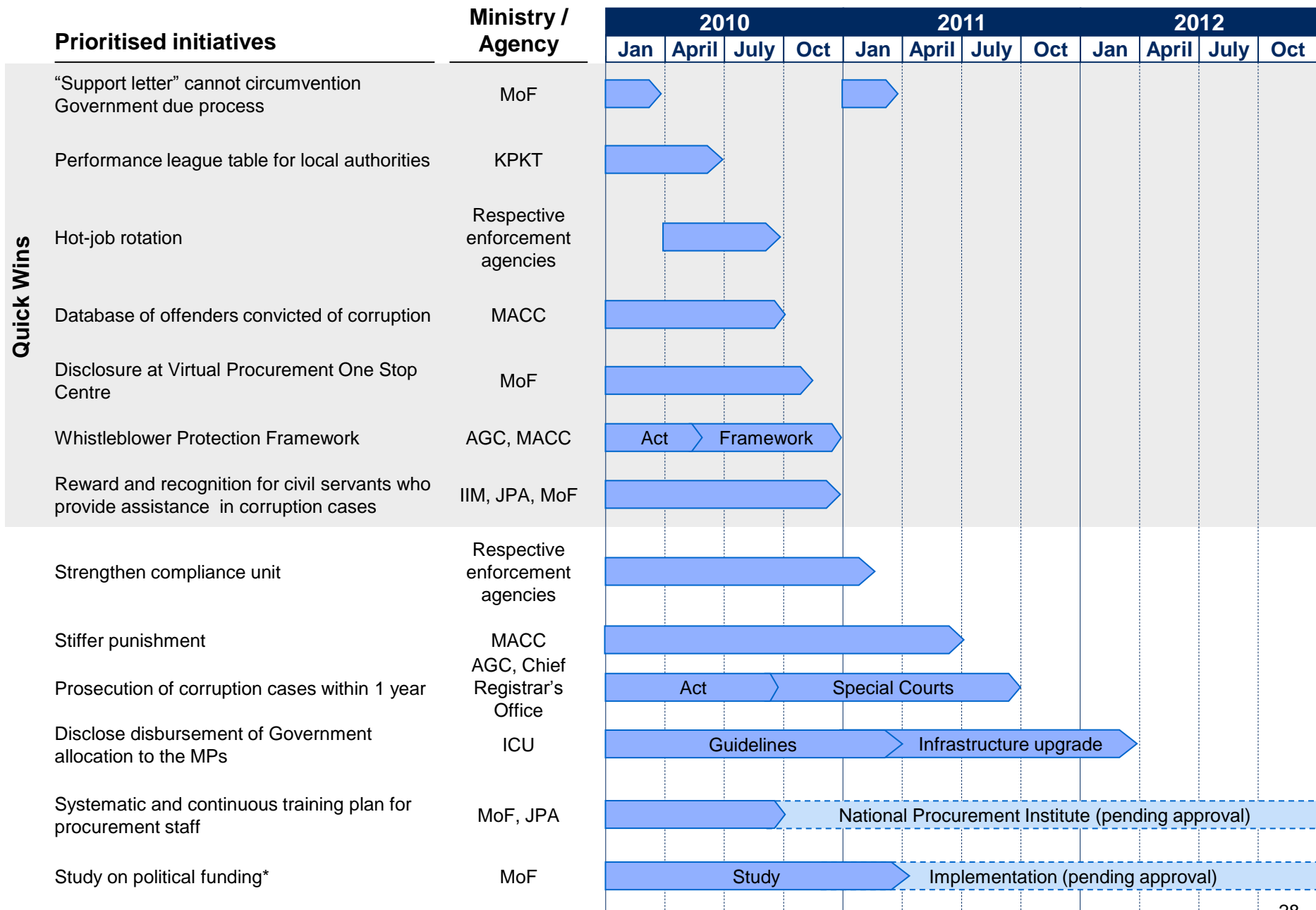


MACC State Organisation Chart



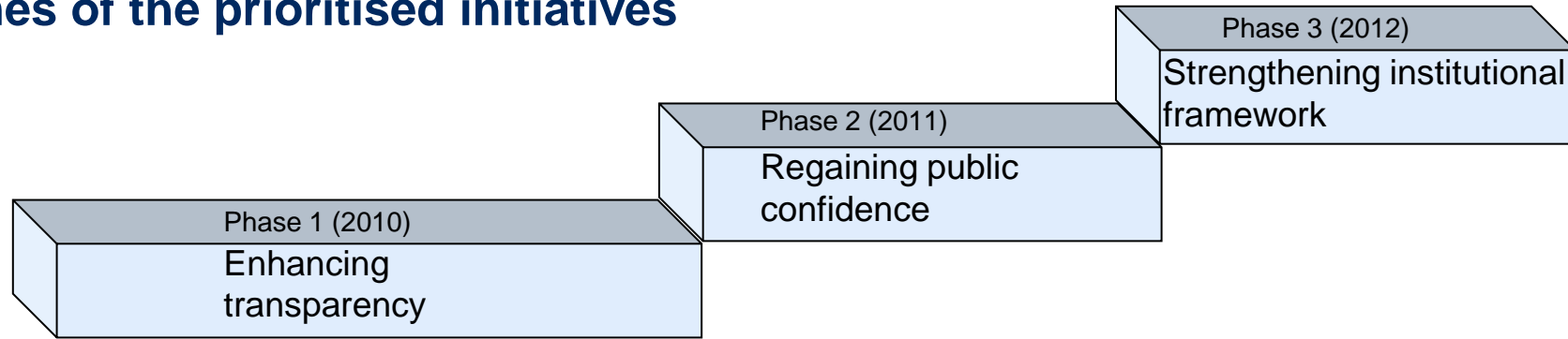
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High Level Implementation Timeline



* More detailed study to be conducted before this initiative can be considered for implementation

Outcomes of the prioritised initiatives



Regulatory & Enforcement

- Hot Job rotation system established and implemented
- Compliance unit framework rolled out in all relevant agencies / ministries
- Enhanced PBT performance ranking system rolled out

Government Procurement

- Directives on no circumvention of Govt procurement process circulated
- Directives on the elimination of support letters circulated
- Disclosure of planned and awarded procurement at e-Government and ministries' web portal
- Comprehensive procurement training programme rolled out

Grand Corruption

- Whistleblower Protection Law enacted
- Study on political funding completed
- An Act to prosecute corruption cases within 1 year enacted
- Guidelines on how MPs allocation can be spent
- Database of offenders convicted of corruption made public
- Committee to monitor new special courts for corruption formed
- Agency tasked with whistleblower protection fully empowered
- MACC Act to impose stiffer punishment amended
- Reward and recognition scheme for civil servants rolled out
- Report on independence of key institutions completed
- Disclosure of MPs allocation (amount allocated and resulting expenditures)