

# Chapter 9

## Regulatory Coherence: The Contrasting Cases of Malaysia and Singapore

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# Chapter IX

## Regulatory Coherence: The Contrasting Cases of Malaysia and Singapore

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### 1. Singapore and Malaysia: A Study in Contrast

#### 1.1. Introduction

Singapore and Malaysia share a colonial history, but have taken very different paths with respect to regulatory reform, demonstrating that every country needs to find its own way. The impressive gains in regulatory quality in both countries lend strong support to the notion of equifinality, which suggests that a goal can be reached by various paths involving rather different journeys.

All countries have their own unique systems for developing and deploying regulations. Moreover, countries have developed distinctive strategies for improving regulatory quality. Singapore, for example, has not adopted the range of special measures seen in other developed countries' formal regulatory management systems (RMSs). Instead, its approach relies on using a high-performing public sector to undertake regulatory management and reform as part of business as usual. Its public sector is technocratic, merit-based, focused, and driven by clear targets. Although Singapore does not apply special measures to regulatory proposals, it has nonetheless been assessed as being in the top rank. Malaysia, in contrast, relies on centralised institutions to drive the reform process, with the Malaysia Productivity Corporation (MPC) taking a lead role. Both

countries adopt a corporate approach in setting their strategy and planning process, and Malaysia has incorporated successive waves of regulatory reform into its planning process.

Both countries are acutely aware of the connection between good regulatory practices (GRPs) and international competitiveness. Malaysia's approach to regulatory reform is centralised, with its origins in an ambitious process of privatisation in the 1980s. The MPC is driving a process called Reducing Unnecessary Regulatory Burdens that aims to modernise business regulations and reduce compliance costs to create a more favourable business climate. Malaysia is well aware of the importance of public consultation, and engages with the private sector via a public–private task force to facilitate business – PEMUDAH, which operates working groups and focus groups aimed at eliciting feedback from the public, especially businesses in key sectors. The focus groups span topics from trading across borders to registering property and enforcing contracts. Malaysia's aim to become a high-income economy by 2020 is a key driver of the regulatory reform process.

The detail of these different paths to robust regulatory management follows.

## 2. Malaysia

### 2.1. Country Context

Malaysia is an upper-middle income country with a highly open economy and a track record of sustained economic growth. According to a World Bank Report, Malaysia was one of the 13 countries identified by the Commission on Growth and Development in its *2008 Growth Report* to have recorded an average growth of more than 7 percent per year for 25 years or more. In 2010, Malaysia launched the New Economic Model (NEM). Its aim is to reach high-income status by the year 2020, while ensuring that its growth is sustainable and inclusive. The NEM includes a number of reforms to achieve economic growth that is primarily driven by the private sector to move the Malaysian economy into higher value-added activities in both industry and services. The NEM is expected to revitalise growth by promoting private sector investment, liberalising and deregulating the economy, and modernising the country's social protection mechanisms.

Malaysia consists of 11 states in the Peninsula (West Malaysia), two states on the northern part of Borneo (East Malaysia), and one federal territory with three components: the city of Kuala Lumpur, Labuan, and Putrajaya. All peninsular Malaysian states have hereditary rulers, except Malacca and Penang. These two states, along with Sabah and Sarawak in East Malaysia, have governors appointed by the government. Each state has a constitution and a legislature elected by the people. The head of government is Prime Minister Mohd Najib Razak (since 3 April 2009). The Prime Minister is usually the leader of the political party with the most representatives in Parliament. The Malaysian legislature is a bicameral Parliament with the Senate (Dewan Negara) and the House of Representatives (Dewan Rakyat).

Malaysia practises parliamentary democracy with a constitutional monarchy in which His Majesty the King (*Yang di-Pertuan Agong*) is the Supreme Head of Malaysia. Parliament is the most important institution in the country as it is the place where laws are enacted. The Parliament of Malaysia consists of His Majesty the King, the Senate, and the House of Representatives. The 12th Parliament has increased to 70 Senators and 222 Members in the House of Representatives.

Since independence in 1957, the rule-making process in Malaysia has evolved without the advantages of defined policy or central coordination. It is based largely on practices that have not been consolidated into laws or officially issued guidelines. The current system does not ensure that the best possible regulatory options are selected on the basis of systematic investigation, analysis, and public consultation. This has on occasion resulted in ineffective regulations and unnecessary regulatory burdens being imposed on industry and businesses. The need for a review of the process has been noted in the national 5-year development plans and in 'Vision 2020'. Nonetheless, in the latest World Bank *Doing Business Report* (2016), under the new methodological approach, Malaysia was ranked 18th out of 189 economies, placing it among the top 20 economies with the most business-friendly regulations.

## 2.2. Regulatory Reform

The ambitious privatisation programme that the Malaysian government embarked on in the mid-1980s included regulatory reform. Since the early 1970s, regulation had been fairly extensive, but undertaken chiefly to deal with poverty

and wealth distribution issues. Sectoral regulation in the pre-privatisation period was purely a matter of self-regulation by the government. With privatisation, new regulatory institutions and mechanisms were established to regulate the privatised entities. Competition became an important regulatory concern. In the absence of a national competition policy or law, a sectoral approach to competition regulation was adopted. In 1991, the Malaysian government articulated its vision for the future in 'Vision 2020'. The vision statement focused on deregulation, noting that 'Wisdom lies...in the ability to distinguish between those laws and regulations which are productive of our societal objectives and those that are not.' In the aftermath of the financial crisis of 1997–1998, the process of regulatory reform became more challenging due to industry consolidation and, in some cases, re-nationalisation (Lee, 2002).

The implementation of the privatisation programme during the Sixth Malaysia Plan (2006–2010) was enhanced by the adoption of new administrative procedures governing privatisation. This involved streamlining implementation procedures through centralised planning and decentralised implementation, with standardisation of the terms and conditions of privatisation. Under the Seventh Malaysia Plan, the privatisation programme was accelerated. Project identification was strengthened, the legal and regulatory framework improved, and the forms of government support were reviewed (Source: Seventh Malaysia Plan, Chapter 7). The intent was to facilitate the country's economic growth, reduce the financial and administration burden of the government, reduce the government's presence in the economy, lower the level and scope of public spending, and allow market forces to govern economic activities and improve efficiency and productivity in line with the national policy.

The need for regulatory reform was further recognised during the Ninth Plan (2006–2010), which aimed in part to reduce the cost of doing business. Steps were taken to enhance public sector delivery by, inter alia, reviewing and simplifying rules, regulations, and work procedures; expediting the issuance of licences, permits, and approvals for trade, investment, and commercial activities; and promoting greater transparency. At the same time, penalties for wrongful disclosure and noncompliance would be stringently enforced.

Before GRP was implemented, there was no standard quality control system for regulations and no government institution was responsible for ensuring quality

and transparency. Regulations were usually developed as subsidiary legislation under laws approved by the elected Members of the National Parliament that authorise government to issue regulations for the purpose of implementation. The processes that government uses to develop regulations are determined by elected political leaders. Some Malaysian regulations from the pre-independence period (before 1957) are still in force in some sectors, whereas many other regulations have been developed in reaction to emerging concerns.

The process of updating regulations often lags behind changing needs. Economic planners have increasingly recognised the need for updating, for fear that inappropriate regulation will become a barrier to attracting investment and making productivity improvements. Effective regulation has been hampered by technology changes, growth in trade, and gaps and overlaps between the country's legal and administrative systems. As in Singapore, maintaining global competition in investment and trade has been the principal driver of regulatory reform and deregulation in Malaysia (Raj, 2008). Yet, although the regulatory process has evolved over time, it is still based on practice and administrative decisions, and has not been codified into laws. Responsibility for decision-making is distributed between individual ministries. A system for intergovernmental consultation has been introduced, and Cabinet's approval is generally sought, but the legal authority rests with ministers. Public and stakeholder consultation process is decided by agencies responsible, but is not mandated by law (Raj, 2008).

### **2.3. Stock Tools (Institutions)**

The Government Transformation Programme (GTP) and the Economic Transformation Programme (ETP) are monitored by the Performance Management and Delivery Unit (PEMANDU). PEMANDU was formally established in September 2009 and is under the Prime Minister's Department. Its objective is to oversee the implementation, assess the progress, facilitate as well as support the delivery, and drive the progress of the GTP and the ETP.

GRP is aimed at transforming the rule-making process within the government and modernising business regulations, thus ensuring the quality of new regulations. In the 11th Malaysia Plan, regulatory reforms will be accelerated to ensure new and existing regulations, as well as their administration and enforcement, are aligned with GRP. This will be done by expanding the adoption

of the National Policy on Development and Implementation of Regulations (NDPIR), and conducting a regular regulatory review of ministries and agencies (Strategy Paper 1: Unlocking the Potential of Productivity). Although Malaysia has put significant effort into modernising its business regulations, it still lags behind many developed countries in regulatory quality and environment. The regulatory framework for the services sector, which spans various government ministries and agencies, has led to some difficulty in navigating and streamlining regulations. In addition, industry players often find regulations and practices to be outdated or cumbersome. Moreover, there is insufficient stakeholder consultation when new regulations are formulated or existing ones are changed (Source: Eleventh Malaysia Plan: Strategy Paper 18 Transforming Services Sector).

According to the National Economic Advisory Council, as of 2010, over 3,000 regulatory procedures weighing heavily on businesses were administered by 896 agencies at the federal and state levels (Seman, 2014). To improve regulatory quality, the government established a formal RMS with four elements: regulatory policies, regulatory institutions, regulatory procedures, and regulatory tools. Malaysia adopted a regulatory impact statement (RIS) process. The government issued the NPDIR to address gaps in the management system for regulations. 'Good regulatory policies help to enhance transparency and credibility of regulatory actions and create a climate for better quality of life and business environment' (Hamsa, 2013).

The 10th Malaysia Plan (2011–2015) focused on improving Malaysia's productivity, and included several regulatory initiatives, including modernising business regulation, liberalising the services sector, removing market distortions by rationalising subsidies, introducing competition legislation, and improving the interface between government and business. 'The current regulatory system will be improved through the adoption of the best practices in the field of regulatory management that have been implemented in the Organisation for Economic Co-operation and Development (OECD) countries and now increasingly adopted by regional and global competing economies' (NPDIR, July 2013).

The MPC was tasked with modernising business regulation:

- Review existing regulations with a view to removing unnecessary rules and compliance costs,

- Undertake a cost–benefit analysis of new policies and regulations to assess the impact on the economy,
- Provide detailed productivity statistics, at sector level, and benchmark against other relevant countries,
- Undertake relevant productivity research (e.g. the impact of regulations on the growth of small and medium-sized enterprises).
- Make recommendations to the Cabinet on policy and regulatory changes that will enhance productivity,
- Oversee the implementation of recommendations.

To begin, the MPC team did a fact-finding study of what Malaysia already has and what to benchmark from other countries' GRP. The intention was to help ministries and agencies implement GRP in making and administering regulations. To date, significant progress has been made in a number of areas. Existing licences have been comprehensively scanned to find out which licences pose problems in terms of productivity, including their administrative burden. Existing regulations in the oil, gas, and energy sectors, and the electrical and electronics sector have been reviewed. In addition, a one-stop-centre for business start-ups has been established, and communication programmes put in place to raise awareness in both the public and the private sectors on the importance to national competitiveness of a business-friendly environment.

In addition to developing policies and guidelines to ensure the quality of new regulations via the NPDIR, the MPC's Modernising Business Regulations initiatives include:

- Improving Initiatives in Ease of Doing Business;
- Comprehensive Scanning of Business Licensing;
- Reducing Unnecessary Regulatory Burden (RURB);
- Business Enabling Framework.

The NPDIR is overseen by the National Development Planning Committee (NDPC). The NDPC has been entrusted to assume the role of a gatekeeper for improving the process and quality of developing new business regulation. It



oversees the regulatory process with the support of the MPC and administers the government's regulatory impact assessment (RIA) requirements.

The MPC is responsible for the implementation of the NPDIR. It develops guidelines and programmes for the implementation of the NPDIR; ensures that capacity building programmes for regulators are available; provides guidance to regulators in RIA and the preparation of RIS; promotes the transparency of RIS; and assists the National Development Planning Committee (NDPC) in assessing RIS. It will also conduct periodic reviews of progress, reporting to the NDPC.

The National Institute of Public Administration (INTAN) is responsible for providing training on RIA.

The Attorney-General's Chambers offers legal advice to the Cabinet or any minister. This advice includes matters relating to the regulatory quality of the proposal, specifically its legal compliance with constitutional matters, which should be detailed in the RIS.

The MPC's Initiatives on Modernising Business Regulation have been strongly supported by the Special Task Force to Facilitate Business (PEMUDAH), a public-private innovative advocacy body that provides guidance and leadership in driving the reforms forward in a collaborative way. PEMUDAH will drive the efforts of all working groups, task forces, and focus groups established since its inception, through the secretariat, MPC, which coordinates all focus group activities. The objective is to enhance transparency and accountability of the public and the private sectors and monitor the efficiency of improvements implemented. The focus groups comprise:

- enforcing contracts,
- trading across borders,
- dealing construction permits,
- getting electricity,
- resolving insolvency,
- paying taxes,
- protecting investors,

- getting credit,
- registering property, and
- starting a business.

To reduce compliance costs with business, existing regulations are scrutinised from a vertical (ministry) perspective and a horizontal (business) perspective. This is complemented by a thematic perspective, based on issues identified in the World Bank's *Doing Business* report. In 2012, the PEMUDAH Focus Group on Business Process Re-engineering (FGBPR) undertook an initiative to review business licences using the 'guillotine approach'. It covered 22 federal ministries. This initiative is currently being extended to the states.

Public and private sector collaboration, where as many as 20 agencies are engaged in consultation with key players, such as architects, principal submitting persons, and engineers, has resulted in improved efficiency in getting construction permits. The number of procedures was reduced from 37 to 10, and the time it takes to obtain a permit was reduced from 140 days to 100 days. Another project undertaken is the development of a business enabling framework to support expediting the 100 percent foreign equity participation. Out of 18 service sub-sectors announced for liberalisation, 9 sectors have been liberalised to date.

#### **2.4. Flow Tools (Regulatory Impact Assessment)**

To improve the quality of new regulations, the government (via the MPC) is introducing a national policy (the NPDIR) to transform the rule-making process in Malaysia. Its aim is to ensure that regulations are effective; address the desired public policy objectives; and are balanced, equitable, and implemented in a transparent manner. It is the government's intention to avoid creating cumbersome, burdensome regulations that discourage competition and business innovation. A quality regulation is one that has the characteristics of good governance and fulfils 'adequacy' and 'gatekeeping' requirements. New business regulations must minimise unnecessary compliance costs. The policy follows the model of good regulatory systems practised in Australia, Canada, and other OECD countries.

The Circular on NPDIR issued by the Chief Secretary to the Government of Malaysia on 15 July 2013 formalised the requirement that all ministries and agencies must undertake RIA. The policy requires that all federal government regulators must undertake regulatory impact assessment (RIA) and present a RIS to MPC for assessment for all new regulations (or review of existing regulations) relating to businesses, investments, and trade. 'The implementation of Good Regulatory Practice (GRP) is systemic, involving both top-down and bottom-up engagement. The emphasis is on transparency and accountability through public consultation and engagement with stakeholders and parties that will be affected by the changes, or introduction, of regulations and policies' (Mohamed, 2015).

To ensure the quality of new and existing regulations, ministries and agencies must comply with GRP and fulfil the adequacy criteria, emphasising transparency, openness, and accountability. GRP will transform the rule-making process within the government and ultimately modernise business regulations, thus ensuring the quality of new regulations.

The need to maintain a system to manage the regulatory process is important. This can be done by reviewing and recommending changes to existing regulations and policy with a view to removing unnecessary rules and compliance costs and improving delivery. The Quality Regulatory Management System was reviewed to give attention to both ex ante impact assessment and ex post evaluation of regulations as part of an evidence-based approach to decision-making, in line with the OECD's 2012 Recommendation on Regulatory Policy and Governance.

Along with the NPDIR, the MPC also developed a Best Practice Regulation Handbook, using a cross-government consultative process. Governance and organisational structures were reviewed to meet the requirements of international best practice. Also, the capacity and capability of all parties involved in the management, development, and implementation of regulations would be upgraded.

The government is committed to a more open and transparent process in regulatory development and implementation. As Malaysia approaches 2020 and its goal of being a high-income, developed nation, public engagement in policymaking and regulatory development becomes important. The 2014

'Guideline on Public Consultation Procedures' laid out the guiding principles for ministries and agencies in implementing effective consultation. Draft regulations will be published, along with feedback from rule-makers. Engagement with industry is a prerequisite. Consultation should begin as early as possible. Where a proposed regulation has a direct bearing on export trade, a trade impact assessment should be done.

Regulatory Impact Assessment (RIA) is the process of examining the likely impacts of a proposed regulation and considering alternative options that could meet the government's policy objectives. It is a tool to improve the quality of regulatory and administrative decision-making. In Malaysia, it is applicable to all decisions made by the government and its agencies that are likely to have a regulatory impact on businesses, unless the impact is minor and does not substantially alter existing arrangements. (This includes amendments to existing regulations and regulatory initiatives implemented by way of administrative circulars by any part of the government that requires mandatory compliance. Minor changes are ones that do not substantially alter the existing regulatory arrangements for businesses or for the non-government sector, such as where there would be a very small initial one-off cost to businesses with no ongoing costs.) MPC should be notified when the regulation is issued even in cases where no RIA is required. In such cases, the regulator may proceed to develop and implement the regulation after approval by the relevant authorities in accordance with the law.

A key feature of RIA is its consideration of the potential economic impacts of regulatory proposals. The seven steps of the RIA process are as follows:

1. Identify the problem the regulation seeks to address.
2. Outline the objectives of government action.
3. Identify a range of feasible options for addressing the problem.
4. Assess the costs and benefits of the feasible options.
5. Document community consultation.
6. Propose a recommended option.
7. Outline the implementation and review mechanisms.

A Regulatory Impact Statement (RIS) is a document prepared by the regulator in support of proposals for new regulations, after consultation with affected parties. It formalises and provides evidence on the steps taken during the development of the proposal, and includes an assessment of the costs and benefits of each option considered. The RIS must be presented to decision makers, so that their decision is based on a balanced assessment of the best available information. After a decision has been officially announced, MPC will publish the RIS in consultation with the regulator; that is, it is posted on the publicly accessible RIS register maintained by MPC. Ministries, departments, statutory bodies, and regulatory commissions that are responsible for developing, maintaining, and enforcing regulatory programmes must meet the regulatory process management requirements. These requirements include producing RIS, conducting consultation, and submitting the RIS in accordance with the guidelines provided by MPC.

The Best Practice Regulation in Malaysia requires that every ministry or regulator:

- Appoint regulatory coordinator(s) and notify the gatekeeper of the appointment.
- Develop and maintain a system to manage the regulatory process that meets the requirements.
- Ensure new regulations are in accordance with the defined process.
- Ensure regulations serve defined objectives. Regulatory authorities proposing new regulatory requirements or regulatory changes must have clear objectives, evidence that a problem has arisen, that government intervention is required, and that new regulatory requirements are necessary.
- Examine alternatives, assess impact, hold consultations, and define implementation strategy.
- Explain proposals to stakeholders, maintain process records, and train personnel.

In MPC, the custodian of the RIA process is a unit called Quality Regulatory Management System. Efforts to promote RIA among ministries and agencies are done through pilot projects. The three ministries or agencies that participated in a pilot project are the Ministry of International Trade and Industry, the National Water Services Commission (SPAN), and the Federal Agricultural Marketing

Authority. They were given specific training and guidance to carry out the RIA process. The OECD also provides support, advice, and technical assistance in implementing GRP.

Pilot project agencies have undertaken public consultation, and online surveys are done through their webpage. The results from these RIA pilot projects are used as best practice case studies for the Best Practice Regulation Handbook and to improve the application of RIA.

The GRP portal (<http://grp.mpc.gov.my/>) will be used as a repository and reference for all regulators, stakeholders, and interested parties. Regulators will publish their draft RIS on their website and on the GRP portal for comment before adoption. As of January 2016, 95 regulatory notification forms had been received from 15 ministries and agencies. Regulatory notification is a standard form filled out by regulators when they notify MPC on regulatory changes they wish to undertake. A total of 12 completed RISs have been received by MPC.

## 2.5. Evaluation

In its 2015 report, *Regulatory Practice in Malaysia*, the OECD identified a number of challenges and priorities for reform. First is the need to institutionalise GRP. The OECD recommended that Malaysia develop indicators on the implementation of GRP across government, including key performance indicators for top management, and use them in periodic reporting to meetings of the Secretaries General of governments. Further, it should proactively engage the key actors such as the Attorney-General's Chambers, EPU, and the Malaysia Competition Commission (MyCC) in implementing NPDIR and developing a medium-term strategy. Malaysia also needs to strengthen its regulatory oversight, including a challenge function of RIA, to complement its advocacy and capacity building activities. The implementation of NPDIR should be phased, encouraging compliance for all regulatory proposals while improving regulatory quality on carefully selected strategic proposals, and an effective communication strategy for stakeholders put in place. The government should also build regulatory literacy and capability by putting better-quality training programmes in place. Finally, the OECD recommended that the government connect GRP to the national strategic plans, by embedding it into Malaysia's 11th Plan, and prioritising GRP regionally and in the post-2015 agenda (OECD, 2015).

In response, a second regulatory review of acts, regulations, and licences has started in 10 ministries. The first step is to gather detailed information, prior to reviewing all the irrelevant acts or regulations, with the aim of continuous monitoring. This exercise will result in ministry profiling and a stocktake of acts and regulations towards an annual regulatory plan. Progress in the adoption of NPDIR will be monitored by the MPC, which will review the annual regulatory plan.

At the end of the year, an annual regulatory report on the regulatory activities undertaken by federal government regulators will be published. This report will provide an assessment of the progress made in the implementation of the NPDIR.

The MPC will increase the take-up rate of NPDIR to improve the regulatory environment by accelerating the roll-out to the remaining ministries and agencies. All ministries and agencies are required to develop their annual regulatory proposal plan and to undertake a review of their regulations every 5 years.

### **3. Singapore**

#### **3.1. Introduction**

Singapore has recognised the importance given to a well-performing regulatory system to improve or maintain the country's international competitiveness and investment attractiveness. Given its limited policy space in view of its small size and lack of natural resources, Singapore has had to proactively adopt and adapt its governance and regulatory system ahead of or at least parallel with changes in the external economic environment. The quality and adaptability of its regulatory regimes and RMS are an important component of Singapore's competitiveness.

Singapore's regulatory system is anchored on the country's post-independence reforms: administrative, institutional, and attitudinal. Of particular interest in the development of the country's approach to regulation are the initiatives since 2000, starting with the 'Cut Red Tape' campaign, a regulatory guillotine initiative

to remove regulations that were no longer needed. The setting up of the Pro-Enterprise Panel (PEP) and the Rules Review Panel (RRP) that was later reconstituted into the Smart Regulation Committee (SRC) during the 2000s marked the emergence of the country's strategy for improving regulatory quality. Singapore relies primarily on committees or commissions that represent various important stakeholders as its core institutions. This is vastly different from most countries whose RMS is anchored on government agencies and ministries. This distinctive institutional innovation appears to be well suited to the country.

### 3.2. Country Context

Despite its lack of natural resources and small domestic market, in 50 years Singapore has managed to move from Third World to First World state of development. When the present ruling party, the People's Action Party, assumed power in June 1959, Singapore was a poor developing country with a population of 1.58 million. While the population was growing rapidly (4 percent annually), unemployment was high, there was a serious housing shortage, and corruption was widespread. In addition, the government had inherited a corrupt and ineffective civil service from the British colonial government. What is the underlying reason for this remarkable economic and social transformation within a half century? To a great extent, Singapore's success in nation building can be attributed not only to a strong political leadership but also to effective conceptualisation, implementation, and monitoring of public policies by an efficient public administration using a pragmatic approach to regulatory management.

According to the World Bank's Governance Indicators (WBI), Singapore has consistently been ranked highly for both its government and regulatory quality. In 2013, Singapore was in the range of 95.71 to 100 on both the regulatory quality index and the government effectiveness index. These measures are linked to other WBI indices such as Voice and Accountability, Political Stability and the Absence of Violence, Rule of Law, and Control of Corruption. A 2013 report by the Political and Economic Risk Consultancy showed that Singapore had the second-best regulatory environment in Asia after Hong Kong, with Japan, Taiwan, and the Republic of Korea in third, fourth, and fifth places, respectively.



When the government of the People's Action Party assumed power in 1959, it was determined to transform the old colonial bureaucracy to ensure that the government's socio-economic development programmes could be implemented. This necessitated a comprehensive reform of both the civil service and the statutory boards. The civil service was reorganised to deal with nation-building and economic development. Ineffective statutory boards created during the colonial period were replaced (Quah, 1996).

New statutory boards were established for three reasons. First, it was perceived that the civil service was handicapped by rigid regulations and inflexibility, and its role in national development was restricted to regulatory and routine matters. Statutory boards, on the other hand, could efficiently undertake the tasks of development without facing the constraints encountered by civil servants. Secondly, they could shoulder the task of implementing socio-economic development programmes, reducing the load on the civil service. Thirdly, their existence served to reduce the movement of talented civil servants to the private sector. The Economic Development Board, Port Singapore Authority, Housing Development Board, and Jurong Town Corporation have all contributed to the remarkable economic and social transformation of Singapore.

Reform of the civil service was focused in part on changing the mindset of officials towards national economic development; to that end, the Political Study Centre was set up in 1959. Henceforth, the focus was on efficiency, with promotion based on merit, not tenure. Right from the start of self-government in 1959, and especially after full independence in 1965, a strong, effective, and dominant political leadership has shaped the structure and characteristics of managing public policy. The role of senior civil servants is to support and implement effectively the agreed broad national policy decided by the political leaders, based on good governance and the goals for economic and social development.

The Public Service Commission (PSC) is constituted under Part IX of the Constitution and its constitutional role is to appoint, confirm, promote, transfer, dismiss, and exercise disciplinary control over public officers in Singapore. The PSC also retains two key non-constitutional roles. It considers the suitability of candidates for appointment as chief executive officers of statutory boards. It is also responsible for the planning and administration of scholarships provided by

the Government of Singapore. The recipients of the scholarships are known as PSC scholars who are highly considered and often become high-ranking senior officials as civil servants in ministries or senior management in statutory boards, such as the Port Authority of Singapore or the Housing and Development Board.

Even for a small city-state, conceptualising, implementing, and monitoring public policy have not been easy. This is where the process of regulatory management and reform has become a distinctive feature of Singapore's management of public policy.

### 3.3. The Regulatory Reform Process

Unlike many other countries, the legal framework of regulation in Singapore is not embedded in the Constitution or contained in a major piece of legislation. Rather, the regulatory reform process starts with a government decree or an Act of Parliament. The government has a pragmatic, results-oriented approach to public policy, since the political legitimacy of the ruling party rests on delivering better economic and social conditions that can be sustained over time. The regulatory system is not based on the political ideology of the ruling political party. Singapore must, therefore, constantly fine-tune its regulatory policies to better serve the market and to remain competitive and relevant to the regional and global economies.

Over the years, the responsibility for sectoral regulation has been shifted from a government ministry to a specially established committee or commission that represents various important stakeholders and is responsive to market dynamics and rapid changes in the external economic environment.

In 2000, the government initiated the Cut Red Tape Campaign to remove regulations that were no longer needed to make public services more convenient and effective. The Pro-Enterprise Panel (PEP) was set up to solicit feedback and suggestions from the public on rules and regulations that hinder businesses and entrepreneurship. In 2002, the Rules Review Panel (RRP) was established to oversee the rules review process in the public sector. It stipulated that all existing rules enforced by the public sector agencies were to be reviewed every 3 to 5 years. With a mandate to establish an effective and responsive regulatory system

throughout the public service, the RRP adopted a proactive approach to reviewing rules, examining the rationale that lay behind them. By 2007, the RRP had reviewed a total of 19,400 rules.

In 2005, the RRP was reconstituted as the Smart Regulation Committee (SRC) with a broader mandate. It was to shift the mindset of the public service from being merely a regulator to that of a facilitator, and develop a regulatory system that is friendly to business and investment. Globalisation has brought about intense competition, including competition for investment. How friendly a regulatory system is to businesses and investment has become a key competitive factor. For Singapore, a key consideration in conceptualising, implementing, and revising rules and regulations is how well the rules and regulations serve the interests of the businesses and the economy. Regulations are introduced and revised for national economic survival.

What does it take to ensure that Singapore has a first-rate regulatory system? At heart, it entails becoming more customer-centric. Under the old approach, the tendency was to draw up rules that were convenient to the regulator, with little regard for the regulatory costs and administrative burden to be borne by the regulated. By adopting a customer-centric or citizen-centric approach, the regulatory agencies must be mindful of the implications of the rules. The impetus to change and improve rules and regulations is driven by the internal dynamics of public administrators and facilitated by institutional feedback mechanism from businesses and the public to achieve well defined policy objectives.

Globalisation and technological change have also resulted in regulators having to grapple with far more complexity than before. There are many more new products and services, new companies and industries, and new ways of doing business. The electronic medium has revolutionised how certain transactions are carried out. All these throw up new issues that regulators are struggling to keep up with. Regulators have no choice but to consult experts from the industry and the community.

In the past, there seemed to be a great suspicion of the private sector. When agencies formulated their regulation, they did not want the regulated to know what they were doing because they thought the regulated would always be trying to outwit them and get around their rules and systems. There was a mindset among regulators that they know better and saw less need to consult the

stakeholders. Increasingly, regulators are more consultative now not only in Singapore but all over the world. A more consultative approach also reflects a greater sense of confidence on the part of the government. Regulators must be confident that their regulations will be effective even when industry is consulted. From Singapore's experience, regulations are more effective if they have taken into account input from the stakeholders.

### 3.4. Stock Tools (Institutions)

Singapore's SRC was formed in 2005 to improve the knowledge, awareness, and practice of regulation across the public service. Comprising senior government officials from various regulatory agencies, the SRC oversees the regulatory review process through a sustained and effective approach that ensures that rules and regulations remain relevant in a changing environment. Its terms of reference are:

1. To promote good and responsive regulatory practices of regulation,
2. To oversee sustainable systems to proactively review rules and regulations,
3. To catalyse a change in regulatory mindset from control to facilitation,
4. To build competencies and capabilities in smart regulation.

The SRC is set up to promote good regulation practice within the government and proactively review rules and regulations. It is chaired by the Permanent Secretary of the Ministry of Social and Family Development and the Second Permanent Secretary of the Ministry of Trade and Industry. Its work is shaped by the following principles:

1. Agencies should foster self-regulation and market discipline as far as possible.
2. New regulations should take into account the views of relevant stakeholders and potential implications for existing regulations.
3. The cost of regulation should not exceed the intended benefit.
4. Regulations should adopt a risk management approach instead of a zero tolerance approach.
5. Regulations should facilitate a competitive and innovative climate.

The Zero-In-Process addresses issues raised by members of the public that cut across multiple agencies or have no clear ownership by any government department. Through this process and the awareness and support mechanism, regulatory institutions strive to achieve top-level commitment, and build a network of partners both inside and outside the public sector, to achieve transparency and predictability in the regulatory system.

Agencies also seek to prevent red tape from accumulating into unmanageable regulatory stock in the first place by setting sunset clauses by which rules automatically lapse after a certain date, or by spelling out a negative list, rather than allowing a small positive list. This regulatory approach is based on the premise that too many rules can cause confusion to both the regulatory enforcers and the public.

### **3.5. Flow Tools (RIA)**

The PEP was formed in 2000 with the objective of soliciting feedback on rules and regulations that hinder business and impede entrepreneurship. It is part of the Public Service 21 movement, meant to ensure that the government's rules and regulations remain relevant and supportive of a pro-business environment.

The PEP is chaired by the head of the civil service, and is mainly composed of representatives from the private sector. Acting on public feedback, the PEP engages agencies to review rules and regulations so that businesses spend less time, effort, and expense in meeting regulatory requirements for their operations. The PEP also carries out the annual Pro-Enterprise Ranking survey across 26 regulatory agencies. The survey benchmarks government agencies on their business-friendliness by analysing the perceptions and expectations of more than 4,000 businesses that have interacted with them.

This means that flow management tools are used instead of a formal RIA, as practised in other countries. Continual feedback from businesses provide the feedback loops and learning mechanisms to the SRC and the PEP. In addition, there are sectoral institutions – such as Infocomm on information and communications technology; the Standards, Productivity and Innovation Board (SPRING Singapore) on manufacturing; and the Monetary Authority of Singapore

on financial and banking services – that, together with other statutory boards, focus on regulatory implementation and administration. To maintain the quality of public administration, Singapore’s Public Service Commission and the Civil Service College select and nurture competent public administrators and regulators through a meticulous staff selection process and continual training and upgrading process.

### 3.6. Singapore’s Risk Management Approach

Risk management is basically the control of bad things. The term ‘risk management’ has been used in other areas, for example, financial risk management and protection against litigation from private citizens. The control of bad things, which is different from the promotion of good things, is central to the role of government in regulatory governance.

The use of a risk management approach in regulatory management is not new. Making trade-offs in policymaking has all along required an assessment of risks. In fact, many in public management have argued that government is the ultimate risk manager. How should a regulator go about designing an effective regulatory programme and what are the critical principles and fundamentals that the regulator should know?

First of all, regulators have to be seriously invested in analysis to pick apart the risks, so they can find the vital components. That is a data-driven process. It requires analytics, versatility, and open-mindedness to try new forms of analysis, look at other sources of information, and get multiple perspectives on a problem until one sees it clearly. Once a regulator sees the individual pieces, the process then is to understand the discretion that goes into the design of tailor-made intervention.

A regulator needs to undertake an honest and rigorous evaluation-focused approach with a view to having a system that can show whether the problem has improved. In setting any standards and specifications, the regulatory agencies are taking some risks, as there are always risks involved. The government as a whole regularly takes decisions about acceptable levels of risk. The tendency of any regulator is to minimise risks itself. This implies having very tight rules and leaving

as few loopholes as possible. But it also means having little regard for the costs to be borne by the regulated.

In many countries, risks are managed in ways that are stacked in favour of the regulator, with industry bearing most of the regulatory burden. Since the establishment of the SRC in 2002, regulators have been urged to look beyond their own perspective and the process is directed to the Zero-In-Process. If a particular regulatory agency adopts a national viewpoint to start with, rather than the regulator's own interest, and carries out the cost-benefit analysis from that perspective, the outcome would be different. Adopting a broader perspective makes regulators more likely to weigh the risks and options differently. To measure the change in regulatory effectiveness is to recognise that they are different kinds of work and they have different kinds of key indicators. If a regulator is concerned with functional expertise, the key indicators are about the quality of that function. Singapore's SRC guidelines are meant to make the right regulatory decisions.

Whether a regulator needs to accommodate flexibility and discretion depends largely on how blunt the regulations are to begin with. If the regulation is very general and applies to everyone, there will likely be exceptional circumstances and a need to show discretion. The more customised and fine-tuned the policies are, the less need there is to make exceptions.

Even with fine-tuned regulation, there may still be an exceptional circumstance. The criterion for the regulator to judge is whether it is a one-off occurrence, or whether it reflects a particular cluster of issues that so far regulation has not been able to accommodate and capture. If it is a legitimate case, the regulatory agency has to devise a subcategory of rule to deal with it. Such a case requires specialised consultation with the designated overall agency, the SRC, as the decision requires a high level of expertise and specialisation. Generally, when it comes to discretion and flexibility, the problem is in deciding what level of staff ought to make this kind of decision. There is a need to have a mechanism in place whereby senior management staff check to find out what complaints and exceptions regularly arise, so that the regulation can be improved.

What is a good indicator of an effective regulatory agency? It is important to recognise that there are different kinds of work with different kinds of key indicators. If the regulation is concerned with the functional expertise, the key indicators are about the quality of that function. The second function of work is processes. The key performance indicators around the core high-volume processes are about timeliness, efficiency, productivity, customer satisfaction, and a low rate of data error. On the other hand, the key performance indicators on the risk control front are about risks reduced. The SRC must have a balanced scorecard in a regulatory environment to recognise the different kinds of work with different indicators. For example, the risk reduction objective should not be measured on customer satisfaction. Singapore adopts a risk management approach in designing regulation, which entails focusing resources on high-risk areas while reducing the administrative burden for business stakeholders in lower-risk areas.

### 3.7. Regulatory Impact Analysis

Singapore does not undertake formal regulatory impact analysis (RIA), except for major projects. This is in sharp contrast with Australia and New Zealand, for whom RIA is one of the critical pillars of the RMS, with an agency tasked to review the RIAs/RISs of government departments and agencies. The reason offered is that Singapore is a small economy with a well-connected government, which makes it relatively easy to evaluate policy impact and to get feedback from stakeholders. The SRC, which includes major stakeholders, is tasked to undertake continuous refinement of regulations.

Having a small economy with a well-connected government makes it easier to evaluate policy impact and to connect with stakeholders to gather feedback (APEC, 2014). However, *ex ante* RIA, which is used in the development phase of new regulations, is encouraged but not mandatory in Singapore. For major projects, a careful cost–benefit analysis, evaluation of impact on stakeholders, and thorough public consultation are carried out. The main purpose is to reduce the cost and burden of regulation on stakeholders while safeguarding and maximising public interest. For businesses, this means creating a competitive and innovative business environment and allowing market forces to operate. To achieve this goal, regulatory reform aims to improve the quality of government regulations and remove unnecessary restrictions, rules, and regulations.



There is no explicit requirement to include trade and competition principles into regulatory reviews and analysis, but inter-agency coordination is meant to take into account the views of trade agencies in Singapore. For example, in 2008, the Competition Commission of Singapore (CCS) issued guidelines on 'Competition Impact Assessment for Government Agencies' to help government agencies focus on important competition issues when formulating their policies (CCS, 2008). In the same manner, external legal agreements under free trade agreements must pass through a legal 'scrubbing' process by the special committee of the Ministry of Law or Attorney-General Chamber to ensure consistency and coherence with existing rules and regulations. Major new rules and regulations initiated by public agencies must be vetted for their legal consistency by the legal office of the Ministry of Law.

### 3.8. Open Market Policies

**Infocomm:** The mission of the Infocomm Development Authority of Singapore (IDA) is to develop information technology and telecommunication in Singapore to serve citizens of all companies of all sizes. IDA does this by actively supporting the growth of innovative technology companies and start-ups in Singapore, working with leading global information technology (IT) companies in developing excellent IT and telecommunications infrastructure **policies and capabilities in Singapore.**

**SPRING** (Standard, Productivity and Innovation): SPRING Singapore is an agency under the Ministry of Trade and Industry responsible for helping Singapore enterprises grow, and building trust in Singaporean products and services. As an enterprise development agency, SPRING works with partners to help enterprises in financing, capability, and management development; technology and innovation; and access to markets. As the national standards and accreditation body, SPRING develops and promotes internationally recognised standards and quality assurance infrastructure. SPRING also oversees the safety of general consumer goods in Singapore. Among other functions, it oversees quality and standards indicators, including standards, accreditation, consumer product safety, weights and measures, organisational excellence, reach and assistance.

## 4. Conclusions

The contrasting paths to regulatory reform taken by Malaysia and Singapore show how every country needs to find its own way. The impressive gains in regulatory quality in both countries lend strong support to the notion of equifinality, which suggests that a goal can be reached by various paths, involving rather different journeys.

For Malaysia, the approach to a rigorous RMS is formal and centrally driven, with focus on measurement of progress against targets. Three institutions have been critical in the implementation of the regulatory approach. The first was PEMUDAH, the high-level public–private task force established in February 2007 to facilitate business. PEMUDAH used the World Bank’s Ease of Doing Business as a focus point for its activities. The second institution is the National Development Planning Committee, which includes the highest civil servants as members. This group examines the adequacy of the RISs on new or modified regulations that significantly impact on business, investment, and trade. The third institution is the MPC, which provides technical secretariat support to the PEMUDAH, and is the coordination and oversight body overseeing the implementation of the national plan. The MPC also provides advice and capability building to regulatory agencies on the preparation of RIA. The three institutions have combined in the continuing drive to improve regulatory quality.

Singapore is a world leader in rankings on regulatory quality and ease of doing business. Its RMS is also unique in the world in that it relies less on formal RMS measures and more on embedding the GRP principles in the whole public service. Particular emphasis has been placed on stakeholder-centric regulatory reform with active use of specially established committees or commissions to include various key stakeholders. The case of Singapore may be unique in that it is a small city-state that is heavily integrated into the regional and global economies and with barely any natural resource to rely on. Nonetheless, it suggests that a country’s RMS is ‘context-specific’ to the culture and institutions in the country.

## Appendix: The Case of Dealing with Construction Permits in Malaysia

### 1. Background

Dealing with Construction Permits (DCP) is one of the World Bank's Ease of Doing Business indicators. It records the procedural requirements for a business in the construction industry to build a standardised warehouse. The country ranking is based on three indicators:

- Time (in days) to build a warehouse in a main city;
- Cost as a percentage of the warehouse's value;
- Procedures: regulatory submissions, obtainment of construction permits, receiving inspections, and utility connections.

The formalities before construction begins are the most time-consuming and costly part of dealing with construction permits. *Doing Business 2014* highlighted that over the past 5 years, the most common feature of reforms is streamlining project clearances. Building approvals tend to require technical oversight by multiple agencies, and one way to simplify this process is by establishing one-stop shops. However, the success of one-stop shops depends on good coordination on the part of all the agencies involved and often requires overarching legislation that ensures information sharing and established oversight mechanisms to minimise cases of noncompliance.

**Table 9.A1. Dealing with Construction Permits – Malaysia's Performance  
2012–2015**

Indicator	Malaysia DB 2015	Malaysia DB 2014	Malaysia DB 2013	Malaysia DB 2012	Top Performer
Dealing with Construction Permits (rank)	28	43	96	113	Hong Kong
Procedures (number)	13	15	37	22	Hong Kong (5)
Time (days)	74	130	140	260	Singapore (26)
Cost (% of warehouse value)	1.3	14.7	17.5	7.1	Qatar (0.0)

Source: Malaysia's Performance in Doing Business, 2015.

**Table 9.A2. Dealing with Construction Permits (Revised Methodology) 2016**

Indicator	Malaysia DB 2016	Malaysia DB 2015	Best Performer Globally DB 2016
<b>Dealing with Construction Permits (rank)</b>	<b>15</b>	<b>15</b>	<b>Singapore</b>
<b>DTF score for dealing with construction permits (0–100)</b>	<b>81.10</b>	<b>81.07</b>	<b>Singapore (92.97)</b>
Procedures (number)	15	15	Denmark, Georgia, Guyana, Marshall Islands, Sweden (7)
Time (days)	79	79	Singapore (26)
Cost (% of warehouse value)	1.4	1.4	Qatar (0.0)
Building quality control index (0–15) (new)	13	13	New Zealand (15)

In 2016, Malaysia was ranked 15th out of 189 economies in terms of dealing with construction permits, with a DTF score of 81.10, maintaining its rank in 2015. The DTF score registered improvement over the score in *Doing Business 2015* (81.07). The measures in the sub-indicators of DCP are unchanged, but a new indicator was added in DB 2016, namely, the Building Quality Control Index, which expanded the coverage to encompass good practice in construction regulation. This index assesses the quality of building regulations; quality control before, during, and after construction; liability and insurance regimes; and professional certifications. This new measure is the sum of the above elements, which range from 0 to 15. Higher values indicate better quality control and safety mechanisms in the construction permitting system. Malaysia scored 13 out of a maximum possible score of 15.

Malaysia's high ranking in Dealing with Construction Permits was made possible by strengthening one-stop centres, and streamlining procedures and online systems. In particular, efficiency improvements resulting from various administrative reforms have shortened the processing time for obtaining development approval and conducting concurrent/joint final inspections for utility providers and fire safety at the final inspection stage.

The launching of the Kuala Lumpur Integrated Submission Be Efficient, Systematic, and Transparent (KLIS BEST) system, which provides another lane for complex and high-risk projects in Kuala Lumpur, has streamlined procedures and improved transparency on permit requirements. The Kuala Lumpur City Hall (KLCH) has fully implemented the KL TRAX System for the OSC1 Submission, and effort is being made to expand to OSC 3.0 and KLIS BEST approval lanes for high-risk or large developments. The KL TRAX System is an online system that enhances delivery and status update in the monitoring of construction permit applications from the date of submission until the issuance of the Certificate of Completion and Compliance (CCC), including updating and checking the application status for both parties (local authority/agencies and the private sector). It enhances productivity performance through reduction in time taken, and an integration of all agencies and businesses on a single transparent platform. All development requirements for OSC1 submission are now available in Bahasa Melayu and English on the KLCH website. A Construction Industry Transformation Plan (CITP) 2016–2020 is being mooted that will commit the various major stakeholders, public and private, within the industry ecosystem to support transformational initiatives.

The National Policy on the Development and Implementation of Regulations (NPDIR), which aims to include GRP elements, will be fully implemented during the 11th Malaysia Plan period to include states and local governments. This initiative encourages all regulators to engage affected stakeholders in designing and implementing future regulations, thereby forestalling any element of surprise when dealing with local government regulations. The construction industry in Malaysia can expect to see greater conducive improvements in the regulatory environment with the roll-out of more initiatives. PEMUDAH, through the Focus Group on Dealing with Construction Permits (FGDCP) and with the commitment of industry players and the regulatory authorities, will drive the various initiatives.

## **2. Malaysia's Approach to Dealing with Construction Permits**

The idea for a high-powered task force to address bureaucracy in business–government dealings was first introduced in the Prime Minister's annual speech to the civil service on 11 January 2007. It was recognised that a concerted cross-ministerial initiative was needed to effect greater improvement in the way

government regulates businesses. To be truly relevant, active participation by the private sector is also essential.

Malaysia's competitive position, as reflected in various international reports such as the World Bank's *Doing Business Report*, was an impetus behind the formation of PEMUDAH. Using this report as a framework, PEMUDAH was tasked to address the areas related to the business environment. The public sector had been working on improvements even before the establishment of PEMUDAH. But PEMUDAH has undertaken reforms and improvement in terms of speed, urgency, and inclusiveness. Decisions are no longer made in isolation, making the end result more sustainable, meaningful, and comprehensive. This practice of inclusive engagement will continue to be the hallmark of the Malaysian public sector.

While PEMUDAH continues to focus on improving Malaysia's competitiveness rankings through its work and improvements, the country is also cognizant of the fact that rankings alone are not the only gauge of prosperity and success. Though Malaysia is not driven by the rankings alone, they show how much progress has been made and indicate the effectiveness of initiatives. The World Bank's *Doing Business Report* is widely known and assesses comprehensive measures of business-enabling environment that can be compared across 189 economies. From the *Doing Business Report*, the country can measure its efforts against other nations to see where it stands and what needs to be done to further improve its performance.

The 10 focus areas in the World Bank *Doing Business Report* that PEMUDAH used as indicators are Starting a Business, Dealing with Construction Permits (DCP), Getting Electricity, Registering Property, Getting Credit, Protecting Minor Investors, Paying Taxes, Trading Across Borders, Enforcing Contracts, and Resolving Insolvency.

### **2.1. The Focus Group on Dealing with Construction Permits**

Regulation of construction activities is critical for public safety. It also matters for the health of the building sector and is crucial to the competitiveness of the economy. Striking the right balance is a challenge when it comes to construction

approvals. Good regulations maintain safety standards, while ensuring that the permit approval process is efficient, transparent, and cost-effective.

The indicator DCP measures the procedures, time, and cost to comply with the formalities to build a warehouse, obtain necessary licences and permits, complete the required notifications and inspections, and obtain utility connections. FGDCP was set up as a working group under PEMUDAH to look into the efficiency of the public service delivery system and government policies impacting businesses. When an important issue surfaces, PEMUDAH will set up a new focus group or task force to address the issue, often with dual chairmanship (public and private sectors) to have a balanced perspective.

FGDCP has been working together with both the public and private stakeholders, including building professionals and experts, to identify issues and challenges, propose winning solutions, and implement various improvement initiatives. This focus group has charted a radical change in the Construction Permits framework. Members of FGDCP consist of representative from the Ministry of Federal Territories, Ministry of Works, Public Works Department, Ministry of Local Government and Housing, National Water Service Commission (SPAN), Selangor Water Supply Company (SYABAS), Real Estate and Housing Developers (REHDA), National House Buyers Association, Kuala Lumpur City Hall (DBKL), Indah Water Konsortium, Malaysian Communications and Multimedia Commission (SKMM), Tenaga Nasional (TNB), Telekom Malaysia, Engineers, Architects and Planners, and the Fire and Rescue Department (BOMBA).

## 2.2. The Baseline Study

In *Doing Business 2012*, Malaysia had moved up five places to 18th position among 183 countries. DCP was one area identified for improvement since, despite a reduced number of procedures, Malaysia's ranking slipped by two places to 113rd position. Improvement initiatives that had been undertaken included establishing one-stop centres and reducing time taken for approvals, while other initiatives to improve the efficiency of dealing with construction permits were being undertaken.

FGDCP conducted a thorough study to identify the regulatory and non-regulatory options with respect to construction permits. On 1 June 2012, fast-tracked approval for small-scale non-residential projects known as OSC1 Submission was launched by the mayor of Kuala Lumpur City. It covered concurrent submissions of planning permission plans, buildings plans, engineering plans, fire safety plans, and utility plans, which required only 10 procedures and took 100 days to obtain approvals (compared with 37 procedures that required 140 days to obtain approval previously). Malaysia introduced Standard Guidelines, categorising the risk-based and self-regulatory inspection system, and improving the operational features of the existing one-stop centre for building permits.

In May 2012, Kuala Lumpur City Hall issued Standard Guidelines for the construction of protective hoardings and construction signboards. Under these guidelines, builders are not required to obtain permits for constructing hoardings and signboards or to pay a processing fee. In addition, Kuala Lumpur City Hall has eliminated the requirement to obtain permits for dustbins (RORO Bin) before construction starts. It is now the responsibility of the builder to engage a registered contractor to dispose of construction debris from the site. With this initiative, the number of interactions between architects and builders and Kuala Lumpur City Hall has been reduced. Kuala Lumpur City Hall has managed to simplify and streamline all the processes involving internal and external agencies.

**Box 9.A1. Station Penchala Link: Showcase Success of OSC1 Submission  
for Speedier Approval**

The introduction of OSC1 Submission serves as a gateway for seeking approvals for the construction of low-risk commercial projects. OSC1 Submission has significantly reduced both the number of processes/procedures and time taken for such approvals to be granted from 37 procedures requiring 140 days to only 10 procedures requiring 100 days. OSC1 Submission was put to test on the ground with a pilot study for constructing the new petrol station Penchala Link. The pilot test revealed that the approval to develop the petrol station was made easier and faster with the new OSC1 Submission and cost savings were realised with the reduction in procedures. Estimated savings of RM20,000 were made possible.

Ongoing initiatives include implementing best practice by empowering the private sector in the process and in approving the application; implementing a 100 percent online system for main processes; enhancing the coordination efficiency of the technical agencies at OSC National House Buyers Association, Kuala Lumpur City (DBKL); implementing a merit/demerit system to prevent



misdemeanours by the submitting person; monitoring the processing time of approval by all technical agencies, adhering to the agreed time frame; monitoring the processing time of approval by all technical agencies; integrating the payment system into the online system that will be developed; and promoting the model of enhancing efficiency in DCP to other major cities in Malaysia.

### **The Baseline Study – Mapping DCP in 16 Capital Cities**

PEMUDAH requested FGDCP to extend the initiative to the other cities in Malaysia. A baseline study of DCP was conducted in 16 locations nationwide in September–October 2012. The methodology was based on the World Bank *Doing Business Report* with modifications to suit Malaysia's context. The study used the case example of setting up a petrol station in 16 cities in the states of Malaysia. The objectives were to reduce or eliminate irrelevant procedures, improve on those procedures deemed inefficient and ineffective, identify major constraints, and consolidate and enhance all construction permit transactions for all cities and districts in peninsular Malaysia to ensure coherence and consistency of regulatory practice in issuing permission for construction and to make recommendations on the improvement initiatives to ease dealing with construction permits. The study considered the impact of local and national regulations on small to medium-sized domestic firms in dealing with construction permits. Information on the number of procedures, time, and cost involved for an investor to obtain a construction permit for a petrol station was captured. Data was collected with the help of more than 500 private sector contributors and public sector officials. A series of workshops were conducted in 16 capital cities (Putrajaya, Labuan, Pulau Pinang, Ipoh, Alor Setar, Kangar, Melaka, Johor Bahru, Kuala Terengganu, Kota Bharu, Kuantan, Kuching, Kota Kinabalu, Shah Alam, and Seremban). The study identified differences in the enforcement of local and national regulations that could either enhance or constrain local business activity.

The study's findings put the city of Kangar at the top of the DCP league table, requiring only 20 procedures taking 80 days, with a total cost of RM6,691. The most expensive city in DCP was Georgetown, where a petrol station owner has to pay RM407,814. DCP was least burdensome in Kangar, Kuala Terengganu, and Kota Bharu. It was most burdensome to businesses in Ipoh and Georgetown.

**Table 9.A3. Complying with Formalities to Build a Petrol Station in 16 Capital Cities**

Rank	City	No. of Procedures	Time (days)	Cost (RM)
1	Kangar	20	80	6,691
2	Kuala Terengganu	41	89	8,988
3	Kota Bharu	48	89	14,122
4	Kuching Utara	34	218	3,739
5	Labuan	57	111	8,356
6	Seremban	52	64	25,280
7	Putrajaya	80	129	8,001
<b>8</b>	<b>Kuala Lumpur</b>	<b>37</b>	<b>140</b>	<b>30,676</b>
9	Shah Alam	55	106	25,280
10	Kuantan	59	135	12,335
11	Melaka	57	135	30,065
12	Kota Kinabalu	40	278	46,241
13	Alor Setar	51	262	22,169
14	Georgetown	41	196	407,814
15	Ipoh	58	306	10,914
16	Johor Bahru	66	192	18,161

RM = Malaysian ringgit.

Among the findings:

- The high number of procedures continues to be a challenge for business.
- The wide variation in the quality of regulation across the cities points to the presence of ample opportunities for further regulatory improvement;
- Cities can learn from the existing good practices of Kuala Lumpur.
- The existing OSC and inspection methodology can be further streamlined.

The study showed that procedures and processes differ widely in different states due to different levels of development in local context, authority, and geographical area. State governments craft their own laws, so it may take time to implement the same procedures in big cities like Kuala Lumpur and Selangor. Nevertheless, it will be beneficial to have generic, uniform procedures, which will make it easier for investors coming to Malaysia. Good initiatives done in Kuala Lumpur may be extended to other states.

### **Implementation, Monitoring, and Reporting**

The findings gained from the study were presented to the States' Chief Ministers' Meeting chaired by the Prime Minister. The ministers took note of the cities that

were not performing and committed to expediting the necessary improvement so that they too can benefit from the successful ones. The Malaysia Productivity Corporation (MPC) and high-performing states will assist the underperforming states by sharing success stories through workshops, training, and capacity building activities.

Another study is to be conducted to examine whether there are further improvements 2 years after implementation. The findings will be presented at the PEMUDAH meeting, the Ministries' Secretary Generals' meeting, and the National Council for Local Government (MNKT). Performance figures speak for themselves. This approach uses peer pressure to get each city to improve by adhering to the construction industry's GRP.

### 3. Lessons Learnt

Several factors contributed to the effective implementation of this initiative:

- Establishing the baseline of the current model,
- Benchmarking against world's best practices,
- Redesigning the current model,
- Undertaking public consultation with stakeholders,
- Finalising the proposed model with consideration of 100 percent online implementation,
- Carrying out a change management programme, and
- Implementing the proposed model (with continuous monitoring and improvement).

#### **Stakeholder Engagement**

The successful implementation of the initiative required the commitment of all parties: developers, project owners, contractors, local authorities, external technical agencies, building practitioners, and professionals. FGDCP had been working together with both public and private stakeholders, including building professionals and experts, to identify issues and challenges, propose winning solutions, and implement various improvement initiatives. The government has got together in various platforms with various stakeholders involved in the

building process in the spirit of collaboration to improve the efficiency of DCP. Engagement sessions included workshops, benchmarking missions, public consultation, and an engagement with an expert from the World Bank. Through this collective effort, various issues and challenges hampering progress had been identified; a new framework that would facilitate processing and approval of construction permits was put together.

### **Public Consultation**

Well-conducted public consultation is not only part of a transparent and democratic process in the development of regulation; it will also achieve a higher degree of acceptance and ownership of the regulation by the stakeholders. Public consultation provides a platform of opportunity to listen to the key players in the public and private sectors and gather ideas to improve efficiency in dealing with construction permits. Committed participation from everyone will ensure the success of the initiatives.

### **Continuous Learning**

Training and hands-on sessions were conducted regularly for the processing officers, submitting persons, and contractors. Regular briefings were extended to agencies involved in attracting local and foreign investors. Ten local authorities were showcased as exemplary models to be benchmarked with; continuous monitoring and assessment to ensure compliance; providing advisory services to property investors and the public; continuous enhancement of e-submission in the OSC online system to ensure more efficient and effective submission and processing of plans.

### **The Regulatory Management System and DCP**

A Regulatory Review Framework must be updated to ensure it remains current and in line with the changing competitive environment. To reduce the regulatory burden to business, MPC has taken various initiatives to ensure the quality of new regulation and improve the quality of existing regulations through the Quality Regulatory Management System and Framework. It was implemented to improve the quality of new regulations and to ensure that regulations are effective in addressing the desired public policy objectives and serving the country in a balanced, equitable, and transparent manner.

The RMS played a significant role in the success of DCP initiatives. The following RMS principles guided DCP:

- **Develop and maintain a system to manage the regulatory process that meets requirements**

MPC and PEMUDAH conducted a thorough study to identify regulatory and non-regulatory options to reduce regulatory burdens on the business community in construction permits. The introduction of OSC1 Submission, a special lane to get faster approval, will now require only 10 procedures and take 100 days to process the permits (compared with 37 procedures requiring 260 days).

- **Adopt good regulatory principles at the highest government level**

Establishing PEMUDAH in 2007 was a significant step in adopting the good regulatory principles. It helps facilitate business and alleviate the burden of unnecessary regulations on business. In 2009, the Performance Management & Delivery Unit (PEMANDU) was formed to improve public services delivery to business to reduce redundancy, standardise functions, and remove overlapping functions, with a clear governance structure to ensure execution and compliance. FGDCP under PEMUDAH has been spearheading the initiative to liberalise the construction sector. Best practice was identified, and quick gains achieved by reducing procedures and time to process development proposals.

- **Ensure new regulations are in accordance with the defined process**

The processes undertaken by FGDCP are in line with the definition in the National Policy on the Development and Implementation of Regulations and Best Practice Regulation Handbook and in compliance with the regulatory process management requirements.

- **Consultation with stakeholders and interested parties**

The consultation sessions identified available options, analysed impact, and obtained agreement on the option chosen.

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