

FAQs**1. What is FTA?**

A Free Trade Agreement (FTA) is a treaty between two or more countries to establish a free trade area where trade in goods and services can be conducted with minimum hindrance and tariffs. Non-parties to the agreement will not have access to this preferential arrangement.

Thus far, Malaysia has signed and implemented 6 bilateral FTAs and 6 regional FTAs.

BILATERAL FTAs

Country	Signed
Japan	13 Dec 2005
Pakistan	8 Nov 2007
New Zealand	26 Oct 2009
Chile	13 Nov 2010
India	18 Feb 2011
Australia	22 May 2012

REGIONAL FTAs WITH ASEAN

Country	Signed
ASEAN Free Trade Area (AFTA)	<ul style="list-style-type: none"> • 28 January 1992. • 1 January 2010, Malaysia with five other ASEAN Member States (Brunei Darussalam, Indonesia, the Philippines, Singapore and Thailand) became a free trade area for trade in goods with the elimination of import duties.
China	<ul style="list-style-type: none"> • <u>Goods</u>: 29 Nov. 2004 • <u>Services (1st Package)</u>: 14 Jan. 2007 • <u>Investment</u>: 15 Aug. 2009 • <u>Services (2nd Package)</u>: 1 Jan 2012.
Japan	<ul style="list-style-type: none"> • <u>Goods</u>: 14 Apr 2008
India	<ul style="list-style-type: none"> • <u>Goods</u>: 13 August 2009
Australia & New Zealand	<ul style="list-style-type: none"> • 27 Feb 2009

Korea	<ul style="list-style-type: none"> • <u>Goods:</u> 24 Aug 2006 • <u>Services:</u> 21 Nov 2007 • <u>Investment:</u> 2 June 2009
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2. Why are FTAs important for Malaysia?

Malaysia is an open economy highly-dependent on international trade and in 2012, the country's total trade was 1.7 times more than GDP, only third behind Singapore and Hong Kong in Asia.

While Malaysia considers the WTO as the best way to open markets, there has been slow progress in the trade negotiations in the WTO. The next best solution would be to negotiate free trade arrangements with our trading partners.

FTAs would enable Malaysia to have access to more markets. Malaysia's products will be more competitive compared with the countries which do not have FTAs with these countries. Malaysian exporters of services will also be able to export their services to FTA partner countries leveraging on liberalization of services sector by FTA partners.

Malaysia's trade with countries which we have signed FTAs have significantly improved. For example, trade agreement with Japan contributed to the increase in trade with Japan from RM112.8 billion in 2005 to RM145.3 billion in 2012. FTAs also create market access opportunities for Malaysia's commodities. For instance, Japan has been importing the bulk of its palm oil requirement from Malaysia due to favorable import tariffs which was made possible by our FTA with Japan.

3. What is AFTA and what are the benefits of AFTA to Malaysia?

The creation of the ASEAN Free Trade Area (AFTA) was agreed at the 1992 ASEAN Summit in Singapore. The main objectives of the AFTA are to create a single market and an international production base, to attract foreign direct investments, and expand intra-ASEAN trade and investments. It was also created to leverage on the huge potential and complementarities that exist in the region in order to strengthen and deepen intra-ASEAN industrial linkages, including creating strong and competitive small and medium enterprises. The liberalisation of trade in the region through elimination of intra-regional tariffs and non-tariff barriers has contributed towards making ASEAN's manufacturing sectors more efficient and competitive in the global market. As a result, consumers are able to source goods from the more efficient producers in ASEAN, thus creating greater intra-ASEAN trade. For year 2012, total intra-ASEAN trade amounted to USD601.0 billion, an increase of 0.5 per cent from 2011. ASEAN is the main market for Malaysia accounting for 26.5 per cent of total trade for three consecutive years (2010-2012). Collectively, ASEAN is the third largest economy in Asia with robust economic growth and accounting for 27.4 per cent of Malaysia's global trade for year 2012.

Foreign direct investment flows to the region in 2012 amounted to US\$113 billion compared to US\$109.3 billion in 2011. The region is witnessing an all-time high of FDI inflows to the region. Furthermore, AFTA has provided the foundation for the expansion of intra-ASEAN investments which accounts to 15-20 per cent of the total FDI flows to the region. Companies such as Maybank, Axiata, Kencana Petroleum and Sapura Crest, Air Asia, Sime Darby, Petronas and Ingress Auto Ventures are some examples of active Malaysian companies in the region.

4. What is the TPPA?

The Trans-Pacific Partnership Agreement is an initiative to establish an FTA among 12 countries with a market of 800 million people with a combined GDP of USD 27.5 trillion.

The First Round of TPPA Negotiations commenced in March 2010 in Melbourne and so far *18 rounds of negotiations have been concluded. The 18th Round of Negotiations was held in Kota Kinabalu, Malaysia from 15 to 25 July 2013.* The scope of TPPA covers traditional FTA elements as well as new elements for Malaysia such as competition, labour, environment, government procurement and intellectual property rights. There are 21 working groups which have been established for further negotiations on:

- Market Access;
- Technical Barriers to Trade;
- Sanitary and Phytosanitary Measures;
- Rules of Origin;
- Customs Cooperation;
- Investment;
- Services;
- Financial Services;
- Telecommunications;
- E-Commerce;
- Business Mobility;
- Government Procurement;
- Competition;
- Intellectual Property;
- Labour;
- Environment;
- Capacity building;
- Non-conforming measures;
- Trade Remedies;
- Horizontal issues; and
- Legal and Institutional.

Countries participating in the negotiations to establish the TPPA, are free to table proposals on any of the issues being negotiated. All proposals however, have to be agreed by consensus.

5. When did Malaysia decide to join TPPA?

Before deciding to join the TPPA negotiations, the Government undertook a series of consultations and engagements with relevant stakeholders. After having considered feedback from relevant stakeholders, on March 2010 the Cabinet decided that Malaysia should join the TPPA negotiations. With that Cabinet mandate, Malaysia participated as a full negotiating member at the 3rd round of negotiations held in Brunei Darussalam from 5 to 8 October 2010.

The Government had also commissioned the UNDP to conduct a comprehensive study on the costs and benefits of negotiating the TPPA.

6. What is the rationale of joining the TPPA negotiations?

The Government views the TPPA as an important initiative as Malaysia seeks to expand market access opportunities, enhance our competitive advantage and build investor confidence. The comprehensive study conducted by the UNDP also identified several major economic benefits to Malaysia including welfare gains of 1.46% and higher wages for skilled and unskilled labor by the year 2020, in addition to improved GDP growth due to greater market access among TPPA countries. The successful conclusion of the TPP will form a huge market of 800 million people with a combined GDP of USD27.5 trillion. This far surpasses Malaysia's limited domestic market of 29.5 million people and a GDP of USD300 billion.

According to a simulation study done by the Peterson Institute of Economics in June 2012, by 2025, Malaysia will benefit with an increase in Gross National Income by RM26.3 billion and increase in exports of RM41.7 billion.

Admittedly, the Government is aware of the challenges and controversies surrounding the TPPA because unlike other FTAs, it is comprehensive and covers more areas of interest, which naturally would invite more public opinion and

debate. The Government appreciates all views expressed on the TPPA and will continue to engage the stakeholders and NGOs for inputs and feedback.

7. What are the benefits of TPP for Malaysia?

Consultations with various stakeholders prior to joining TPPA negotiations have revealed an increasing request from Malaysian companies for more open markets and trade facilitative measures. There are increasing numbers of Malaysian companies becoming global investors and they require a level of predictability that can be guaranteed effectively through binding agreements like FTAs. Concurrently, there is also interest from foreign companies in non-TPPA countries that are exploring Malaysia as a base for their operations to enjoy the benefits of the TPPA. The combination of greater market access for Malaysian products and services under the TPPA and the continued inflow of foreign investments will create a powerful catalyst in driving Malaysia's economic transformation agenda.

With TPPA, Malaysia will become an integral part of the greater economic integration within the Asia Pacific region. It will also significantly enhance Malaysia's engagement with important trading partners such as the US, Canada, Mexico and Peru. As a member of TPPA, Malaysia will also be able to increase our participation in the regional supply and value chains and facilitate access for Malaysian products and services into bigger markets.

8. What are the challenges of the TPPA for Malaysia?

The Government is aware that while the TPPA would offer many benefits to Malaysia and its people, it also has a few challenges which the Government has to deal with and further negotiate for the best outcome. For instance, government procurement is one of the new elements in TPP which was never part of the FTAs that Malaysia has signed. This is one strategic area which the Government is negotiating cautiously after taking into consideration feedback from stakeholders, particularly on the concern of safeguarding the interest of local enterprises and the Bumiputera commercial and industrial community.

Intellectual Property Rights (IPR) is another difficult area that raises many concerns. One of the main concerns on IPR revolves around access to affordable medicine and healthcare as well as longer protection term which might delay manufacturing of generic drugs.

Malaysian negotiators will continue to negotiate an outcome that would allow Malaysians to access affordable medicine and healthcare.

9. What might happen if Malaysia does not join the TPP?

The TPPA offers Malaysia the opportunity to be part of a consumer market that has 800 million people. Abandoning the TPPA negotiations now would mean allowing other countries to set the terms of the agreement without having to consider the interests and concerns of Malaysia. Acceding to the TPPA later would result in Malaysia having to accept the rules, disciplines and terms and conditions decided by others.

By not joining the TPPA, Malaysia would be at a disadvantage in terms of seeking bigger and better market access for Malaysian products and services. The impact of that disadvantage will be even more significant should countries such as China, Indonesia and other competitors decide to join TPPA later.

Once realised, the TPPA will result in a huge consumer market for Malaysian goods and services. Market access for our goods and services to 800 million people is not an opportunity that we can afford to miss, especially given that we are an open economy, highly-dependent on international trade. In an increasingly competitive global environment, our absence from the TPPA will also make Malaysia less attractive as an investment destination, compared with other TPPA members. As investors avoid Malaysia, this could result in less opportunities for job creation.

10. Who is in charge of TPPA negotiations?

The Cabinet has mandated MITI to co-ordinate Malaysia's participation in the TPPA negotiations. MITI acts as the Chief Negotiator but other ministries and agencies lead the working groups for areas under their responsibility.

AREA	LEAD MINISTRIES/AGENCIES
Market Access in Goods	Ministry of International Trade and Industry
Technical Barriers to Trade	Standards Malaysia
Sanitary and Phytosanitary	Ministry of Agriculture and Agro-Based Industry and agencies
Customs Cooperation	Royal Customs Department
Rules of Origin	Ministry of International Trade and Industry
Trade Remedies	Ministry of International Trade and Industry
Investment	Ministry of International Trade and Industry
Services	Ministry of International Trade and Industry
Non-Conforming Measures	Ministry of International Trade and Industry
Financial Services	Bank Negara Malaysia
Telecommunication	Ministry of Information, Communications and Culture

AREA	LEAD MINISTRIES/AGENCIES
<i>E-Commerce</i>	Ministry of Information, Communications and Culture
<i>Business Mobility</i>	Ministry of International Trade and Industry
<i>Government Procurement</i>	Ministry of Finance
<i>Competition Policy</i>	Ministry of Domestic Trade, Consumerism and Cooperatives
<i>Intellectual Property Rights</i>	Ministry of Domestic Trade, Consumerism and Cooperatives
<i>Labour</i>	Ministry of Human Resource
<i>Environment</i>	Ministry of Natural Resources and Environment
<i>Cooperation and Capacity Building</i>	Ministry of International Trade and Industry
<i>Horizontal Issues</i>	Ministry of International Trade and Industry
<i>Legal</i>	Attorney-General's Chambers.

With the mandate from the Cabinet, the lead ministries and agencies involved are focused on safeguarding Malaysia's best interest in the on-going TPP negotiations.

Before every negotiating Round, the Cabinet is briefed on all issues and for the necessary mandate to be given to all negotiators.

11. Was there a lack of consultation in forming Malaysia's position in TPPA?

While the Government has publicly admitted that more consultation could have been carried out, the Minister of International Trade and Industry has made many public statements assuring that consultations have been carried out by negotiators in their respective fields. MITI had organized the Trans-Pacific Partnership (TPPA) Open Day on 1 August 2013 to update the public and the media on issues surrounding TPPA, to clear misconceptions about the TPPA and to hear the concerns of the public towards TPPA.

The Minister of International Trade and Industry welcomes the establishment of a bipartisan caucus in Parliament. The Minister had met and briefed the caucus on developments and issues in the negotiations. The caucus had provided constructive inputs which are appreciate by the Government.

It must be noted that inputs and feedback from industry associations, interest groups and business chambers play a key role in the formation of Malaysia's negotiating positions. To illustrate a point, Malaysia's position in the negotiations on Government Procurement, led by Ministry of Finance, strongly reflects the concerns of stakeholders, the Bumiputera business community and State-owned enterprises (SOEs) as well as that of SMEs. Malaysia has also maintained the rights of all States on matters related to land and water. On SOEs, Malaysia's position is determined by the Ministry of Finance and Khazanah.

The Government will continue to engage all stakeholders. In addition to the Open Day, MITI met the Coalition to Act Against the TPPA Malaysia on 6 August 2013 and discussed ways to enhance engagement with stakeholders. MITI welcomes feedback and opinion from all parties regarding the TPPA.

12. Why the secrecy in TPP negotiations?

While the negotiating texts have never been made public as negotiations are on-going, the Government has and will continue to share its negotiating position with relevant stakeholders during the consultation sessions.

A level of confidentiality is required for two main reasons: (a) regulations and the evolving process of negotiations and rules surrounding TPPA oblige negotiators to maintain confidentiality of the negotiating texts and (b) negotiators advancing the interests of Malaysia strategically do not want to publically disclose their bargaining positions to ensure the best outcome during the negotiations.

Mindful of the public feedback, the MITI Minister will put this issue on the agenda of the forthcoming TPP Ministerial Meeting in Brunei.

13. Why rush TPPA by October 2013?

As in all negotiations, there is a need to work towards a target date to conclude negotiations. It should be noted that the Trans Pacific Partnership Leaders Statement issued on November 12, 2011, in Honolulu, clearly called on the negotiating teams to continue talks with other Asia-Pacific partners that have expressed interest in joining the TPPA in order to facilitate their future participation. TPPA leaders have set a target of October 2013 for substantial conclusion of the negotiations.

However, this is NOT a definitive deadline for the conclusion of the TPPA as negotiating parties still have a number of sensitive issues which continue to be negotiated. It is in Malaysia's best interest that TPPA is concluded in a manner which benefits our people. Safeguarding national interest and national sovereignty will remain the highest priority in guiding Malaysia's negotiation team. In this regard, Malaysia's position would take into account the provisions in the Constitution, the rights of the States and core policies of the Government.

14. Why is China not in the TPP?

The position of all TPPA members is for this Agreement to be a building block for the Free Trade Agreement of the Asia-Pacific (FTAAP) which would encompass all the APEC economies, of which China is also a member. Membership in TPPA is voluntary. Every member of APEC, including China, is free to decide when to join TPPA.

Malaysia and China enjoy close diplomatic and commercial relations, and China is a very important trading partner to Malaysia. Both countries have also embarked on several joint programs including the Malaysia-China Kuantan Industrial Park (MCKIP). As such, Malaysia would certainly welcome China into the TPPA.

15. What is the approach taken by the Government in safeguarding the interest of Bumiputera and SMEs?

The Government has taken a conscious decision to address SME concerns in all areas under negotiations. These concerns, such as increased competition, are addressed through longer transition periods for liberalisation. It is also addressed in the form of carve-outs for government procurement and through thresholds. The TPPA also aims to develop uniform rules to ensure predictability. The Government is well aware that there are concerns regarding the sustainability of SMEs in light of increased competition from large international corporations. As such, we are addressing these concerns in the TPP negotiations.

For example, the Government has forwarded a position to enable SMEs to be integrated in the regional supply and value chains and ensure that there are transitional arrangements in place to facilitate SMEs to adapt to increased competition. The Government will also ensure that large corporations do not abuse their positions and adopt monopolistic behavior which could impact SMEs. In addition, there are also carve-outs in terms of Government Procurement, whereby a number of projects at certain thresholds are only available to Malaysian SMEs.

16. What is ISDS and is it compromising Malaysia's sovereignty?

Investor-State Dispute Settlement (ISDS) is a form of recourse allowed to investors for international arbitration in addition to domestic courts. Malaysia has already signed 74 Investment Guarantee Agreements (IGAs) since 1963, and most of them contain provisions for settlement of disputes through international arbitration. To date, only two cases have been brought against Malaysia under the ISDS; one was decided in favour of the Government while the other was annulled. ISDS provisions are also important in protecting the interest of Malaysian companies investing abroad. For instance, the provisions have been used by Malaysian companies on two occasions (MTD Vs Chile and Telekom Malaysia vs Ghana) to protect their investments abroad. In one case, the decision was in favour of the Malaysian investor while in the other, a settlement was reached between the disputing parties.

While Malaysia is committed to protect foreign investors and their investments, these investors are required to adhere to domestic rules. Furthermore, the ISDS does not prevent the Government to legislate and to regulate.

Malaysian negotiators are fully aware of the concerns on ISDS which covers a wider area in the TPPA and would be seeking to address these concerns in the negotiations.

17. What are the issues surrounding Government Procurement (GP)?

The Government will ensure that the extent of market opening in government procurement is guided by our stakeholders interests and concerns. The thresholds decided in our offers (i.e., the value of bids that will be open for bidding by companies from TPP Members) will be decided in consultations with our stakeholders. Areas of interests to the Bumiputra business community and SMEs have been excluded from Malaysia's offers.

The TPPA is expected to open up business opportunities in the government procurement market for Malaysian companies in all the other 11 TPPA partner countries.

18. What are the issues surrounding the Intellectual Property Rights (IPR) and will this lead to higher cost of medicines?

The current proposal related to patents would have an impact on cost of drugs and healthcare. Malaysia has made it clear that the Agreement MUST NOT have a negative impact on the healthcare of Malaysians. Malaysians must continue to receive quality healthcare and have access to affordable medicines, including generic drugs. The TPPA will have to work around these priorities.

Malaysia recognizes that pharmaceutical companies invest heavily in research and development, and there is no inexpensive way to innovate and produce drugs. Malaysia also recognizes that such innovation must be rewarded adequately as there must be an incentive for pharmaceutical companies to remain in the business, continue to innovate and produce drugs that are necessary to address new diseases. Malaysia remains convinced that a balance can be struck between protecting the right of such pharmaceutical companies and the rights of the general populace to affordable medicines.

Malaysian negotiators will continue to negotiate an outcome that will ensure Malaysians will continue to have access to affordable medicine and healthcare.

19. How would Malaysia address the issue of State-Owned Enterprises (SOE) in TPP negotiations?

While acknowledging that it is important to allow both local and foreign companies to grow, Malaysia is advancing the argument that countries have different economic systems in place with SOEs and GLCs playing important roles. In the case of Malaysia, SOEs or GLCs are an important tool for the Government to achieve

social and development goals, and also an important catalyst to develop sectors viewed as strategic where there is no commercial presence. To do this, some support is required especially where the commercial incentive is lacking. Consequently, Malaysia is seeking flexibilities in the agreement that will allow the continued participation of such entities in our economy and provide public and social goods and services.

20. What is the process of TPPA negotiation?

The scope of TPPA covers traditional FTA elements as well as new elements. 21 working groups have been established in the negotiations. Negotiations are based on the proposals tabled by negotiating countries. Proposals tabled are based on each of the TPPA member's domestic consultation process which includes both industries and other stakeholders. This may differ from one country to another, and the objective of the negotiations is to find a common ground which meets the goals of all the Parties.

Every country approaches the TPPA differently. In the case of Malaysia, the Government entered the TPPA negotiation after a series of consultations and engagements with relevant stakeholders. The mandate to negotiate came from the Cabinet and Malaysian negotiators in various working groups are well assisted by legal experts. The 21 working groups are led by different Ministries and Federal Agencies according to the areas of responsibility. The Minister had also provided clarifications and answered questions on the issues related to the negotiations. In addition, Members of Parliament have also been updated on developments in the negotiations. Under the current system, all issues related to FTAs are raised in Cabinet to get the necessary mandate and instruction. In addition, issues deemed sensitive, area also discussed in the Economic Council (EC) chaired by the Prime Minister or at least in the National Development Planning Council, chaired by the Chief Secretary for guidance. The Government will not sign the TPPA until it is convinced that the agreement is in the best interest of the people.

21. Is the TPP negotiation driven by the United States of America?

In the TPPA negotiations, while all countries are free to table proposals, agreement must be on a consensus basis. So while the US or any other country may wish to table many proposals, the final outcome must be based on consensus. Every country has an equal voice in the TPPA negotiation and the negotiations are also based on the principle of a single undertaking, where nothing is agreed until everything is agreed.

22. What are the benefits to consumers?

One of the main benefits of the TPPA to consumers is trade liberalisation. Tariff elimination, a key feature of FTAs, allows the consumers to enjoy a wider range of imported goods and services, with better quality and at competitive prices. In addition, manufacturers are able to source cheaper inputs as a result of liberalization.

Gradual competition brought about by liberalisation has made domestic producers of goods and services suppliers to be more competitive. A good example is the local furniture industry. Gradual liberalisation has resulted in better quality products for the domestic consumers and made the industry competitive in the international market. In the services industry, the liberalisation of the education sector has allowed Malaysians to be educated locally in reputable institutions at a much lower cost.

The TPPA also deals with technical regulations on products and health and sanitary matters. These chapters build on the WTO provisions and will facilitate regulators to ensure that consumers are protected through standards and health and food safety measures.

23. Will Malaysia be disallowed to practice capital control under TPPA?

Bank Negara Malaysia, which leads the negotiations on financial services, has been mandated to ensure that any provision on capital management would not limit Malaysia's policy space in introducing and/or maintaining such controls in the future. Protecting Malaysia's interest would remain the highest priority in the on-going TPP negotiations.

24. What is the current status of the TPPA negotiation?

To date, 18 rounds of negotiations have been concluded. At the 18th round Japan joined as the 12th member of the negotiations. More than 650 officials from the 12 countries took part in the round. 212 stakeholders participated in the stakeholder session. Japan was briefed on the state of play in the negotiations. The 18th round maintained the pace of progress achieved in the past few rounds. However, there are concerns surrounding issues such as market access negotiations, and negotiations on the texts for intellectual property, environment and state-owned enterprises.

There are still many sensitive and difficult issues which would have to be elevated to a higher political level for resolution.