PUBLIC-PRIVATE SECTOR COLLABORATION FOR IMPROVING THE BUSINESS ENVIRONMENT IN MALAYSIA
Preface

The International Trade Centre (ITC) is the joint technical cooperation agency of the United Nations and the World Trade Organisation (WTO). ITC supports policy-makers in developing and transition economies to integrate the business sector into the global economy for export success.

To achieve this, ITC promotes business advocacy to ensure that business priorities are integrated into national trade policies, and that the needs of business, especially small and medium-sized enterprises (SMEs), are taken into consideration in the process of trade policy formulation and in negotiation of international trade agreements. Linking the business sector, through their representative trade support institutions, to policy-makers is a key factor for the promotion of a conducive business environment.

Public-private partnerships offer a mechanism that enables private sector groups and business associations to play a greater advocacy role in policy formulation and implementation.

This case study showcases Malaysia’s success in public-private collaboration for improving the business improvement. The case study highlights the importance of shared vision of the public and the private sectors in achieving the goal of national development. It also identifies critical factors for success especially the respective roles and responsibilities of the public and private sectors that contributed to developing mutual trust amongst the stakeholders while working to achieve their common goal.

This case study presents a comprehensive package that may assist other countries undertake similar initiatives.
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Trade is the engine of economic growth in Malaysia

Trade is the lifeline of the Malaysian economy. This is reflected in the high rates of external trade to Malaysia’s Gross Domestic Product (GDP). In 2009 trade accounted for about 180 % of the GDP.

The importance of trade in the Malaysian economy has made it imperative for the Government to provide for an environment that is conducive to doing business. Recognising that the traders’ ability to move goods across borders rapidly, reliably and cost effectively leads to enhanced export competitiveness, Malaysia has taken concrete steps, over the last three decades, to evolve and implement various trade facilitation initiatives particularly in the area of customs policies, legislations, procedures and practices.

Public-private sector collaboration: ‘Malaysia Incorporated Concept’

Recognising the growing and important role of the private sector in an export led economic growth, the Malaysian Government decided that it was crucial to view the private sector as an important partner of the public sector in achieving economic growth and prosperity. Towards this end, in February 1983, the Government introduced the “Malaysia Incorporated Concept” as part of its overall strategy to underpin a new and enhanced relationship between the Government and the private sector. This was an evolution over the then prevailing system of ad-hoc and informal consultations between the Government and the business community. The Malaysia Incorporated Concept institutionalized the use of public-private sector collaboration to enable both parties to strive cooperatively towards national development.

The fundamental basis of the Malaysia Incorporated Concept is that successful national development required the public and private sectors to adhere to the view that the nation is a corporate or business entity, jointly owned by both sectors and working in pursuit of shared goals. The resulting benefits of that cooperation, from the private sectors’ perspective means a higher level of profit leading to spin-offs in economic investment expansion and growth. The Government’s interest in the success of the Malaysian Corporation lies in the generation of employment opportunities, economic development and increasing revenue, which is channelled to fuel socio-economic development of the nation.

The introduction of the Malaysia Incorporated Concept has effaced the perception of dichotomy between the roles of the public and private sectors. In the past, this dichotomy had generated conflict between the two sectors. The public sector, entrusted with specific powers to safeguard public interest, has long emphasized its regulatory role over the conduct and activities of the private sector. Under the Malaysia Incorporated Concept, the public sector was required to redefine its role in relation to business activities and to embark on new approaches to facilitating the private sector’s role in spearheading economic development.

The public sector’s response to the Malaysia Incorporated Concept was to promptly establish the structural mechanisms necessary for the public-private sector consultation process. The Government of Malaysia has issued several directives to infuse new life into these institutional structures. The directive sets guidelines for facilitating public-private sector cooperation and consultation through the following measures:

a) Establishment of Consultative Panels in each Ministry/Department/Office at Federal State and district levels;
b) Designation of Secretaries General/ Directors General/ State Secretaries/ District Officers as chairman of the Consultative Panels, with membership comprising representatives from both the public and private sectors;

c) Organisation of regular meetings as well as an Annual Dialogue Sessions with private sector.

d) Identification of the Secretariat for the Consultative Panels in each agency and designation of an official to liaise with members from the private sector; and

e) The follow up and follow through actions on matters discussed and decided upon at Consultative Panel meetings.

The terms of reference of the Consultative Panels established under this initiative include simplification of rules, regulations and procedures related to the activities of the public sector, preparation of guidebooks to facilitate understanding of rules, regulations and procedures; transparent decision making process and reducing discretionary powers; and the timely delivery of government services to the private sector.

The Government demonstrated strong commitment to the public-private collaboration

In the early years it took some time for government departments and agencies to work closely with the private sector. The new approach was not part of their work culture. Moreover, the policy was not well understood and valued for its inherent benefits. Hence it did not elicit the appropriate responses from both the public and private sectors. They were less frank and candid in their outlook. However, with greater appreciation of the need for close cooperation, the environment has improved over the years.

Strong commitment and conscious efforts made by the political leadership and senior civil service officials to encourage consultative panels to invigorate their activities have substantially contributed to the effective operationalisation of the Malaysia Incorporated Concept. They exhorted public servants to deliver high quality services and increase their interaction with the private sector. This was further complemented by specific measures to intensify training of the middle and lower level functionaries of the Government to enhance their understanding of the Malaysia Incorporated Concept and bring about a change in their mindset and attitude. Further, the planned, coordinated and coherent manner in which the Government went about implementing the policy also contributed to its success.

Private sector’s pro-active role contributed to the success of public-private collaboration

The private sector on its part, recognizing the benefits of such a working relationship was also very forthcoming in supporting the initiative. The proactive role played by the Federation of Malaysian Manufacturers (FMM1), an umbrella organisation of the manufacturing sector in providing critical feedback and inputs to the Government on policy as well as operational issues is particularly noteworthy. Furthermore, FMM has provided an effective platform for the private sector for sectoral consensus building and networking based on consultation among its own members. FMM’s organizational and financial strength and the attention given to professional development of its staff members contributed immensely to their success in making full use of the forum provided by the Malaysia Incorporated Concept.

1 FMM’s membership accounts for about 20 per cent of the companies engaged in the manufacturing sector in Malaysia. Generally, they are big companies which account for about 75 per cent of country’s industrial output.
Organisational Strength

FMM, through its network of industry and focus working groups garners the industry’s views, identifies the concerns, conducts analysis, reconciles different interests and initiates appropriate follow-up action with the Government. It has emerged as the main interlocutor with the Government through their active representation in Government committees and panels.

The FMM which was formed in July 1968, has grown from a small organisation of six staff members with 215 member companies to currently over 2300 members serviced by 100 full time staff. The Malaysia Incorporated Concept gave a fillip to the activities of FMM. With only three Branches in 1968, the FMM has today seven Branch Offices and two Representative Offices at the state level. The scope of issues covered has also expanded from four working committees to seventeen. Participation in Government decision making also increased from representation in 14 committees to representation in nearly 200 councils, committees, boards and consultative panels at federal, state and district levels and more than 50 standards committees that draw Malaysian Industry Standards. The FMM is also represented in all the WTO Working Groups at the Ministry of International Trade and Industry, and works closely with the Government in formulating industry position particularly on trade facilitation, non-agricultural market access and protecting the industries’ interests on issues such as anti dumping, rules of origin, technical barriers to trade.

FMM undertakes policy advocacy through its representation in the public-private consultative bodies constituted under the Malaysia Incorporated Concept. For example, at the Federal Level, FMM is represented in several important bodies/committees including the High Level Public/Private Sector Task Force to Facilitate Business (PEMUDAH) and Inter-Agency Planning Groups. At the State Level, FMM is represented in State Consultative Panel Committees and Customs Liaison Committees to name but a few. FMM was able to play its role effectively due to the dedication of an experienced group of industry captains who are appointed to serve in the various industry groups committees as well and the Council which is the highest policy and decision making level within the organization. The industry captains are in turn supported by FMM’s professional staff.

Financial strength

Membership subscription contributes to approximately 50% of the operations of FMM. The annual membership subscription is based on the paid up capital of the company and ranges between RM900-RM6,000 (US$1,950- US$2,900). Other income generating areas that contribute to the running of the operations of FMM include seminars, training programmes and exhibitions, subscription to GSI2, sales of trade forms and endorsement of Certificate of Origin and sales of advertisements in the FMM Directory.

FMM’s Professional Development Programme

To facilitate the staff to discharge their duties and responsibilities diligently and professionally, capacity building programmes are provided to all FMM staff on a regular basis through the following:

a) Training programmes organized by the FMM Institute, which is a subsidiary of FMM. The training programmes cater to all levels of staff and range from supervisory skills to the IT programmes and development of managerial and management skills. Customised

2 Enterprises adopt GS1 global standards to improve efficiency of their business processes. The core GS1 products of barcode, e-commerce, global data, synchronization network (GDSN) provide the necessary tools and technologies for industries to derive maximum efficiency.
programmes eg on ISO 9000, Developing Marketing Skills are also organized specially for selected staff to improve their knowledge on these areas.

b) International programmes offered by reputable international organizations such as International Trade Centre, International Chambers of Commerce, Korea Trade Centre, etc. Some of the programmes participated by the FMM staff include International Investment Promotion Programme in Madrid, Forum for East Asia-Latin America Cooperation in Tokyo, ADB Capacity Building Workshop on Trade Policy Issues in Singapore, US Government International Visitor Programme on Trade and the World Economy in US, etc.

c) Exchange programmes with international organizations such as the Japan External Trade Organisation (JETRO).

d) Participation in training programmes organized by local organizations such as ASLI, Malaysian Institute of Management, Foreign Missions in Kuala Lumpur, Ministries and its agencies and chambers of commerce in Malaysia

e) On-the-job training e.g. participation in meetings with government departments/agencies, servicing of working committees, etc.

Taking positions by reconciling different interests

FMM has set up 26 Industry Groups to facilitate formulation of its internal positions. These Industry Groups were established to represent the interest of members in specific industry sectors and promote cooperation among them. The Industry Groups have assumed a proactive role in providing various proposals and recommendations on all major issues affecting the economy, particularly those that would improve the business environment and Malaysian competitiveness.

The Industry Groups have also played an important role in reconciling inter-industry differences which contributed to taking a common position on specific policy issues. In situations where there is a need to reconcile the interindustry differences, Special Working Groups/Task Forces are created within the FMM to deliberate and evaluate the implications of these issues on competing sectors. These Working Groups/Task Forces comprise individuals from the relevant Industry Groups. In some situations, wherever there is a need, representatives from other relevant industry associations and chambers of commerce are also invited to participate to obtain broader representation of interests.

The proposals/recommendations resulting from the deliberations are brought to the consideration of the FMM Council. The Council decision on the common policies to be adopted by the manufacturing sector as a whole is often adhered to as it generally reflects the interest of the membership as a whole.

Reaching out to membership at large

The FMM extends a range of services to its members, apart from providing the necessary inputs to the government through the various dialogues and participation by FMM’s nominated representatives in the numerous committees and task forces. These include dissemination of information through electronic media via FMM Net, conducting training programmes of particular relevance to manufacturing industry and the introduction of product numbering system through GS1.

The FMM actively communicates, for example, the latest developments related to trade policy to its members. The progress of negotiations in WTO, FTAs, etc is reported to members via industry briefings, weekly circulars, and updates on the website, etc. The FMM regularly organizes briefings.
and seminars by policy makers to enhance understanding of policy rationale and its ramifications, provide opportunity for industry members to interact with policy makers in a transparent manner and provide a channel for policy makers to receive feedback from industry on trade policy issues. The FMM also regularly updates members on dumping and safeguard allegations, investigations and determinations by and against Malaysian industries through its weekly circulars and website. Newsletters and weekly circulars, which are widely regarded as a unique source of business intelligence, carry information on latest policy developments. Through communication channels such as weekly e-mails alerts and circulars, FMM also regularly solicits feedback from members on specific issues such as proposed WTO rules on trade facilitation, proposed provision of Emergency Safeguard Measures etc. This information is used for their relevant advocacy activities with the Government. Updates on technical regulations and SPS measures received from the WTO Technical Barriers to Trade (TBT) and Sanitary and Phytosanitary (SPS) Enquiry Points are also communicated to the relevant members via e-mails and circulars.

Public-private sector collaboration scaled new heights

In February 2007 there was a notable development in the public-private sector partnership consultative mechanism. The Government announced the establishment of the Special Task Force to Facilitate Business or PEMUDAH as it is now known to carry the spirit of Malaysia Incorporated, to a much higher level than in the past.

Public-private sector consultative process

Note:
Private sector entities can channel their issues direct either to Ministries and Agencies or PEMUDAH whichever is deemed appropriate by them.

Generally, across the board issues which involve several Ministries/Agencies are coordinated by FMM and jointly articulated as private sector common position at the PEMUDAH level.

Key:
...... Dotted line indicates that FMM and other industry associations can also channel their issues direct to PEMUDAH.

Reflecting the close working relationship between the public and private sectors, PEMUDAH is co-chaired by the Chief Secretary to the Government of Malaysia and the past President of the Federation of Malaysian Manufacturers (FMM). The concept of co-chairmanship goes beyond the earlier arrangement of such forums being exclusively chaired by the public sector officials. This reflects a still higher commitment on the part of the government to co-opt the private sector as an equal partner.
Furthermore, PEMUDAH has also been assigned a monitoring responsibility to ensure that reforms which are implemented are sustained and are embedded in the public delivery system. The PEMUDAH model is intended to take public-private collaboration beyond mere dialogues that often achieve no more than airing issues of concern.

The mandate of PEMUDAH goes beyond looking at simplification of rules, regulations and procedures and enhancing transparency to discussing policy issues for improving Malaysian business environment. A Permanent Secretariat has been established to provide back-up support and to monitor the progress of implementation of decisions of the Task Force.

PEMUDAH has two working groups on: (i) Efficiency related issues; and (ii) Policy issues to look into the efficiency of the public delivery system and government policies impacting business respectively. These working groups are in turn supported by various task forces looking into specific issues which require focused attention.

Since its inception in 2007, the PEMUDAH has leveraged the enhanced public-private sector collaboration and have successfully implemented initiatives and measures on many fronts. These have significantly improved the operating environment for business and enhanced national competitiveness.

All Ministries and Agencies involved in trade related issues are required to undertake industry consultations on a regular basis to promote trade and investment facilitation. In addition, at the national level, annual consultations between the Government Agencies and private sector organizations and industry associations are held to discuss trade-related issues. For example, the annual dialogue of the Ministry of International Trade and Industry (MITI) which is chaired by the Minister provides an opportunity for corporate leaders and industry associations for improving trade and business environment in the country.

Recently, FMM played a key role in the implementation of the International Standards on Phytosanitary Measures No. 15 (ISPM15) by the Malaysian industry as stipulated by Australia and New Zealand, two countries where Malaysian industries have strong export interest. FMM submitted petitions to the Department of Agriculture and organised many consultation sessions for the industry to influence the Government to accredit more fumigators to carry out the fumigation of wood packaging materials. In order to reduce the cost burden of exporters, the FMM lobbied with the Pest Control Association of Malaysia to reduce the cost of fumigation. Another achievement was the FMM’s success in convincing the Government to remove barriers to market entry as the country’s industrialisation process has strengthened. FMM is also actively involved in the policy making process by influencing the government to provide the industry with the opportunity to review confidential drafts of new laws, amendments and policy guidelines.

Similarly, Malaysian Customs has also established the Customs-Private Sector Consultative Panel which meets twice a year. Consultative panels have also been established at state levels, which hold meetings on a regular basis, apart from having the “Meet the Clients Day” for two days in a month.

FMM – Customs Department Advisory Committee has been established specifically to resolve matters pertaining to the manufacturing sector’s dealings with the Customs Department. FMM organized several seminars for the business community to enable them to have a better understanding of the customs regulations, guidelines and rules such as valuations, tariff...
The proposals made by the private sector representatives are then discussed and evaluated by the relevant Government Ministries. The concerned Ministry then takes these issues to the meetings of the PEMUDAH, which are held in attendance of various Ministries and Agencies with the authority to make decisions pertaining to those issues. The issues that require changes to policy, regulations and laws are required they are submitted to the Cabinet for consideration. Policy reforms as well as improvements to procedures and approaches are continuously monitored by respective Ministries and Government Agencies.

Public-private sector collaboration for affecting reforms is a continuous process

In responding to the challenges facing Malaysia in the rapidly evolving environment, the public-private sector partnership mechanisms, including PEMUDAH, are currently engaged in addressing the following issues.

i. Transparency, consistency and predictability of legislation and procedures.

The Customs Department has already developed a comprehensive website that contains information on import and export procedures and requirements. To ensure transparency of customs services it has been suggested that Customs should link their website not only with relevant agencies in Malaysia but also with other ASEAN members’ websites. Existing information in the website should be updated and enhanced to include Value Added information such as, tariff rates applicable across the ASEAN, determination of customs classifications, documents i.e. forms that can be downloaded etc. The introduction of the National Single Window and the ASEAN Single Window initiatives is expected to make this linkage possible.

To further enhance consistency, timeliness and predictability, it has been proposed that discretionary powers be reduced to a minimum, adequate information or briefing on procedures and rules be disseminated before implementation and standards of performance be identified wherever possible. These general principles would result in more efficient and speedier clearance, which would in turn facilitate the further expansion of Malaysian trade and its attractiveness as a destination for investment.

In addition, there remains a need for the Customs department to enhance knowledge about its customer friendly facilities as many businessmen are still not fully aware of the existence of such facilities.

ii. Improvements to the SMK-Dagang Net System

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3 SMK stands for Sistem Maklumat Kastam or Customs Information System whereas Dagang means Trade.
Malaysian trade facilitation project was named SMK-Dagang Net. It was established to provide electronic trade facilitation services to the logistics community with a view to linking import and export declaration processes electronically to the Customs authorities.

With a view to improving the efficiency and productivity of all ports, they would need to invest in computerization and establish a link with the SMK-Dagang Net System as well as computer integrated networks. However, several problems are still being encountered in the current SMK-Dagang Net system. They include:

a. Requirement for authentication

The implementation on SMK-Dagang Net does not entirely eliminate the requirement for paper-based documentation as some authorities still require authentication of certain documents including the requirement to produce official receipts while applying for tax incentives. Customs declarations, for instance, are still required to be manually submitted to authorities when applying for grant of import and export permits.

The business community is of the view that customs-related government agencies such as the Ministry of Finance, Ministry of International Trade and Industry and MIDA should collectively develop software programs to electronically link related customs data through SMK channel. This measure would certainly expedite customs clearance process, decrease port through-put time and reduction in cost of manufacturing respectively.

b. Telecommunication services

The implementation of SMK-Dagang Net System requires an improved and reliable telecommunication infrastructure and services, particularly the Internet services. Inefficient services and frequent system breakdowns cause delays and inconvenience to the users.

c. Lack of co-ordination among agencies

Lack of co-ordination exists among the main players including the Customs, seaports as well as airport authorities and banks. These agencies need to work on the reengineering and restructuring of their existing systems in-line with the requirement of the SMK process. Some agencies are reluctant or slow in responding to the required changes, hence affecting the efficiency of SMK-Dagang Net System.

d. Lack of co-operation among service providers

Delays often result from lack of co-operation among supporting service providers such as banks and inspection bodies. To reduce delays in inspection of certain goods, service providers such as pharmacists and chemists are required to provide 24 hours service. However, this facility has not been extended due to lack of human resources incurring additional costs which in turn has hampered the full implementation of the SMK-Dagang Net System.

e. Increased costs of support services
A major setback for manufacturers and traders is the increasing cost of support services in regard to shipping documentation such as Bill of Lading and Delivery Order, haulage charges, handling charges at the seaport and airport, and EDI tariff rates. It is imperative that the whole logistic supply chain is cost effective for traders and manufacturers to be competitive in the global trade. The Government should provide policy environment which supports competitive supply of support services to promote efficiency and cost effectiveness.

f. Harmonization and standardization of customs clearance procedures

FMM is of the view that in order to expedite customs clearance it is necessary to standardize and harmonize customs clearance measures across all ports in Malaysia. The measures that must be harmonized and standardized include:

- Customs should be consistent in applying the customs practices recognised by international trade and customs organisations such as the World Customs Organisation (WCO), and ensure that all Customs stations in Malaysia apply standard practices. Discrepancies between Customs stations or between Customs officers in classifying products by its codes should not occur. In the case of discrepancies payment of customs duties under protest by importers for the release of their goods should be permitted.

- The increased concern about global security could have an undesired impact on international trade. Customs should, therefore, consider minimizing the formalities in cargo clearance by adopting modern customs techniques such as risk management, targeting and profiling, to streamline existing clearance procedures and speed up the movement of cargo. The traditional approach of physical inspection of cargo in each transaction or pre-audit inspection should no longer be practiced. Other means of customs control such as post import audit as proposed in the WTO Agreement on Customs Valuation should be encouraged.

iii. Role of Customs in AFTA

The ASEAN Free Trade Area (AFTA) has created an integrated regional market of 500 million people with a combined GDP of more than RM2,800 billion (US$ 904 billion). By the time it is fully realised, businesses in the 10-member ASEAN would have access to a sizeable market with minimal or no tariffs.

Tariff reductions alone do not make a free trade area. The success of AFTA will depend on the simplification and harmonization of ASEAN customs procedures and the efficiency and transparency of ASEAN customs administration to enable smooth flow of goods in the region. Businesses need simple, transparent, harmonized customs controls that are honestly and consistently applied. In this context, it has been proposed that this Royal Customs Department to expedite clearance of goods, processing of essential information before the goods arrive at the frontiers, extension of customs working hours for Common Effective Preferential Tariff (CEPT) goods, usage of standard customs forms for all ASEAN member states and the elimination of pre-shipment inspections.

The business sector has highlighted the following areas where the Customs administration can further improve to enable all parties concerned to reap the benefits of AFTA.

- The need to expedite clearance of goods and to develop flexibility to handle unexpected early shipments.
- The need to standardize customs documentation and procedures
- The need to harmonize and simplify customs tariff codes
• The need to have same customs codes interpretations
• The need for more transparency and consistent decisions

iv. Greater participation of companies in e-commerce

Wherever feasible, broad bandwidth infrastructure must be made available at reasonable costs throughout the country especially in urban cities and industrial zones.

Still further improvements are required ...

The public-private sector collaborative mechanisms have contributed much to the ease of doing business in Malaysia. There have been continued improvements on many fronts, specifically in enhancing transparency and streamlining procedures and practices. Public-private sector consultations provided useful inputs during the review of the existing policies like the Distributive Trade Guidelines, Competition Policy, Government Procurement and Foreign Investment Committee Guidelines etc.

Trade facilitation is one area that has benefitted a lot from the public-private collaboration. Consultative Panel of Royal Customs Department comprising various Chambers and Industry organizations, freight forwarders as well as parties involved in the movement of goods in international trade has been a forum where frank exchange of views took place between the customs authorities and the traders, which enabled the Government to undertake appropriate reforms.

The discussions of issues pertaining to customs rules, licensing, import and export procedures documentation, congestion at ports, payments and the like has led to a better appreciation of business processes by Customs officials and better compliance with customs regulations by the trading community. The benefits of open, predictable and competitive business environment are reflected in the nations standing in the world trade and the high trade to overall GDP ratio (180%).

The public-private sector collaboration has worked well in the area of trade facilitation because Government has been receptive to the private sector’s criticism of the overall regulatory framework and existing administrative procedures. The Government has also worked in a cooperative manner with the private sector in formulating and implementing business friendly measures. The private sector on its part has been equally supportive of the efforts of the Government in undertaking reforms by providing a channel for dissemination of information which ensured buy-in of the stakeholders. It also engaged in informed advocacy with the Government which helped them to implement most relevant and effective policies and practices.

Overall, the active engagement as well as the pro-active participation of the relevant stakeholders including freight forwarders as well as parties involved in the movement of goods and international trade has been very useful. This had greatly helped in getting the necessary support for the successful implementation of reforms.

However, its role in bringing about policy and institutional changes has proved to be more challenging especially in politically sensitive areas. Nevertheless, it continues to play a major role in providing inputs to review of policies which directly impact on the cost of doing business and competitiveness of the national economy. At least, these efforts aimed at making changes to the policies have helped in
sensitising the political leaders to the need and importance of such changes for enhancing competitiveness of the Malaysian economy.

In sum, the work of PEMUDAH has led to improvements on many fronts. But more needs to be done particularly in the area of policy and institutional changes for moving the transformation process forward. In this context, efforts need to be intensified to change the mindset of all stakeholders.

In this context, the public-private sector partnership must therefore remain an integral part of the Malaysian Government’s overall policy and strategy to continually improve the public delivery system, enhance the business environment as well as export competitiveness. The continued important role of the public-private sectors collaboration particularly as embodied in PEMUDAH will need to be further enhanced to enable Malaysia to effectively address the challenge and uncertainties of the current global environment.