

## MALAYSIA REPORT ON PROGRESS OF ACTION PLAN 1

<b>Action Plan 1: Implementation of United Nations Convention Against Corruption (UNCAC) of Chapter II and Chapter V</b>						
<b>Actions to be undertaken</b>		<b>Responsible Agencies for Implementation</b>	<b>Partners</b>	<b>Implementation period</b>	<b>Expected outcomes</b>	<b>Activities Implemented</b>
1	Preparation of the SACL for the 2 <sup>nd</sup> Review Cycle of Chapter II- Preventive and Chapter V- Asset Recovery of UNCAC - Exchange of experts, technical assistance and information.  - Training for Governmental experts and focal point of SEA-PAC member agencies	MACC is the focal point for the 2 <sup>nd</sup> Cycle Review of Malaysia's implementation of Chapters II and V	<ul style="list-style-type: none"> <li>• UNODC Secretariat</li> <li>• Chapter II was reviewed by Timor-Leste</li> <li>• Chapter V was reviewed by Swaziland</li> </ul>	2016/17	MALAYSIA completed the review in 2017. with Malaysia's Executive Summary was published on the UNODC Website as COSP/IRG/	As below*

### \* Activity 1:

The preparation of the SACL for the two Chapters of UNCAC until the finalization of Country Review Report began from the early beginning of 2016 and involved the following activities;

- i. Setting up of MACC-UNCAC taskforce and working committee
- ii. A training for focal points and governmental experts was conducted by the UNODC at the Malaysia Anti-Corruption Academy in Kuala Lumpur (10-14 October 2017) – attended by SEA-PAC members ( Indonesia, Vietnam, Myanmar, Brunei, Lao)
- iii. Submission of Draft SACL to AGC for endorsement
  - o Chapter V- September 2016
  - o Chapter II - February 2017
- iv. The focal point managed to submit the SACL of Chapter V in the OMNIBUS format on 30th November 2016 and Chapter II on 8th March 2017.

- v. Country Visit was carried out by the UNODC Secretariat and governmental experts of Timor Leste ( for Chapter II) and Swaziland (for Chapter V) on 4-7 July 2017
- vi. On 8th August 2017, the UNODC Secretariat submitted the draft Executive Summary and draft final Country Review Report of Malaysia for Chapters II and V.
- vii. On 23rd October 2017, after a series of consultation with the Secretariat and the reviewing parties the Executive Summary and Country Review Report of Malaysia were finalized.

**Activity 2:**

- i. MACC participated at the Regional High-Level Conference on Fast Tracking the Implementation of UNCAC 2017 Bangkok, Thailand on 2nd February 2017

<b>Action Plan 2: Implementation of the Memorandum of Understanding (MoU) on Cooperation for Preventing and Combating Corruption</b>						
<b>Actions to be undertaken</b>		<b>Responsible Agencies for Implementation</b>	<b>Partners</b>	<b>Implementation period</b>	<b>Expected outcomes</b>	<b>Activities Implemented</b>
1	Where appropriate, instil the culture of Integrity and Anti-corruption and mainstream the principles thereof into the policies and practices of the ASEAN Community	All Agencies	ASEAN Secretariat	2017-2019	Fully implemented the area of cooperation as stated in the Memorandum of Understanding (MoU)	<ul style="list-style-type: none"> <li>i. Bilateral Meeting (ACB + MACC) – 21 April 2017</li> <li>ii. Multilateral Meeting (MACC + CPIB + ACB – 22 April 2017</li> <li>iii. ACA Forum (Indonesia, Singapore &amp; Philippines) – 24-25 May</li> <li>iv. Bilateral Meeting (NACC + MACC) – 29-31 October 2017</li> <li>v. Study Visit by GIV, Vietnam – 21-23 November 2017</li> </ul>

2	SEA-PAC as an Entity Associated with ASEAN	1. All Agencies 2. Malaysian Anti-Corruption Commission (MACC undertake this activity)	ASEAN Secretariat	2016-2017	SEA-PAC as an Entity Associated with ASEAN	Become entity associated with ASEAN on <b>8 Feb 2017</b> to enhance anti-corruption cooperation among the ASEAN Nations
3	Capacity Building Programmes For Officers Within SEA-PAC Member Agencies	All Agencies	UNODC	2017-2019	To enhance the capacity and capability of officers within SEA-PAC Member Agencies	Some of the member attended training program : MTCP Programme at MACA (14-25 August 2017) – Indonesia, Myanmar & Cambodia
4	SEA-PAC Official Portal as Information Sharing Hub	1. All Agencies 2. Malaysian Anti-Corruption Commission (web administrator) (MACC undertake this activity)	1. ASEAN Secretariat 2. UNODC	2017-2019	Uploading relevant activities and best or good practices policies, strategies on fighting against corruption within the member agencies	- Uploaded the Anti-Bribery Guidelines from Thailand - Update the web-portal on the 13 <sup>th</sup> SEA-PAC Meeting

## 2. CHALLENGES ACTION PLANS 1

From our experience as the reviewed State Party, the whole process of the 2<sup>nd</sup> Cycle Review in comparison with that of the 1<sup>st</sup> Cycle Review, has posted new challenges as follows:

### a) **Involvement of Multiple Stakeholders**

Under the Mechanism, Malaysia should have completed and submit the SACLs for desk review within 2 months from the date of the note verbal i.e. 8<sup>th</sup> July 2016 for the desk reviews by the Timor Leste and Swaziland. However this was an impossible feat as the preparation of the SACLs involved more than **20 stakeholders/ national authorities** to verify and endorse our drafts unlike the review process of the 1<sup>st</sup> Cycle Review which involved only a handful national stakeholders (of less than half a dozen). This has posted a problem of securing inputs and feedbacks from each of them for timely submission of the SACL in accordance to UNCAC schedule.

b) **The comprehensiveness and broad coverage of the Chapter II articles**

- From our assessment, the preventive measures to be reported **not only cover a wide range of subjects and areas of concern but also layers of sub-regulatory measures** to meet with UNCAC standards specified under each article. Although Malaysia had on the whole have fulfilled the main requirements but it has invariably failed to meet some of those latter sub-regulatory measures as pointed by the reviewers as challenges.
- Unlike Chapters III, IV and V, Chapter II articles are not technical in nature and hence could be subject to **wide interpretations of terminologies used by UNCAC** between the reviewed State party and that of the reviewing State parties. Thus what has been implemented/mandated would only assessed as being partially implemented or certain instances, not implemented.

c) **The biasness or private agenda of NGOs**

The involvement of domestic non-governmental stakeholders in the review process, particularly the **NGOs**, was also a challenge to the national stakeholder as there is always **a tendency for these organizations to assume the role of reviewers rather than being a co-stakeholders under review**. The negative perception of the NGOs on the national anti-corruption efforts voiced out during country visit had to a certain degree had influenced the observations of the reviewers to present certain aspects of the country review report in a less positive light without dwelling into the truth of the matters as high-lighted or raised by the NGOs.

d) **Non-commitment of stakeholders**

During the preparation stages of the SACLS, the Working Committee has suffered some set-backs in terms of timely reporting due to a sense of non-commitment from certain stakeholders to respond to our requests for feedbacks and inputs on their relevant scope or field of responsibilities or expertise.

e) **Transfer of stakeholder officers**

Apart from the above factors, the Working Committee also faces the problem or consequence of transfer of officers who had been assigned by stakeholders to respond to our requests for feed backs and inputs during the initial stages of preparation and the subsequent stages of getting clarification by the reviewers. The officer who had taken over the position of the predecessor do not have the capacity or mandate to continue and provide the required feedback or input that was requested subsequent to the initial responses. This itself poses a risk that we had to face as governmental stakeholders involved in the transfer exercises do not automatically assume the tasks or responsibilities of their predecessors to assist the taskforce in the UNCAC review.

f) **Dynamics of the Malaysian prevention of corruption drives**

The Malaysian anti-corruption drive is never static and measures implemented are constantly changing. Some of the responses to the SACL that were prepared in early 2016 are changed or overtaken by new events which might not be captured in the SACL by the time the desk review or the country review has been scheduled to take place. Certain legislation have also been replaced by the time the Country Review report took place. This might not auger well with the result of the review which are not opened for updates once the Executive Summary or CCR has been finalized.

### **3. CHALLENGES ACTION PLANS 2**

In the area of capacity building the MACC/MACA faced the following challenges

- a) Budgetary allocation constraints for anti-corruption experts from overseas.
- b) Training Modules ownership issues when the expert engaged by the MACC passed away (as in the case of Dr. Chris) before the full implementation of the module developed by the expert. Resulting in the MACA being unable to use the said Module for capacity building without the MACC being sued (by surviving members of the family or co-authors) for plagiarism based on materials of the modules developed.