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BY INTAN FARHANA ZAINUL AND JOSE BARROCK

The man tasked with improving Sarawak's future

Tan Sri Abang Johari Tun Openg is continuing his predecessor's efforts to reclaim the state's rights under MA63 and chart its growth path. In an interview, he says it is not demanding too much and emphasises the importance of autonomy to avoid being plagued by the problems in the peninsula.

COVER STORY 62 to 65



PP 8409/03/2013(031809) MCI(P)042/07/2021
ISSN 1675-1205

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COVER STORY

STORIES BY ISABELLE FRANCIS
AND JOSE BARROCK

There lies a little red book, always within easy reach, on Tan Sri Abang Johari Tun Openg's desk in his office on Level 21 of Wisma Bapa in Petra Jaya, which overlooks Kuching, the tranquil and scenic state capital of Sarawak.

The little red book — the Inter-Governmental Committee Report 1962 (IGCR) — looks at constitutional arrangements, safeguards for the interests of North Borneo, namely Sabah and Sarawak, religious freedom, education, the special position of the indigenous races in the two states, immigration and citizenship, among others.

"It [the little red book] is my bible ... I always have it with me," the Sarawak Premier tells *The Edge* in an exclusive interview.

The 72-year-old political leader flips through the pages of the red book and reads aloud the relevant details of the constitution, in response to *The Edge's* question about the state's attempt to push for Sarawak and Sabah to make up two-thirds of parliamentary seats. "It is stated clearly here," says Abang Johari, explaining the rights of the state.

The IGCR spells out in detail the caveats and safeguards that have been agreed to by all parties involved in the contentious Malaysia Agreement 1963 (MA63) and that are the backbone of the agreement.

MA63 is an international agreement registered with the United Nations, which means the Malaysian Parliament has no authority to amend the terms of the agreement, which was signed in July 1963.

It is obvious that Abang Johari has diligently combed through the pages of the IGCR and is well versed with the contents, probably having read the book many times.

He comes across as a simple man and seems to be one with the people, not having been placed on a pedestal — a stark contrast to some of the country's previous leaders, both at state and federal levels.

He speaks off the cuff during the interview without help from any of his officers, neither does he have a script in hand.

Having said that, this simple man is the state's first leader who wants to be called "premier" instead of "chief minister".

"Because we are party to MA63, we can't be [treated] like Melaka or Penang. Malaysia is a federation of Persekutuan Tanah Melayu, Sabah and Sarawak; how can we be equivalent to a state in the peninsula?"

"You can call it a region; whatever it is, there must be a certain difference [between Sarawak, and states in the peninsula]," he says.

To make up for lost decades, Abang Johari is stepping up efforts to expedite development in the state since he took over the reins in 2016.

He is seen as the man who has managed to gain a lot for the state — the latest being the increase in the grant given by the federal government to RM300 million, from RM40 million previously, as well as being given board representation at the Inland Revenue Board (IRB).

Few may know that the two are related. According to Abang Johari, a variable in the formula that calculates the amount of grant that Sarawak should receive is the state's contribution to the federal government's revenue.

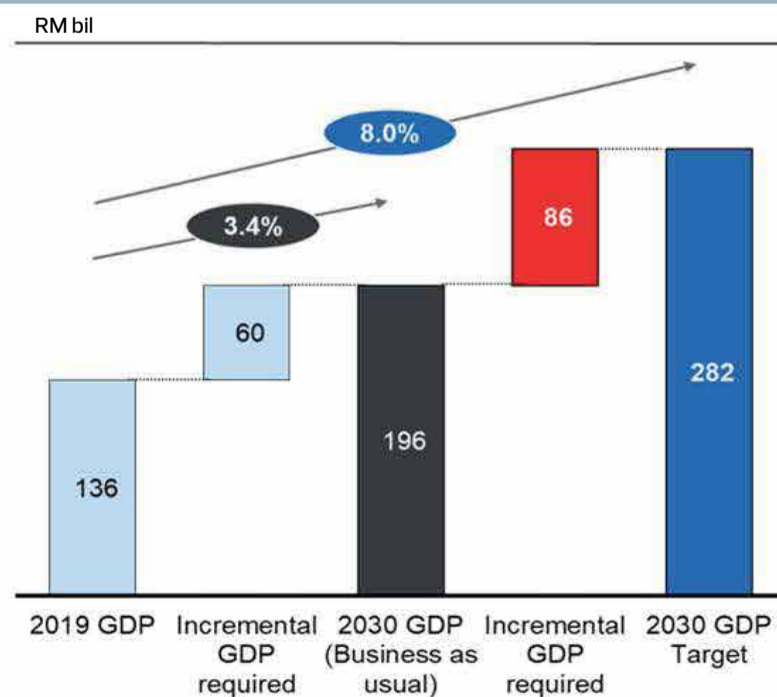
Under the IGCR, he says, it is mandatory for Sarawak to be represented on IRB.

"I insisted, at least on [board] members from Sarawak, so that we know how much the state contributes to the revenue of the whole country. With that figure, you have a formula," he says.

Reclaiming constitutional rights, shaping state's future



GDP growth projection (2020 to 2030)



Change in tack

Under past leaders in Sarawak, while some of the more prominent families in the state flourished, particularly at the peak of the timber boom in the 1980s and 1990s, the lot of the average man in the street did not — until the change of guard about a decade ago.

Armed with the IGCR and MA63, Abang Johari and his predecessor, the late Tan Sri Adenan Satem (Tok Nan), stood their ground and sought recognition of the rights granted to Sarawak and her people.

Being a trained lawyer, Tok Nan knew the intricacies of MA63 and was the first Sarawak leader to bring the federal government to the negotiating table regarding Sarawak's autonomy in 2016.

That was like a jolt to many in the peninsula — whether politicians, foreign investors or the man in the street — reminding many that the state, which is separated from the peninsula by the South China Sea, had been given certain rights that had hitherto never been exercised.

Asked to comment on the general view in West Malaysia that the Sarawak government had put too much emphasis on the state, which might not be beneficial to the country, Abang Johari says: "We don't have that feeling of isolating ourselves. We just want to execute what was written, agreed upon in 1963. Because the leaders on that side [the peninsula] are insular, only talking about Malaysia among themselves.

"In that case, what options do we have? We might as well bring ourselves up to a level that is on a par with them. Sarawak is so big; our infrastructure is not there. And then we see the East, West Coast highway in the peninsula ... *Apa ini?* Sarawak has nothing.

"This is a normal human reaction. So, we have to improve on [development], so [that] we feel we are on a par.

"We act as Malaysians. If Sarawak is successful, Malaysia will be successful. If Sarawak is in trouble, Malaysia will be in trouble.

"What I am saying is, the moment Sarawakians are happy, you don't have any problem because they contribute to the prosperity of Malaysia."

Asked why this wrangling is happening now, when the dust in the political scene has not settled since the change of government in 2018, Abang Johari says he is "continuing" his predecessor Tok Nan's efforts to pursue Sarawak's rights under MA63.

"We want to develop our state within our own parameters. Why now? Maybe Sarawakians are now smarter? What else can I answer?" he says, chuckling.

"We are asking within those parameters to develop our state. We have been there [building Malaysia] since 1963 and the spirit is there already as a nation. But, along the way, we felt that some of our rights, that we should get, have been eroded either with intention or without intention. That is why we need to put it back on its original footing."

This year will be Abang Johari's seventh in office, longer than the late Tok Nan's three years but much shorter than Tun Abdul Taib Mahmud's 33 years.

Over the past five years, Sarawak has developed its strategy for the digital economy, including the development of its own e-wallet, S Pay Global, which already has a collaboration with Union Pay International.

Knowing the crucial need for infrastructure building and the resources to fund it, the state has set up a development financial institution — Development Bank of Sarawak Bhd — to support the state government's efforts in the development of strategic infrastructure projects.

Given the wealth of hydrocarbon in the state, the government has formed state-owned oil and gas firm Petroleum Sarawak

COVER STORY

Why autonomy for education matters to the state

Education is an issue on which Sarawak Premier Tan Sri Abang Johari Tun Openg spent most of his time during the interview with *The Edge*. In his responses to the questions raised, he would, more often than not, link them to education, indicating that improving education is always on his mind.

In fact, what Abang Johari wants is not just to build more schools but also to provide quality education for future generations. The premier understands that building a talent pool is critical in taking Sarawak — which has bountiful resources but lacks development — to high-income status.

To achieve that, the state needs a good education system. There are no two ways about it.

The political leader is being realistic in thinking that if Sarawak continues to depend on the federal government, the children's schooling could be negatively impacted by inconsistent policies and questionable appointments of principals and teachers (as only the federal government has the authority to do so). Worse, the rural folks living upstream of the Rajang and Baram rivers will probably have to wait longer for the replacement of teachers while tolerating dilapidated schools without stable electricity and clean water supply.

He is also aware that when it comes to education-related issues, they are often politicised in the peninsula. It is against this backdrop that autonomy for the state's education system is at the top of the agenda when Sarawak negotiates with the federal government.

To Abang Johari, it is a foregone conclusion that English should be the medium of instruction in schools. Also, the recognition of the Unified Examination Certificate (UEC) — an examination taken by students of Chinese independent high schools — has never been a controversial issue that the state government cannot decide on although it is a political hot potato in Peninsular Malaysia.

"... Look at the Constitution, article 152, whatever it is, we are allowed to use English. The language of the future is English. Bahasa [Melayu] is already mandatory. [We need] to enhance our proficiency in English. Otherwise, we cannot communicate at international forums," he points out.

"And second, the books are mostly in English. I had to ask a friend in Semenanjung how to translate 'blockchain'."

Abang Johari points out that the UEC is already recognised by universities worldwide, including those in the UK and the US. He sees the state's recognition of the UEC as a way to retain talent.

His concern is that students who graduate from Chinese independent high schools are reluctant to work in the public sector. He sees that as a loss, a failure to attract talent to the state government.

Abang Johari is dissatisfied with the lack of adherence to Paragraph 17 of the Inter-Governmental Committee Report (IGCR) — a document that he has probably learnt by heart. It says education policy must be done in consultation with the state.

"If you [federal government] want to impose any policy on education, the director of

education, though he is a federal officer, must consult the state [first]. This should have been followed through. That's why certain policies may not be in tandem with what our children need," he explains.

Speaking his mind, Abang Johari voices his frustration at the flip-flopping of the federal government on education policies, pointing out that there is much-needed intervention to complement federal education policies to suit the requirements of the state.

"Previously they [federal government] had a policy. If they had a problem with teachers there [in the peninsula], they would send them here," he says.

"We know what criteria we need in teachers. The moment we address that, the state can move forward with other economic policies because people will be happy. English is important ... train the people, then move forward."

While the number of graduates in Sarawak had risen by more than 5% to 327,000 in 2021 from 311,000 in 2020, the percentage of students in the science, technology, engineering and mathematics (STEM) stream remains well below the national target of 40%.

As such, it is the premier's goal to reach that figure by 2025. "Our education must be at a certain level so that you keep abreast with technology," he stresses.

While the federal government is still undecided on which language should be the medium of instruction, what is more important to Abang Johari is how many students in the state know what AI (artificial intelligence) is, and whether the education system is keep-

ing up with technology and digitalisation.

To raise the bar on secondary education in Sarawak, the premier has announced the setting up of five international schools that use the Cambridge syllabus.

The first — Yayasan Sarawak International Secondary School — is located in Petra Jaya, Kuching, and became operational last April. According to its website, applications are open to all, but pupils from the B40 income group are given priority. While the student and/or one of the parents must be a native of Sarawak, other children are also welcome to apply. However, priority is given to the former group.

The state fully subsidises the school fees of students from the low-income group and partially subsidises those of students from the middle- and high-income groups. The fees are minimal, amounting to less than RM5,000 per year.

"At least those who are [the] cream [of the crop] can pursue their education and perhaps be accepted by top universities such as Stanford, MIT, Cambridge, Imperial College and LSE ... and they need a good [command of] English. That's why [autonomy for the state's] education is very important," Abang Johari asserts.

Politics aside, Abang Johari's determination to seek autonomy for education and healthcare is simply because he wants to get things done fast and effectively once the goals have been identified. Being the state's leader, he does not allow the problems in the peninsula such as politicking and racial tension to hold back Sarawak's development. Already, the state has lost decades. ■

Bhd, or Petros, to pave the way for the state to play a more active role in developing its hydrocarbon resources.

The reluctant kingmaker

Abang Johari is chairman of Gabungan Parti Sarawak (GPS), which has 23 out of 31 parliamentary seats in the state.

During the Sarawak state election in 2021, GPS won a landslide victory, securing 76 out of 82 state seats, which is a strong mandate by any standard.

In fact, he was the one who brought together the four Barisan Nasional political parties to form GPS in East Malaysia in late 2018. That strategic move seems to have given the state more bargaining chips.

Before GPS agreed to join the alliance with Pakatan Harapan (PH) and form a unity government, the Democratic Action Party's (DAP) national chairman Lim Guan Eng, along with the secretary general of the party, who is also the Minister of Transport, Anthony Loke Siew Fook, apologised to Sarawak and its leaders.

"Of course, I had to ask DAP to apologise for saying Sarawak would go bankrupt in three years," Abang Johari explains. "It [the statement that Sarawak would go bankrupt] was from a Finance Minister of Malaysia [Lim] ... When the Finance Minister says a state is going to go bankrupt, it affects the [entire] Malaysian economy. That's why I was quite puzzled."

"[The apology] was not made a condition [for GPS to support the PH alliance], but I said, if possible, that we want [the bankruptcy] to be verified ... [Sarawak's] rating is still triple A; our financial position is very strong. But when you mention such things [as bankruptcy], you must also remember the repercussions."

Having served under three prime ministers, Abang Johari, a Sarawak-born Malay, was seen as a kingmaker holding the deci-

sive so-called Borneo bloc that both PH and Perikatan Nasional needed to secure a simple majority in the parliament.

However, he dismisses the moniker.

"The question of [me or Sarawak being] kingmaker is not there, but political stability for Malaysia is what is important. You have to have a stable government.

"One term, you have four to five prime ministers [chuckles] ... Being the head of the party, the No 1 matter is political stability," he says.

State with highest revenue

Last year, Sarawak's revenue was a record RM11.9 billion, surpassing estimates of RM10.2 billion by 17%, of which state sales tax contributed RM5.6 billion.

Taxable products under state sales tax include oil and gas products, oil palm products and aluminium.

Among all the states, Sarawak has the highest revenue mainly because of its hydrocarbon reserves.

The state's four main revenue generators were tax revenue, non-tax revenue, non-revenue receipts, and federal grants and reimbursements. Tax revenue contributed RM6.7 billion, or 56%, of total revenue, while the other categories comprised 44%.

According to the premier, the state had a budget surplus of more than RM1 billion.

On whether such high revenues are sustainable, Abang Johari says there are new economic revenue streams to sustain future revenue growth.

Sarawak expects its methanol production to start between 2025 and 2027, and possibly hydrogen production to start in 2026.

Some of Abang Johari's policies, such as the Post Covid-19 Development Strategy 2030 (PCDS 2030), are meant to accelerate development and elevate Sarawak to become a developed and high-income

“We are asking within those parameters to develop our state. We have been there [building Malaysia] since 1963 and the spirit is there already as a nation. But along the way, we felt that some of our rights, that we should get, have been eroded either with intention or without intention.” — Abang Johari

state by 2030. The plans are ambitious and include increasing economic growth from RM136 billion in 2019 to RM282 billion in 2030 through PCDS 2030.

Abang Johari says the state's strategy is to re-engineer its growth engines by diversifying from a resource-based economy and developing the digital economy as well as renewable energy. The state also wants to venture big into carbon capture and storage (see "Transforming Sarawak into a green economy" on Page 64).

There are six main economic growth drivers under this strategy — manufacturing, commercial agriculture, tourism, forestry, mining and social services — which are supported by the seven variables of digital transformation, innovation, basic infrastructure, transport, utilities, renewable

energy and education, and human capital development.

Petros and oil revenue

Sarawak has sought higher oil royalties. From 5% of gross value previously, the state's oil royalty now includes 20% of net profit from its oil-producing activities.

Sarawak's relationship with Petronas has not been on the best of terms since the state started looking at reclaiming its rights over its hydrocarbon deposits under MA63.

In September 2020, Petronas paid close to RM3 billion in sales tax to the state, as settlement in a legal feud. This also led to the state's establishment of Petros for better management of its oil and gas assets.

Petros has been making waves (see "Devolution of power over O&G resources" on Page 65). Last week, the state-controlled entity obtained a licence from the Sarawak Land and Survey Department for carbon storage to begin its strategic role as resource manager for Sarawak's natural carbon capture, utilisation and storage resources. The licence is for a resource-rich area located in the North Luconia province, in offshore Bintulu.

The oil company chalked up after-tax profits of RM225.59 million from RM1.36 billion in revenue for its financial year ended December 2021. As at end-December 2021, the company had total assets of RM4.96 billion and total liabilities of RM4.17 billion.

After operating for only five years, Petros had retained earnings of RM184.77 million as at end-December 2021.

The demand for higher oil royalty and grants, among others, is the apparent catalyst for the state to expand its war chest for its developments and its people's welfare.

Therefore, in the eyes of Sarawakians, their leader is going down the right path to build a better future, although some in the peninsula may hold a different view. ■

COVER STORY

Transforming Sarawak into a green economy

In its pivot towards being a green economy, Sarawak is ploughing more resources into the development of its renewable energy sector to achieve its goal of becoming a high-income economy by 2030.

Sarawak Premier Tan Sri Abang Johari Tun Openg has declared that the state must move away from its overdependence on oil and gas and look towards more sustainable sources of income.

Abang Johari believes a new revenue stream for the state can come from the export of methanol and hydrogen, as well as by engaging in carbon trading and other green solutions, to achieve an annual growth rate of 8% on average in the state's GDP to reach its target of more than RM280 billion by 2030, from RM130 billion in 2021.

When fully operational, the methanol plant at the Sarawak Petrochemical Park will have the potential to contribute RM16 billion to RM20 billion to Sarawak's annual gross domestic product.

In fact, Sarawak is already in talks with Singapore to export renewable energy. While the state has excess renewable energy, exports are currently capped at 1,000MW, mostly from its hydropower plants.

"If any investment is coming to Singapore — for instance, a data centre that needs much energy — we encourage them to come to Sarawak, based on the bilateral agreements," Abang Johari tells *The Edge*.

He says that while the Energy Commission (EC) does not allow the export of renewable energy, Sarawak is focused on developing the sector to achieve its goals.

"We are not a member of the EC. We are independent of the EC, but we must inform the federal government. The thing is, we are already selling to Kalimantan, Indonesia. If we can sell to them, why can't [we also sell to] Singapore, in the Asean spirit?"

Hydrogen

Leveraging the competitive electricity tariffs and abundant hydropower in the state, which gives it an edge over other hydrogen producers in the region, Sarawak is not just working towards pole position in hydrogen production and export in Southeast Asia but also aims to become a global competitive hydrogen export hub, supported by the National Energy Policy 2022-2040.

In 2019, the first hydrogen-powered buses in Southeast Asia were introduced in Kuching. This proof-of-concept was backed by the launch of a hydrogen production plant and refuelling station, which produces 130kg of hydrogen per day. By 2030, the state aims to have 100 multi-fuel stations state-wide.

Foreign investors have shown interest in

The state government aims to have 100 multi-fuel stations by 2030



green hydrogen production, for example, the H2biscus Green Hydrogen project in Bintulu, which is a tie-up between South Korea-based Samsung Engineering, Lotte Chemical and POSCO with Sarawak Economic Development Corp (SEDC) unit SEDC Energy Sdn Bhd. Japan-based Sumitomo and ENEOS Corp are working with SEDC Energy on a hydrogen plant in Bintulu. (ENEOS also has a collaboration with Petronas Hydrogen Sdn Bhd in Kerteh, Terengganu.)

In Samalaju, Australia-based H2X Global, Thales New Energy and SEDC Energy are working together on a facility to produce and export green liquid hydrogen as well as ammonia.

Hydropower

With the Baleh dam, an enormous hydroelectric project slated to be operational in 2027, Sarawak will have more than 4,700MW of installed capacity from hydropower plants in production.

The state's first hydroelectric plant (HEP) in Batang Ai (108MW) was commissioned in 1985, followed by Bakun HEP (2,400MW) in 2011 and Murum HEP (944MW) in 2014.

Notably, Sarawak has been exporting power to its neighbouring countries, starting from 2016 when it exported an average of 190MW to 200MW of power to Indonesian national utility Perusahaan Listrik Negara (PLN).

Abang Johari also mentioned plans for further interconnection projects (power exports) with neighbouring states and countries such as Sabah and Brunei, to advance

the concept of the Asean Power Grid.

Earlier this year, Sarawak achieved another milestone in renewable energy after securing its first international hydropower project, the Mentarang Induk Hydropower Project (MIHEP) in North Kalimantan, Indonesia. The 1,375MW MIHEP is being developed by PT Kayan Hydropower Nusantara, a joint venture between Sarawak Energy Bhd and Indonesian companies.

Abang Johari has also hinted at the use of new technology — cascading dams — to create multiple dams that produce up to 100MW each.

Carbon trading

Perhaps one of Abang Johari's proudest achievements in transforming the state's economy is the fact that Sarawak is the first state to enact legislation for carbon and nature venture businesses. This was done to recognise the potential of carbon trading, both in voluntary and compliance markets, as a new source of revenue.

Recently, he began talks with the Singapore government even though Malaysia's federal government had yet to implement its policies on carbon trading.

Notably, Sarawak hosted the first Asia Carbon Conference in Kuching on March 15, where the premier presented the first licence for carbon storage to Petroleum Sarawak Bhd (Petros).

This came three months after Petros partnered with South Korea-based Posco Group to explore carbon capture and storage

(CCS) opportunities. Petros is also working with Petrolia Nasional Bhd (Petronas) to establish a road map for a CCS ecosystem.

Sarawak has awarded the first forest carbon study permit to SaraCarbon Sdn Bhd, a unit of the Samling Group, paving the way for a carbon study in its industrial tree plantation sector.

The amendments made to the Forests Ordinance and Land Code have enabled Sarawak to initiate activities that will reduce emissions of greenhouse gases to mitigate the effects of climate change.

The amendments also cover airspace and properties above the surface of land, as well as the seabed of the state's continental shelf, to provide a legal framework for carbon capture, utilisation and storage (CCUS) activities.

Sarawak has an estimated 30 trillion cu m of carbon storage capacity in the seabed of its continental shelf and, according to the state government, based on one million hectares of high-yield and sustainable industrial forest plantation, its target for carbon trading potential is RM140 million to RM230 million by 2025.

To further enhance the carbon trading potential, Sarawak has outlined the forest carbon activities concept, which represents about 10% of the forestry sector under the state's green economy initiatives. Overall, the forest carbon activities concept is aimed at moving the state away from decades of logging for merchantable timbers to preserving its trees and reaping the benefits of carbon trading. **E**

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COVER STORY

Devolution of power over O&G resources

The devolution of power over Sarawak's oil and gas (O&G) resources has always been a matter of paramount importance when it comes to the state's discussions with Putrajaya in pursuit of its rights under the Malaysia Agreement 1963 (MA63). With these rights, Sarawak — which has more than 60% of Malaysia's gas reserves and close to 30% of its crude oil reserves — can reap optimum benefits from its natural resources to accelerate its planned development in the new economy.

Premier Tan Sri Abang Johari Tun Openg, popularly known as Abang Johari, said it was his duty to continue the efforts of the late chief minister Tan Sri Adenan Satem to reclaim Sarawak's rights under MA63 that had "eroded" over the years. While Adenan was the first Sarawak leader to bring the federal government to the negotiating table on MA63, it will go down in the annals of history that Abang Johari is the first to bring national oil company Petrolim Nasional Bhd (Petronas) to court.

The legal tussle between the Sarawak government and Petronas arose from differences over whether the latter needed to pay when the State Sales Tax (SST) was implemented in the Land of the Hornbills (*Bumi Kenyalang*).

To recap, the Sarawak government made it mandatory for all O&G industry players operating in the state to be licensed under its Oil Mining Ordinance 1958 (OMO) and Gas Distribution Ordinance 2016 (GDO) from July 1, 2018. The state then challenged the Petroleum Development Act 1974 (PDA) — the main legislation governing the Malaysian O&G industry, which also established Petronas — calling the PDA irrelevant in the state as it had not been endorsed by the state legislative assembly.

Sarawak began imposing an additional 5% tax on all petroleum products in the state starting January 2019, but Petronas did not pay the amount. In response, Sarawak filed a RM1.3 billion civil suit against the national oil firm.

According to Petronas' plea in its defence, the company need not pay any other taxes, such as SST, to the Sarawak government because the PDA states that Petronas is the regulator of all oil and gas assets in the country, petroleum income taxes are already paid to Putrajaya, and Sarawak's oil and gas assets had been vested in Petronas along with cash payments made to the state since 1976.

In 2020, Petronas withdrew its appeal over its failed judicial review application against the Sarawak government and the state's Comptroller of SST pertaining to the sales tax at the Court of Appeal. Sarawak also withdrew its cross-appeal.

With the SST, even without additional oil royalty, Sarawak saw a sharp rise in oil and gas revenue collection to RM4.82 billion in 2020, from just RM138 million in 2019. Surpluses for the state ballooned from RM300 million in 2020 to RM1 billion in 2022 on the back of rising oil prices.

Laws that make or break Sarawak's hold on O&G

To understand how Sarawak came this far, it is pertinent to note certain legalities that have been instrumental in determining the state's rights and power over O&G resources in the past and future.

Sarawak has a long history in O&G, from the first oil mining in 1910 under the Brooke regime's Shell Concession Order to the Oil Mining Ordinance 1958 (OMO) and the 1969 Emergency Oil Mining Ordinance (see infographic).

Currently, in the regulation of O&G production, all players — including Petronas — must deal with only state-owned Petroleum Sarawak Bhd (Petros) to produce or extract O&G from beneath land within the state boundaries.

Under the state's direction, Petros will then enter into mining and production sharing agreements with Petronas and other major players. Petros works alongside Petronas, with certain statutory powers conferred by the OMO to the State Minerals Management Authority (SMMA) delegated via statutory instrument to Petros.

Another milestone was the regulation of gas distribution under the Gas Distribution Ordinance 2016 (GDO), passed pursuant to legislative powers conferred to the Borneo state by the Yang di-Pertuan Agong under Article 95C of the Federal Constitution.

Noting that the PDA was passed under the 1969 Emergency Proclamation (put in place following the May 13 racial riots that year) — which was then lifted in 2011 (even though parliament had reconvened in 1970) — the Sarawak government raised the question as to whether the PDA remained valid after 2011. Further, the PDA does not overrule the OMO, which states that only Sarawak has the right to issue mining licences for oil production.

Section 2, read with sections 6 and 8 of the PDA, confirms that all industry players must comply with the OMO and other state laws, including the Land Code for Sarawak, regarding land use and occupation of the state. Under section 8 of the PDA, only the Petroleum Mining Act 1966 (except section 14 thereof) is not applicable to Petronas. Section 14 of the Petroleum Mining Act 1966 (which is no longer applicable to Sarawak) requires Petronas to seek permission to use and occupy land needed for its activities.

Thus, the state's defence is that Petronas, not being exempt (by the PDA) from compliance with the Land Code of Sarawak, must have licences or leases to use and occupy land, including land on the continental shelf, to produce O&G, in accordance with the land code. Under Item 2(c) of the State List (List II) in the Ninth Schedule of the Federal Constitution, Sarawak has the constitutional authority to issue exploration and prospecting licences and mining leases for petroleum (including natural gas), onshore and offshore.

As such, the Sarawak government issued the mining leases to Petros, thus vesting the mining rights in the state-owned company, which would then work with Petronas and other players on the drilling of O&G in the areas covered by the mining leases. ■

Milestones in Sarawak's rights to O&G resources

1910	First oil well in Miri is commissioned
1920	Rajah Brooke issues the Shell Concession Order to designate the area in Miri for the exploration and mining of oil by Sarawak Oilfields Ltd (then owned by Shell)
1930	Exploration of oil off Baram takes place in the 1930s by the Dutch and British
1952	The Sarawak colonial government issues the oil mining lease, in the form of a deed, to Sarawak Oilfields with the liberties, rights and privileges to explore and mine all "the petroleum lying or within, under or throughout the territory comprising the Colony of Sarawak, including lands beneath all territorial waters"
1954	The Queen in Council passes the Sarawak (Alteration of Boundaries) Order to extend the boundaries of Sarawak to include the seabed and its subsoil which lies beneath the high seas, contiguous to the territorial waters of Sarawak
1958	The Council Negeri passes the Oil Mining Ordinance to "make better provision in the law relating to oil mining in Sarawak and its continental shelf"

State's rights to oil remain intact after Malaysia Day

1969	Proclamation of Emergency is declared. Sarawak's Emergency Oil Mining Ordinance 1958 (OMO), however, is not repealed.
2011	The 1969 Proclamation of Emergency is annulled. Thus, Sarawak is constitutionally entitled to enforce the OMO and assert its constitutional authority over the rights to mine O&G in the state.
2017	Establishment of Petros on Aug 7
2018	Official launch of Petros on March 6 Amendments to the OMO require all O&G industry players in Sarawak, including Petronas, to comply with the ordinance. These industry players operating in the state are to be licensed under the OMO and the Gas Distribution Ordinance 2016 (GDO) from July 1, 2018. The GDO comes into effect on July 1. All persons and companies undertaking the distribution of gas will be required to obtain a licence under the GDO, which has been passed pursuant to legislative powers conferred on the state by the Borneo States (Legislative Powers) Order 1963 made by the Yang di-Pertuan Agong under Art 95C of the Federal Constitution.
2019	Sarawak begins imposing an additional 5% tax on all petroleum products in the state starting January 2019. Sarawak sues Petronas when it does not pay the State Sales Tax (SST).
2020	Petronas withdraws its appeal at the Court of Appeal over its failed judicial review application against the Sarawak government and the state's Comptroller of SST regarding the sales tax issue Petros Gas initialises consolidation of the domestic gas business in Sarawak