



**Asia-Pacific
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Gratuities and Facilitation Payments: Challenges and Best Practices - Presentation

Submitted by: Malaysia



**Workshop on Strengthening Integrity Through
Public-Private Partnership: Preventing
Facilitation Payment and Managing Gift Rules
Medan, Indonesia
24 June 2013**

**STRENGTHENING INTEGRITY
THROUGH PUBLIC-PRIVATE PARTNERSHIP
GRATUITIES AND FACILITATION PAYMENT:
CHALLENGES AND BEST PRACTICES**

- ▶ Introduction
- Malaysian Law
- Code Of Conduct/Code of Ethics
- Initiatives under GTP - NKRA
- Challenges



GRATUITIES & FACILITATION PAYMENT

Giving & receiving is in itself X an offense



Gift = Bribe → **when given or offered with intention to get favor in return** OR

Gift is clearly disproportionate, in terms of \$\$ or expensive items



MALAYSIAN LAW

- Sec.3 : Defines 'Gratification' as to include 'Gift' and 'Facilitation Payment'
- Section 16, 17, 18, 20, 21, 22 and 23 of the Act provide for various offences and penalties for any person who solicits, accepts or receives or gives any gratification or bribe.
- Depending on the facts of each cases, the accused person, upon conviction, shall be liable for imprisonment for a term not exceeding twenty years and to a fine of not less than 5 times the value of the gratification or MYR10,000.00 (USD 3,300), whichever is higher.
- Section 25: It is a legal duty on all public officials to report corrupt practices.

- Section 165 : public servant obtaining any valuable things, without consideration from person concerned in any proceeding or business transacted by such public servant, shall be punished with imprisonment for a term not more than two (2) years or with fine or to both.
- Sec.161: Public servant taking gratification, other than legal remuneration, in respect of an official act
- Sec. 162: Taking a gratification in order, by corrupt or illegal means, to influence a public servant;
- Sec. 163: Taking gratification, for the exercise of personal influence with a public servant.

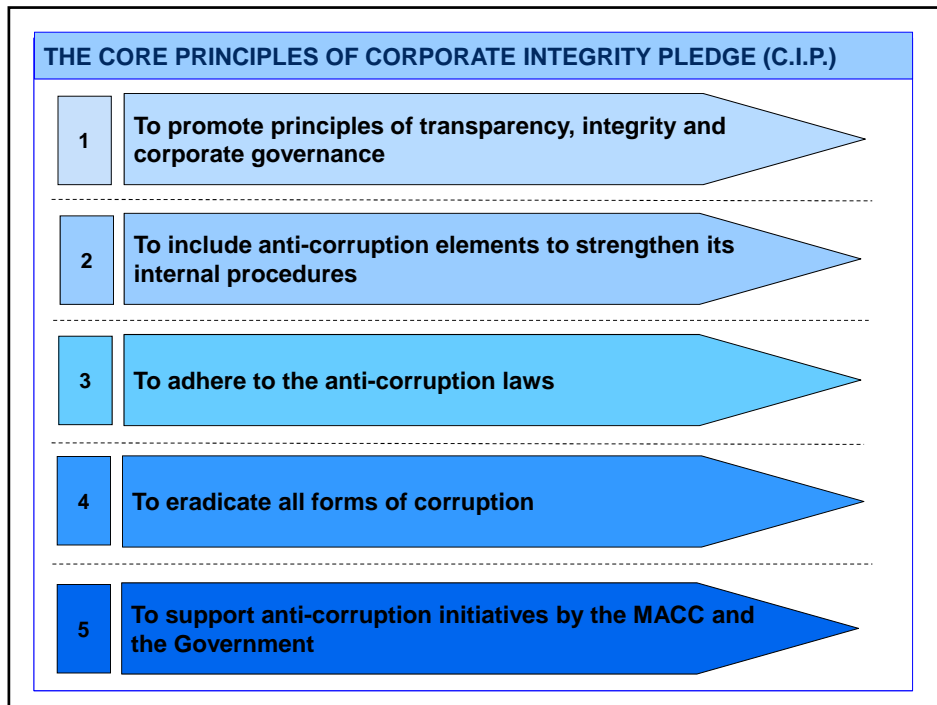
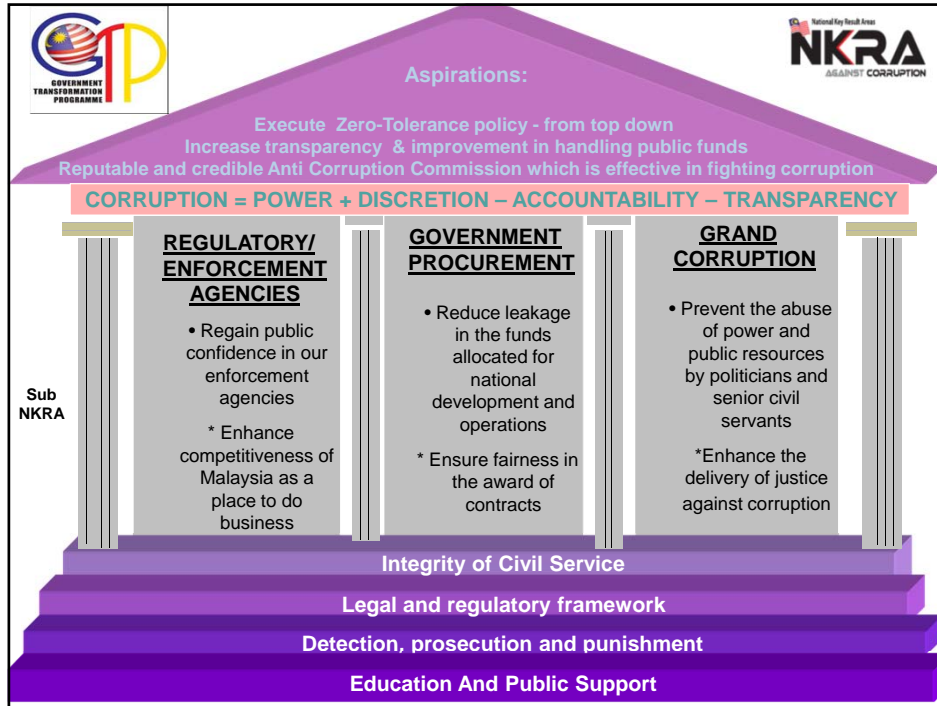
- Service Circular Letter No.3/1998 – Regulation 5 – “Public Officers shall not receive or give presents if it has connection with his official duty and/or the nature, amount or value of the present does not commensurate with the intention why the present is given”
- Public Officers (Conduct and Discipline) (Amendment) Regulations 2002 Sub-regulation 4(2) and sub-regulation 8(1)

CHALLENGES

The Culture of gifting

<p>MALAY</p> <p>“Buah Tangan” Especially Entertaining guest</p>	<p>CHINESE</p> <p>Giving ‘Ang Pow’ Or oranges during Chinese New Year Including to Public Officials</p>	<p>INDIANS</p> <p>‘Upahara’ A gift in terms of Cash to Friends And guest</p>	<p>OTHERS</p> <p>Malaysia’s Population Is build up By various Races and Therefore the culture Also varies</p>
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‘Gift giving during festive season or Gifting as a token of appreciation not amounting to bribery

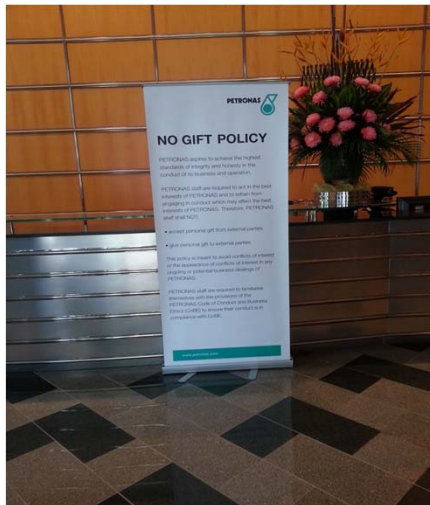


SIGNEES OF C.I.P. UPLOADED IN CISM PORTAL

NO	COMPANIES/BODIES	SIGNEES
1	MULTI NATIONAL COMPANIES (MNCs)	35
2	GOVERNMENT LINK COMPANIES (GLCs)	47
3	PRIVATE LINK COMPANIES (PLCs)	19
4	SMALL MEDIUM ENTERPRISES (SME)/INDUSTRIES	59
5	NON GOVERNMENT ORGANISATION & OTHERS	4
6	GOVERNMENT BODIES	15
	TOTAL	179

BEST PRACTICES

'NO GIFT POLICY' BY PETRONAS



'WHISTLE BLOWING POLICY' BY PKNS



THANK YOU



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