

NOTES OF MEETING
PEMUDAH Private Sector Meeting No. 11/2020
26 June 2020

PENGARAH
PCD

1. OPENING REMARKS

- Chairman YBhg. Dato' Dr. Ir. Andy Seo Kian Haw commenced the **Eleventh PEMUDAH Private Sector Meeting of 2020** via Cisco Webex video conferencing at 9.35 a.m. on 26 June 2020. He thanked everyone who was in attendance at the meeting.
- He thanked MPC for organising the weekly meetings of PEMUDAH Private Sector and members for their continued support and reiterated that the meetings would continue to propose recommendations and submit inputs to the Government via YBhg. Datuk Seri KSN for formulation of workable and practical policies and procedures for faster business recovery post-Covid-19. Seven recommendations had to-date been made, the recent ones were reviewing standard operating procedures for foreign technical specialists' and customers' movements during Covid-19 and Technical Working Group on Resolving Insolvency (TWGRI)'s proposed immediate corporate rescue measures related to Covid-19.
- YBhg. Dato' Abdul Latif (MPC Director General) briefed the meeting that the Prime Minister had chaired a meeting of the Cabinet Committee on anti-corruption on 25 June 2020 which was attended by Cabinet Members and discussed a proposal that the Governance & Integrity Anti-Corruption Committee (GIACC) had requested MPC to draft out and present to *Jawatankuasa Khas Kabinet Mengenai Anti-Rasuah* (JKKMAR) (Dato' Abdul Latif had attended the meeting). The meeting adopted the proposal made by MPC. The Prime Minister then announced this initiative on prime-time morning television news on 26 Jun 2020.
- Dato' Abdul Latif informed of a key recommendation in the proposal that mandatorily required all regulators such as federal ministries and agencies as well as state and local authorities to set out clear guidelines on application processes, requirements, time taken and payments which would all later be done fully online for transparency and to prevent corrupt practices.
- The mechanism for drawing-out the guidelines was also presented involving the business sector, federal ministries and agencies, state and local authorities, MITI, MPC, PEMUDAH, GIACC and JKKMAR. MITI and MPC will provide guidance and consultancy to regulators and also submit proposals for further improvements to JKKMAR. PEMUDAH will monitor and assess compliances by regulators and the business sector as well as periodically reports to JKKMAR.
- MITI, MPC and PEMUDAH have been designated to monitor the implementation and to also advise implementers on issues. MPC will discuss with PEMUDAH in detail on coordinating their respective roles, functions and the timeline.

- Chairman expressed appreciation to Dato' Abdul Latif for including PEMUDAH for a role to play in achieving JKKMAR's objectives.

2. PAPER 1: KOREA'S EXPERIENCE ON REGULATORY REFORM DURING FINANCIAL CRISIS 1997/1998 BY KOREA INSTITUTE OF PUBLIC ADMINISTRATION (KIPA)

A. YBrs. Prof. Dr. Shin Kim, Director and Senior Research Fellow, Center for International Development Cooperation, Korea Institute of Public Administration (KIPA) presented as follows:

(1) Prof. Dr. Shin Kim briefed the meeting on Korea's regulatory reform journey ever since the Financial Crisis 1997/1998. He informed that the structural reforms instituted in the public sector as well as in the financial, corporate and labour sectors had enabled Korea to be more competitive.

(2) Review of existing regulations and the planning and implementation of new and improved regulations were centralised at the federal government level.

(3) Paradigm Shift

- An administrative reform programme ran until 1997 which focussed on administrative procedures and formalities; and

- A regulatory reform programme commenced in 1998 as a core part of public sector reform and also saw other structural reforms in finance, corporate and labour. A Framework Act on Administrative Regulations (FAAR) was legislated.

(4) Under the FAAR, a Regulatory Reform Committee (RRC) was established, regulations were established or strengthened, existing regulations were improved and agencies are required to review regulations with RRC.

(5) An organisation chart of the Regulatory Reform Structure ultimately reporting to the President was explained to the meeting.

(6) The RRC comprises the Prime Minister as chairman, a co-chairman from the private sector, 6 government ministers and 14 other members from the private sector. Its functions include determining regulatory policy direction, regulatory system development, new regulation evaluation, and regulatory reform progress evaluation.

B. The meeting noted that:

(1) Dato' Seri Wong enquired about any resistance or challenges posed to the reform initiatives. Prof. Dr. Shin Kim replied that strong-willed leadership had enabled reforms to be pushed through. In Korea, local autonomous entities receive and implement federal government policies. Chairman added that the World Bank Group also recommended for strong leadership to drive reforms in economies world-wide.

(2) Chairman noticed reforms had started early in Korea back in the late 1990s and saw a parallel in the public and private collaboration in the reform initiation and

governance structure between Korea and Malaysia. PEMUDAH initially had reported to the Prime Minister and now the Chief Secretary to the Government, and secretary generals and directors general of federal ministries and agencies are part of the PEMUDAH structure. Similarities were also noted in the use of the “guillotine” approach to trim regulations, sunset clauses and regulatory impact assessments (RIA).

- (3) Chairman commended Korea for their competitive international trade made possible by strong online capabilities and also online submissions to seek regulatory approvals. Prof. Dr. Shin Kim related that online systems had assisted in RIA which was, and still is, a mandatory procedure to be undergone over many years now. He added that Koreans were comfortable with the Work-from-Home (WFH) culture which is prevalent in the country. Chairman mentioned that Malaysia also needed to drive national digitalisation.
- (4) Both Chairman and Dato' Abdul Latif thanked Prof. Dr. Shin Kim for his informative presentation given to the meeting. The latter called for ever closer collaboration between KIPA and MPC, in particular, he noted of KIPA's participation in the Asian Productivity Organisation (APO).

3. PAPER 2: DATA SHARING AMONG GOVERNMENT AGENCIES: CHALLENGES & WAY FORWARD BY DEPARTMENT OF PERSONAL DATA PROTECTION

A. YBrs. Ms Uma Annamallai, Director, Policy & Strategic Planning Division, Department of Personal Data Protection, Ministry of Communications and Multimedia Commission (MCMC) presented as follows:

- (1) The Personal Data Protection Act (2010) (PDPA) was passed by Parliament in June 2010 and enforced since November 2013:
 - Regulates personal data processing in commercial transactions;
 - Safeguards data subjects' interests;
 - Prevents personal data misuse; and
 - Facilitates e-commerce and increases customers' confidence.
- (2) PDPA key players are data subjects, users and processors.
- (3) Personal data is information in commercial transactions that can identify a person. Examples of personal data are name, image, home address and NRIC number.
- (4) Non-applicability of PDPA is in areas involving the federal and state governments, credit reporting agencies, non-commercial transactions, data processed outside Malaysia and personal/family/household affairs.

- (5) Partial exemptions from PDPA are granted in specified activities such as regulatory functions, assessment and collection of taxes and duties, and statistics.
- (6) Core Functions of JPDP: Registrations, codes of practice, awareness and information dissemination, monitoring, enforcement, PDP appeal tribunal, data user forum and complaints handling.
- (7) Data users are classified into 13 classes such as communications, banking and financial institutions, insurance, transportation, and professional services.
- (8) Personal data protection principles consist of a general principle, notice & choice, disclosure, security, retention, data integrity and access.
- (9) Personal data protection standards are set out in terms of security, retention and data integrity.
- (10) Data subjects can exercise their rights to prevent processing and data marketing, access to their data, make data corrections and withdraw consent given. Transfers of personal data outside Malaysia are not allowed unless consent has been given.
- (11) The Act is being reviewed in particular as to which countries data can be transferred to and whether there is any need to require data processing officers to be in every organisation. Public consultations had been completed.

B. The meeting noted that:

- (1) Encik Ganesh (PEMUDAH Member) queried how the PDPA could regulate service providers which stored data on a “cloud server” outside of Malaysia. Ms Uma replied that the authorities would establish whether a breach had occurred within Malaysia and, if so, action could be taken.
- (2) Encik Ganesh posed another question as to whether a service provider was in breach when the provider transferred data which had been hosted in local servers to an overseas server. Ms Uma replied that the exact date and time of an alleged breach would be investigated. He requested permission from Ms Uma to allow her presentation slides to be made available. Ms Uma was agreeable to the request and said the slides were already with the Secretariat.
- (3) Chairman was interested to know how to stop the continuing in-coming of junk emails already unsubscribed. Ms Uma explained data users would initially explicitly state they intended to use customers’ data for marketing purposes and seek customers’ consent for it. It is a right of customers to notify service providers to cease using their personal data for marketing.
- (4) Encik Zahid Ismail (MPC Deputy Director General) related that Ministries and Agencies were often engaged by various parties to obtain data. He suggested that the presentation slides could be uploaded into YouTube and the websites of Ministries and Agencies. Ms Uma advised that, instead of the suggestion, informative videos were downloadable from the Department of Personal Data Protection’s portal.

(5) Chairman commented that private sector businesses required governmental data for technical reasons such as cadastral data. He suggested MCMC and MAMPU should work together to create a link through which governmental data and information were made accessible to facilitate doing business and reduce physically seeking data and information by visiting Ministries and Agencies especially during the periods of movement control orders. Ms Uma was receptive to the suggestion and said MAMPU's development of a data sharing policy would be helpful to facilitate the giving and receiving of data.

(6) Encik Zahid Ismail suggested for a webinar to be held involving MCMC and utility providers such as TNB and SYABAS and government departments on accessibility to technical data required by the private sector for work purposes.

C. The meeting agreed that:

(1) A webinar is to be held involving MCMC and utility providers such as TNB and SYABAS and government departments on data accessibility for the private sector for work purposes.

4. OTHER MATTERS

The following matters were raised to be addressed / noted by the meeting:

(1) Transfers of Foreign Workers between Companies in the Same Group

Dato' Seri Wong Siew Hai requested that PEMUDAH write to MOHR to seek clarification on whether foreign workers could be allowed to be transferred from one company to another company within the same group. He said *Jabatan Tenaga Kerja* (JTK) had warned member companies that such transfers were not permissible and defaulters would be fined.

(i) The meeting noted that:

- a. Chairman related that, at the meeting held on 12 June 2020 between MOHR and PEMUDAH, MOHR had indicated transfers of foreign workers between companies and their subsidiaries in the same industry were allowable but transfers between companies of different industries would be very difficult to be allowed.
- b. Dato' Seri Wong suggested the Secretariat write to TKSU, MOHR to invite him to attend the meeting to clarify MOHR's position regarding the issue. He expressed concern that in this instance "a problem existed at the ground" which was not aware of the latest revised policy of MOHR.
- c. Chairman concurred with Dato' Seri Wong's suggestion for PEMUDAH to write to MOHR and added that the PEMUDAH letter should be copied to YBhg. Datuk Seri KSN. Also, during the forthcoming meeting, TKSU, MOHR would be requested to have MOHR participate in a PEMUDAH webinar to address this and other issues. Between now and 23 July 2020 when Datuk Seri KSN would

be attending the PEMUDAH meeting, this issue would be placed on the agenda if it was not resolved before the meeting.

d. Encik Zahid Ismail said the Secretariat would immediately write to KSU, MOHR with c.c. to Dato' Mohd Jeffrey, Director General (JTK).

(ii) The meeting agreed that:

a. The Secretariat will write to KSU, MOHR with c.c. to Dato' Mohd Jeffrey, Director General (JTK) to seek clarification on whether foreign workers can be allowed to be transferred from one company to another company within the same group.

Action: Secretariat

b. TKSU, MOHR will be requested to have MOHR participate in a PEMUDAH webinar to address the issue and other issues. Between now and 23 July 2020 when Datuk Seri KSN will be attending the PEMUDAH meeting, this issue will be placed on the agenda if it is not resolved before the meeting.

Action: Secretariat

(2) Companies Requiring to Send Staff Overseas

Dato' Seri Wong Siew Hai mentioned companies required to send their staff such as engineers overseas for various critical reasons. Justifications have to be given to the Malaysian authorities for clearance for the staff to travel out of Malaysia and the host company in the destination country has to justify to their authorities for permission for the travelling staff to enter their country.

(3) Holistic Strategic Proposal for Management of Foreign Workers

Dato' Seri Wong Siew Hai briefed the meeting on the status of the proposal. The proposal had been presented to MOHR. It will be presented to MOHA once a meeting date has been confirmed. PEMUDAH will be informed about the outcomes of both the meetings and will be requested to decide on the way forward for the proposal.

Consultations were held with the construction and the plantation sectors. ILMIA does not seem amenable to shift their position with regard to the proposed Multi-Tier Levy Mechanism (MTLM). Notwithstanding, TGGEW will go along with the plantation sector's proposal on the MTLM. An invitation should be extended to MOHR and MOHA to attend a PEMUDAH meeting to deliberate on the PEMUDAH proposal as formulated by TWGEW.

(i) The meeting noted that:

a. Chairman saw the need for MOHR to clarify how MOHR would play their role as a clearing house as per the PEMUDAH proposal.

b. Dato' Seri Wong Siew Hai requested MPC's assistance to arrange a meeting between MOHA and PEMUDAH.

(ii) The meeting agreed that:

MPC assists to arrange a meeting between MOHA and PEMUDAH.

Action: Secretariat

(4) Proposal to Address Problem of Unemployed Malaysians

Chairman informed that MOHR had reminded him of the need for PEMUDAH to study the issue of unemployed Malaysian workers who totalled about 700,000 and to design a holistic strategy and draft a proposal to help address the problem.

(i) The meeting noted that:

a. MOHR had reminded Chairman of the need for PEMUDAH to study the issue of unemployed Malaysian workers who totalled about 700,000 and to design a holistic strategy and draft a proposal to help address the problem.

(ii) The meeting agreed that:

a. TWGEW is to be study the issue of unemployed Malaysian workers who totalled about 700,000 and to design a holistic strategy and draft a proposal to help address the problem.

Action: TWGEW

(5) E-Payments

Chairman requested YBhg. Datuk Wira Jalilah Baba (Co-Chair, TWG E-Payments) to update the meeting on the outcome of the meeting held between TWG E-Payments and MOF on 23 June 2020.

(i) The meeting noted that:

a. Datuk Wira Jalilah Baba related that MOF had informed e-payment readiness had been achieved at about 52.9% among those departments that were involved in collecting payments out of a target of 70% to be achieved to-date. In cities and towns, 92.2% had been achieved.

Certain agencies had informed MOF of their budgetary issues concerning enabling e-payments. MOF advised these agencies to present their issues to the MOF.

- b. Dato' Seri Wong Siew Hai observed that the modes of payment for quit rents were not standardised between different States. He suggested a track and trace system be designed and implemented to enable the public and the business community to monitor the status of their applications submitted to the authorities for approval. The courier and the logistics services sectors already have such a system in place. He further suggested a single-window be designed and implemented for payments of the different government fees, etc. and public utilities' charges.
- c. Chairman requested TWG E-Payments to prepare a paper on the different systems that enable payments to be made to the Government. He viewed revenue collection as crucial for the Government.

(ii) **The meeting agreed that:**

- a. TWG E-Payments is to prepare a paper on the different systems that enable payments to be made to the Government.

Action: TWG E-Payments

- b. TWG E-Payments is to look into a track and trace system to enable the public and the business community to monitor the status of their applications submitted to the authorities for approval and also a single-window for payments of the different government fees, etc. and public utilities' charges.

Action: TWG E-Payments

5. SUMMARY OF ISSUES TO BE ADDRESSED

Encik Zahid Ismail summarised the issues to be addressed as follows:

- Confusion caused by too many SOPs as mentioned by YBhg. Tan Sri Teo Chiang Kok in the previous meeting;
- Inconsistency between the policy made by MOHR and on-the-ground implementation by JTK with regard to proposed transfers of foreign workers from one company to another company within the same group or industry;
- An unified payment system and an unified licensing system for use in the public sector are to be looked into;
- Traceability and tracking for applications submitted to the government ministries and agencies for approval; and
- A meeting is to be arranged between MOHA and PEMUDAH for the holistic strategic proposal for management of foreign workers to be presented.

(i) The meeting noted that:

- a. Chairman indicated that these issues would form part of the agenda for the forthcoming meetings.

6. CONCLUDING REMARKS FROM DATO' ABDUL LATIF

MPC and the Secretariat are giving full attention to the work currently and are managing it with support from the Ministries and Agencies as well as the private sector members. Dato' Abdul Latif thanked them and encouraged everyone to work together as a team to address matters to make Malaysia a good place to do business.

7. ADJOURNMENT OF MEETING

Chairman adjourned the meeting at 11.25 a.m. with a word of thanks to the members for their presence and contributions to the meeting.

The date and time of the next meeting will be determined and notified to the members.

SECRETARIAT

PEMUDAH - THE SPECIAL TASK FORCE TO FACILITATE BUSINESS

27 JUNE 2020